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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

SEIKO EPSON CORPORATION, a Japan corporation; **EPSON AMERICA, INC.,** a California corporation; and **EPSON PORTLAND INC.,** an Oregon corporation,,

Plaintiffs,

vs.

STRAIGHTOUTTAINK, LP., a California limited partnership; and **NAHN HO**, an individual,

Defendants.

Case No. 4:19-cv-08240-YGR (KAW)

REQUEST FOR ENTRY OF DEFAULT AS TO DEFENDANT NAHN HO, PURSUANT TO F.R.C.P. 55(a)

TO: CLERK OF THE ABOVE-ENTITLED COURT

Pursuant to Federal Rule of Civil Procedure 55(a), Plaintiffs Seiko Epson Corporation, Epson America, Inc., and Epson Portland Inc. (collectively "Epson" or "Plaintiffs"), respectfully request that the Clerk enter the default of defendant Nahn Ho ("Nahn Ho" or "Defendant") in this action, on the grounds that Defendant has failed to appear or otherwise respond to the Complaint within the time prescribed by the Federal Rules of Civil Procedure and Local Rules.

On December 18, 2019, Plaintiffs filed their Complaint for patent infringement against defendants Straightouttaink, LP, and Nahn Ho. Dkt. No. 1. On February 28, 2020, the Summons and Complaint were duly served on Nahn Ho pursuant to Federal Rule of Civil Procedure 4(e)(2)(B) by leaving a copy of the Summons and Complaint at Nahn Ho's dwelling or usual place of abode with a person of suitable age and discretion who resides there as a co-occupant (Phuong Pham), as evidenced by the proof of service of summons and complaint on file with this Court. Dkt. No. 19. *See* Declaration of Richard H. Doss ("Doss Decl.") ¶¶ 4-6, filed herewith. As of that date, February 28, 2020, service was complete and effective under Fed. R. Civ. Proc. 4(e)(2)(B). Consequently, pursuant to Fed. R. Civ. Proc. 12(a)(1)(A)(i), Defendant was required to respond, answer or otherwise plead to Plaintiffs' Complaint within 21 days of service, *i.e.*, by March 20, 2020.

Alternatively, pursuant to California Code of Civil Procedure section 415.20(b)—which also allows for service by leaving a copy of the summons and complaint with a competent member of the household at the person's dwelling house or usual place of abode, but adds the requirement of mailing a copy of the summons and complaint to the address where the summons and complaint were left, and further requires an additional 10 days for service to be effective—service was complete by March 9, 2020. Here, the summons and complaint were left with Phuong Pham, a competent member of the household, on February 28, 2020. The summons and complaint were mailed to the address where they were left on the same day, February, 28, 2020. Consequently, under California Code of Civil Procedure 415.20(b), service on Defendant Nahn Ho was complete and effective on March 9, 2020 (ten days after mailing on February 28, 2020), and pursuant to Fed. R. Civ. Proc. 12(a)(1)(A)(i), Defendant was required to respond, answer or otherwise plead to Plaintiffs' Complaint within 21 days of service, or by March 30, 2020.

The above stated facts are set forth in the accompanying declaration of Richard H. Doss in support of Plaintiffs' request for entry of default of defendant Nahn Ho, pursuant to Fed. R. Civ. Proc. 55(a), filed herewith.

To date, Defendant has failed to appear or otherwise respond to the Complaint. Doss Decl. ¶ 7.

Plaintiffs respectfully request that the Clerk enter the default of defendant Nahn Ho in this action, on the grounds that Defendant has failed to appear or otherwise respond to the Complaint within the time prescribed by the Federal Rules of Civil Procedure, California Code of Civil Procedure, and Local Rules. Thereafter, Plaintiffs will move for a default judgment under Fed. R. Civ. P. 55(b), including an award of monetary damages, and a permanent injunction.

Respectfully submitted,

DATED: June 8, 2021

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By *\/s/ Richard H. Doss*

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Attorneys for Plaintiffs Seiko Epson Corporation, Epson America, Inc., and Epson Portland Inc.

CERTIFICATE OF SERVICE

Pursuant to N.D.CA. Local Rule 5-5(a), I certify that on the below date, the above document was served by U.S. First Class Mail, postage prepaid on the following:

Straightouttaink, LP
541 W. Capitol Expressway 10-212
San Jose, California 95136

Nahn Ho
1485 Meadow Glen Way
San Jose, California 95121

Hung Le
c/o Straightouttaink, LP
2491 Escalonia Court
San Jose, CA 95121

Date: June 8, 2021

By: */s/ Vince Grant*
Vince Grant