

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ERIC BOWERS,

Plaintiff,

v.

**DOS MUNDOS, INC. AND
CLARA REYES,**

Defendants.

Case No. 19-2177-DDC-TJJ

MEMORANDUM AND ORDER

This matter comes before the court on plaintiff's Motion for Default Judgment (Doc. 12) against defendants Dos Mundos, Inc. and Clara Reyes. Defendants neither have responded nor appeared in this matter. The court has reviewed plaintiff's motion and attached exhibits and defers a ruling at this time.

Plaintiff's motion asks the court to award \$25,000 in statutory damages, \$6,715 in attorney fees, and \$530 in costs to plaintiff because defendants' copyright infringement was willful. When ruling on a motion for default judgment, the court takes the factual allegations in the complaint as true, "except for those relating to the amount of damages." *Hermeris, Inc. v. McBrien*, No. 10-2483-JAR, 2012 WL 1091581, at *1 (D. Kan. Mar. 30, 2012). With his Motion for Default Judgment, plaintiff filed exhibits to establish the amount of the attorney's fees. Doc. 12-1. But, plaintiff did not file anything supporting his statutory damage request. The court can't decide the motion on the current record because plaintiff's request is not for a "sum certain or a sum that can be made certain by computation." Fed. R. Civ. P. 55(b)(1). Thus, the court declines to rule on plaintiff's Motion for Default Judgment. Instead, the court orders plaintiff either to: (1) contact the courtroom deputy to schedule an evidentiary hearing on the

issue of damages, or (2) supplement his motion with additional information, such as an affidavit from a qualified person supporting the amount of statutory damages sought. *See Hermeris, Inc.*, 2012 WL 1091581, at *1 (“Damages may be awarded only if the record adequately reflects the basis for award via a hearing or a demonstration by detailed affidavits establishing the necessary facts.”) (citation omitted).

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff must either: (1) contact the courtroom deputy to schedule an evidentiary hearing on the issue of damages, or (2) supplement his motion with additional information, such as an affidavit, by **September 25, 2019**.

IT IS SO ORDERED.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge