

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

KESTERS MERCHANDISING DISPLAY)	
INTERNATIONAL, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 21-2300-JWB-GEB
)	
SURFACEQUEST, INC., et al.,)	
)	
Defendants.)	
_____)	

NOTICE AND ORDER TO SHOW CAUSE

The Complaint in this trademark case was filed on July 8, 2021, making the 90-day service deadline under Fed. R. Civ. P. 4(m) expire on October 6, 2021. By that deadline, the docket reflected service of summons on all three named defendants. SurfaceQuest Chicago was served on July 13, 2021, making its responsive pleading due August 3, 2021. (ECF No. 5.) Engineered Group, LLC was served on August 2, 2021, making its answer due August 23, 2021. (ECF No. 8.) SurfaceQuest, Inc. was served on August 13, 2021, making its answer due September 3, 2021. (ECF No. 9.)

SurfaceQuest, Inc. sought an extension of its deadline to answer or otherwise respond to the Complaint (ECF Nos. 11, 12) and timely filed a motion to dismiss the case for lack of jurisdiction and improper venue. (ECF No. 15.) However, to date, neither of the two remaining defendants have responded to the Complaint.

On September 27, 2021, the chambers of the undersigned U.S. Magistrate Judge reached out to all counsel to inquire regarding the status of defendants SurfaceQuest

Chicago and Engineered Group, LLC, given that their deadlines to respond to the Complaint had passed with no action. On that same date, Plaintiff's counsel responded she was in contact with SurfaceQuest Chicago and expected to reach an agreement for an extended answer deadline. Plaintiff's counsel also indicated they considered Engineered Group to be in default.¹

On October 13, 2021, when neither default proceedings nor other proceedings were filed regarding the two non-responsive defendants, chambers staff again reached out to counsel to inquire regarding status.² On that same date, Plaintiff's counsel advised the court that SurfaceQuest Chicago was in the process of retaining local counsel in Kansas so an agreed motion could be filed, and the firm was also working on a motion for default judgment regarding Engineered Group.³

To date, the docket reflects no action as to either Defendant SurfaceQuest Chicago or Engineered Group, LLC.

Therefore, the Court orders Plaintiff to show cause in writing to the undersigned United States Magistrate Judge, on or before **November 19, 2021**, why she should not recommend dismissal of Plaintiff's claims against Defendant SurfaceQuest Chicago and/or Engineered Group, LLC with prejudice for lack of prosecution under Fed. R. Civ. P. 41(b).

¹ Emails between ksd_Birzer_chambers@ksd.uscourts.gov and all counsel (dated Sept. 27, 2021) (maintained in chambers file).

² Emails between ksd_Birzer_chambers@ksd.uscourts.gov and all counsel (dated Oct. 13, 2021) (maintained in chambers file).

³ *Id.*

IT IS SO ORDERED.

Dated this 5th day of November, 2021.

s/ Gwynne E. Birzer
GWYNNE E. BIRZER
United States Magistrate Judge