

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**LIGHTING SCIENCE GROUP
CORPORATION,**

Plaintiff,

v.

Case No: 6:16-cv-680-Orl-37GJK

**ENERGY EFFICIENT LIGHTING
COMPANY LIMITED,**

Defendant.

ORDER

This cause came on for consideration without oral argument on the following motion filed herein:

MOTION: MOTION FOR DEFAULT JUDGMENT (Doc. No. 17)

FILED: August 10, 2016

THEREON it is ORDERED that the motion is DENIED.

On August 12, 2016, the Court entered an Order to Show Cause as to why the Clerk's entry of default against the Defendant should not be set aside. Doc. No. 20. Separate and apart from any resolution of those issues, the Plaintiff's August 10, 2016 Motion for Default Judgment (the "Motion") will be denied for the reasons set forth below.

On June 20, 2016, Plaintiff filed an amended complaint (the "Amended Complaint") against Defendant, alleging direct infringement of numerous claims belonging to three separate

patents. Doc. No. 13 at 1-8. Plaintiff requests injunctive relief, actual damages, treble damages, pre-judgment interest and post-judgment interest. Doc. No. 13 at 7-8.

On August 10, 2016, Plaintiff filed a three (3) page Motion for Default Judgment (the “Motion”), as well as a separate memorandum of legal authority and an affidavit in support of the Motion. Doc. Nos. 17-19; *see also* Doc. No. 20 (order to show cause explaining procedural history of case). The Motion, after detailing the events that led to the Clerk entering default against the Defendant, simply states in conclusory fashion that Defendant is entitled to default judgment, permanent injunctive relief, and a wholly unspecified amount of damages, pre-judgment interest, and post-judgment interest. Doc. No. 17 at 1-2. Similarly, the Plaintiff’s four (4) page memorandum of legal authority simply states that all of its well-pled allegations should be accepted as true, and the Court should enter a judgment against Defendant, awarding Plaintiff a permanent injunction or royalties against future infringement, an unspecified amount of damages, pre-judgment interest, and post-judgment interest. Doc. No. 18 at 4. Finally, the affidavit filed in support of the Motion only avers that Defendant has failed to timely respond to the Amended Complaint. Doc. No. 19.

Before entering default judgment, the Court must ensure that it has jurisdiction over the claims and parties, and that the well-pled factual allegations of the complaint, which are assumed to be true, adequately state a claim for which relief may be granted. *Nishimatsu Constr. Co. v. Houston Nat’l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975) (“The defendant is not held to admit facts that are not well-pleaded or to admit conclusions of law.”).¹ Complaints need not contain detailed factual allegations, but there must be “more than an unadorned, the defendant-unlawfully

¹ In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “A pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). “Thus, when seeking a default judgment, a plaintiff should provide the Court with points and containing citations to authority showing that the Plaintiff’s claim or claims include allegations of all the necessary elements required for entitlement to relief.” *Johnson v. Cate*, 2009 WL 2151370, at *2 (E.D. Cal. July 17, 2009). In short, it is the Plaintiff’s burden to demonstrate, in a motion for default judgment, that its pleading’s factual allegations are legally sufficient to establish one or more of its claims and to entitle it to the specific relief requested. *Id.*

The Motion and supporting documents fail to demonstrate that the Plaintiff’s factual allegations entitle it to a default judgment as to any of the infringement claims in the Amended Complaint, and they do not even make a veiled attempt to demonstrate they have suffered any damages or the amount thereof. Doc. Nos. 17-19; *see Wallace v. The Kiwi Grp., Inc.*, 247 F.R.D. 679, 681 (M.D. Fla. 2008) (plaintiff has the burden to demonstrate that he or she is entitled to recover the amount of damages sought in the motion for default judgment). Moreover, the Motion does not request a hearing or otherwise attempt to quantify the amount of actual damages prior to the entry of judgment, all of which causes the Court to question whether the Plaintiff’s claim for damages is well-founded. Nevertheless, on this record, Plaintiff is not entitled to a default judgment.

Based on the foregoing, the Motion (Doc. No. 17) is **DENIED**.

DONE and **ORDERED** in Orlando, Florida on August 12, 2016.



GREGORY J. KELLY
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties