

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

GS Holistic, LLC v. King's Smoke Shop & Vape, et al.

GS Holistic · No. 2:23-cv-00351 KJM CKD · Decided August 18, 2025

SUMMARY

The United States Magistrate Judge recommends denying GS Holistic, LLC’s motion for default judgment against King’s Mini Mart d/b/a King Smoke Shop and Hameedullah Nooristani. The recommendation concludes that the amended complaint insufficiently pleads trademark infringement, counterfeiting, false designation of origin, and likelihood of confusion, and recommends dismissal without prejudice with 30 days to amend.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 18, 2025
DOCKET	2:23-cv-00351 KJM CKD
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved for default judgment on trademark counterfeiting, trademark infringement, false designation of origin, and unfair competition claims after defendants failed to respond and the clerk entered default. The magistrate judge issued findings and recommendations recommending denial of default judgment, dismissal of the First Amended Complaint without prejudice, and leave to amend.
STANDARD OF REVIEW	Default judgment is discretionary and is evaluated under the seven Eitel factors. Upon entry of default, well-pleaded factual allegations are generally taken as true except allegations concerning damages, but legally insufficient claims and facts that are not well pleaded are not established by default.
PRECEDENTIAL VALUE	Nonprecedential findings and recommendations; final effect depends on adoption by the assigned district judge.

TOPICS

default judgment

trademark infringement

trademark law

service of process

civil procedure

PRACTICE AREAS

Trademark

Civil procedure

Commercial litigation

Remedies

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to default judgment under Federal Rule of Civil Procedure 55 despite defendants' failure to respond.
2. Whether the First Amended Complaint adequately pleaded trademark infringement and counterfeiting claims under 15 U.S.C. §§ 1114 and 1116.
3. Whether the First Amended Complaint adequately pleaded false designation of origin and unfair competition under 15 U.S.C. § 1125(a).
4. Whether the complaint alleged sufficient facts to establish defendants' use of plaintiff's marks and a likelihood of consumer confusion.

HOLDINGS

1. A defendant's default does not automatically entitle a plaintiff to a court-ordered default judgment; the court must exercise discretion under Federal Rule of Civil Procedure 55 and evaluate the relevant Eitel factors.
2. Default establishes well-pleaded factual allegations other than damages, but it does not establish legal conclusions, facts omitted from the pleadings, or legally insufficient claims.
3. The First Amended Complaint did not adequately plead defendants' use of plaintiff's marks or a counterfeiting theory because it failed to identify the mark affixed to the inspected product, explain its similarity to a registered mark, and provide facts supporting the broader allegations of multiple infringing products and marks.
4. The First Amended Complaint did not allege sufficient facts from which the court could infer a likelihood of confusion under the applicable Sleekcraft factors.

KEY QUOTATIONS

"However, "a defendant's default does not automatically entitle the plaintiff to a court-ordered judgment.""
(at 2)

"necessary facts not contained in the pleadings, and claims which are legally insufficient, are not established by default." (at 3)

"Plaintiff's failure to explain what its agent did to inspect the infuser, including how that inspection could differentiate a counterfeit Stündenglass infuser from a bona fide Stündenglass infuser, combined with a boilerplate confirmation of the infuser's counterfeit status, falls short of showing that its mark was infringed."
(at 6)

FACTUAL BACKGROUND

GS Holistic alleged that it owned three federally registered Stüden glass trademarks and that King Smoke Shop sold an inspected glass infuser bearing a Stüden glass mark to an investigator. The complaint alleged that Hameedullah Nooristani authorized, directed, or participated in the sale. The court found that the complaint did not explain what the mark looked like, which registered mark it resembled, how the product was determined to be counterfeit, or facts supporting a likelihood of confusion.

PROCEDURAL HISTORY

GS Holistic filed its First Amended Complaint on August 30, 2023. Defendants were served but did not respond, and the clerk entered default. Plaintiff moved for default judgment seeking \$150,000 in statutory damages, an injunction, and costs. The court took the motion under submission and recommended denying it because the complaint did not adequately plead defendants' use of the marks or a likelihood of confusion, dismissing the complaint without prejudice, and allowing thirty days to amend.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The motion for default judgment is recommended to be denied. The First Amended Complaint is recommended to be dismissed without prejudice, with plaintiff granted thirty days to file an amended complaint. The recommendations were submitted to the assigned district judge under 28 U.S.C. § 636(b)(1), with fourteen days to object.

CASES CITED

- PepsiCo, Inc. v. Cal. Sec. Cans, 238 F. Supp. 2d 1172, 1174 (C.D. Cal. 2002)
- Draper v. Coombs, 792 F.2d 915, 924-25 (9th Cir. 1986)
- Aldabe v. Aldabe, 616 F.2d 1089, 1092 (9th Cir. 1980)
- Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986)
- TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987) (per curiam)
- Geddes v. United Fin. Group, 559 F.2d 557, 560 (9th Cir. 1977) (per curiam)
- Fair Housing of Marin v. Combs, 285 F.3d 899, 906 (9th Cir. 2002)
- Cripps v. Life Ins. Co. of N. Am., 980 F.2d 1261, 1267 (9th Cir. 1992)
- Danning v. Lavine, 572 F.2d 1386, 1388 (9th Cir. 1978)
- DIRECTV, Inc. v. Huynh, 503 F.3d 847, 854 (9th Cir. 2007)
- Abney v. Alameida, 334 F. Supp. 2d 1221, 1235 (S.D. Cal. 2004)
- In re Tuli, 172 F.3d 707, 712 (9th Cir. 1999)
- GS Holistic, LLC v. Mr Vape Smoke Shop, No. 1:23-cv-00282-DJC-SCR, 2024 WL 4545885, at *3-5 (E.D. Cal. Oct. 22, 2024)

- GS Holistic, LLC v. Shinwar, No. 2:23-cv-0355-CSK, 2024 WL 3890082, at *7-8 (E.D. Cal. Aug. 20, 2024)
- GS Holistic, LLC v. Muthanna, No. 2:24-cv-01641-CSK, 2025 WL 2099314, at *5-6 (E.D. Cal. 2025)
- GS Holistic, LLC v. J's Smoke Shop, et al., No. 1:23-00286-KJM-KJN, 2024 WL 1054899, at *2-5 (E.D. Cal. Mar. 11, 2024)
- Applied Info. Scis. Corp. v. eBay, Inc., 511 F.3d 966, 969-70 (9th Cir. 2007)
- Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc., 658 F.3d 936, 946 (9th Cir. 2011)
- Y.Y.G.M. SA v. Redbubble, Inc., 75 F.4th 995, 1004 (9th Cir. 2023)
- Wolf Designs, Inc. v. DHR Co., 322 F. Supp. 2d 1065, 1072 (C.D. Cal. 2004)
- Davis v. Metro Prods., Inc., 885 F.2d 515, 524 (9th Cir. 1989)
- Lodestar Anstalt v. Bacardi & Co. Ltd., 31 F.4th 1228, 1252 (9th Cir. 2022)
- AMF Inc. v. Sleekcraft Boats, 599 F.2d 341, 348-54 (9th Cir. 1979)
- Mattel, Inc. v. Walking Mountain Prods., 353 F.3d 792 (9th Cir. 2003)
- Freecycle Network, Inc. v. Oey, 505 F.3d 898, 902 (9th Cir. 2007)
- Jada Toys, Inc. v. Mattel, Inc., 518 F.3d 628, 632 (9th Cir. 2008)
- Brookfield Commc'ns, Inc. v. W. Coast Ent. Corp., 174 F.3d 1036, 1046 (9th Cir. 1999)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

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