

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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BRUCE KIRBY, INC., and :
BRUCE KIRBY, :
: :
Plaintiffs, :
: :
- against - :
: :
LASERPERFORMANCE (EUROPE) LIMITED, :
QUARTER MOON, INCORPORATED, :
KARAYA (JERSEY) LIMITED, : Civil Action No. 3:13-cv-00297 (RNC)
VELUM LIMITED ITM SA (ANTIGUA AND :
BARBUDA), :
INTERNATIONAL SAILING FEDERATION :
LIMITED :
INTERNATIONAL LASER CLASS :
ASSOCIATION, and :
FARZAD RASTEGAR, :
: :
Defendants. :
-----X

LASERPERFORMANCE (EUROPE) LIMITED, and :
QUARTER MOON, INCORPORATED, :
: :
Defendants-Counterclaim Plaintiffs, :
: :
- against - :
: :
BRUCE KIRBY, INC., and :
BRUCE KIRBY, :
: :
Plaintiffs-Counterclaim Defendants, :
: :
and :
: :
GLOBAL SAILING LIMITED, and :
PERFORMANCE SAILCRAFT PTY. LTD., :
: :
Additional Counterclaim Defendants. :
-----X

**MOTION OF DEFENDANTS-COUNTERCLAIM PLAINTIFFS
LASERPERFORMANCE (EUROPE) LIMITED AND QUARTER MOON,
INCORPORATED FOR ENTRY OF DEFAULT AGAINST ADDITIONAL
COUNTERCLAIM DEFENDANT PERFORMANCE SAILCRAFT PTY. LTD.**

Defendants-counterclaim plaintiffs LaserPerformance (Europe) Limited (“LaserPerformance”) and Quarter Moon, Incorporated (“Quarter Moon”) hereby move for entry of default against counterclaim defendant Performance Sailcraft Pty. Ltd. (“PSA”) pursuant to Fed. R. Civ. P. 55(a).

1. Plaintiffs Bruce Kirby and Bruce Kirby, Inc. (collectively, “Kirby”) commenced this action on March 4, 2013. On April 30, 2013, Kirby filed its First Amended Complaint for Counterfeiting, Default of Contract, Inducement to Default Contract, Trademark Infringement, Unfair Competition, False Designation of Origin and Misappropriation of Publicity Rights (the “Complaint”) against defendants LaserPerformance, Quarter Moon, Karaya (Jersey) Limited, Velum Limited, the International Sailing Federation Limited, the International Laser Class Association and Farzad Rastegar.

2. On June 12, 2013, LaserPerformance and Quarter Moon filed their Answer and Counterclaims (the “Counterclaims”) against plaintiff Kirby and additional counterclaim defendants PSA and Global Sailing Limited. *See* Declaration of T. Barry Kingham in Support of Motion for Entry of Default (“Kingham Decl.”), Exh. A.

3. On June 13, 2013, LaserPerformance and Quarter Moon sent to PSA a request for waiver of service of the Counterclaims from PSA in accordance with Fed. R. Civ. P. 4(d). *See* Kingham Decl., Exh. B.

4. PSA did not respond to the request for waiver of service.

5. On August 15, 2013, LaserPerformance and Quarter Moon requested that the Clerk of the Court issue a summons as to PSA. On August 16, 2013, the Clerk of the Court issued the summons. *See* Kingham Decl., Exh. C.

6. On September 19, 2013, PSA was served with the Complaint, Counterclaims and summons in accordance with Fed. R. Civ. P. 4(f) and (h). Working in conjunction with the Australian law firm of Madison Marcus, a process server served the documents upon PSA at its registered office, located at Suite 1206, Level 12, 14 Martin Place Sydney NSW 2000. *See* Kingham Decl., Exh. D.

7. Pursuant to Fed. R. Civ. P. 12(a)(1)(A), PSA was required to file an answer or other response to the Counterclaims within 21 days of the date of service, by October 10, 2013. PSA has not filed any response. *See* Kingham Decl., ¶ 7.

For the reasons set forth above, LaserPerformance and Quarter Moon request that a default be entered against counterclaim defendant Performance Sailcraft Pty. Ltd., pursuant to Fed. R. Civ. P. 55(a).

Dated: October 30, 2013

Respectfully submitted,

By: _____/s/Turner P. Smith
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Incorporated*