

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 17-80577-CIV-MARRA

PALM PARTNERS, LLC, a Florida  
limited liability company,

Plaintiff,

v.

NETNAMES A/S f/k/a SPEEDNAMES A/S,  
a foreign entity,

Defendant.

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**ORDER**

This cause is before the Court upon Plaintiff Palm Partners, LLC's ("Palm Partner") Motion for Final Default Judgment (DE 11). The Court has reviewed the Motion and the entire file in this case and is otherwise duly advised in the premises. Defendant has filed no papers in response to Plaintiff's Motion.

The Clerk of the Court entered a default against Defendant on July 18, 2017 (DE 10). By virtue of the default, Defendant has admitted the well-pleaded allegations of fact in Plaintiff's Complaint as true. *Nishimatsu Constr. Co. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975).<sup>1</sup> Before entering default judgment, the court must ensure that the well-pled factual allegations of the complaint, which are assumed to be true, adequately state a claim for which relief may be

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<sup>1</sup>Decisions of the United States Court of Appeals for the Fifth Circuit, as that court existed on September 30, 1981, handed down by that court prior to the close of business on that date, shall be binding as precedent in the Eleventh Circuit, including the district courts in the circuit. *Bonner v. Pritchard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc).

granted. *Id.*

Here, the Complaint adequately alleges a claim for conversion and a claim for unjust enrichment concerning the use of a domain name and sets forth the damages owed to Plaintiff. (DE 1.) Further, Plaintiff Palm Partners alleges that Defendant intentionally acted to deprive Palm Partners of its domain name, as required to assert a claim of civil theft<sup>2</sup> in violation of section 812.014 of the Florida Statutes. Having not appeared, Defendant is deemed to have admitted the well-pleaded facts set forth in the Complaint.

Along with the instant Motion, Plaintiff has submitted an affidavit (DE 11-1) setting forth \$5,500 as the amount it has suffered as a result of the conversion/civil theft. Pursuant to section 772.11 of the Florida Statutes, Palm Partners is entitled to threefold the actual damages, or \$16,500.<sup>3</sup> The Court finds no need to have a hearing under Rule 55(b)(2) of the Federal Rules of Civil Procedure on the record before it.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that the Motion for Entry of Default Judgment (DE 11) is **GRANTED**. In accordance with Fed. R. Civ. P. 58, final judgment will be entered by separate order.

Within twenty (20) days of the date of entry of this Order, Plaintiff's counsel shall submit the affidavit(s) specifying the hours worked, time records, associated billing rates, and proposed total

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<sup>2</sup> Although Plaintiff labels his claim as one for "conversion," the claim contains the element of intent sufficient to satisfy the requirements of a claim for statutory civil theft and trebled damages.

<sup>3</sup> This Court *sua sponte* raised the issue of whether Plaintiff's claims satisfied the amount-in-controversy requirement of \$75,000. (DE 13.) Plaintiff filed a response to the Court's Order. (DE 14.) Based upon the information provided, and in the absence any objection, the Court cannot say, to a legal certainty, that at the time of filing this action Plaintiff did not meet the threshold amount-in-controversy requirement of \$75,000.

amount of requested attorney's fees.

**DONE AND ORDERED** in Chambers at West Palm Beach, Palm Beach County, Florida,  
this 2<sup>nd</sup> day of May, 2018.



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KENNETH A. MARRA  
United States District Judge