

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

SICIS, s.r.l.,

Plaintiff,

v.

SHINEX MOSAICS GLOBAL, SHINEX  
MOSAICS USA, INEX INDUSTRIES,  
LTD, SACHIN PALSOKAR, and JOHN  
DOES 1-5,

Defendants.

Civil Action No.

1:24-cv-1772-TWT

**MOTION TO SET ASIDE DEFAULT  
AND FOR LEAVE TO FILE ANSWER**

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COMES NOW, SHINEX MOSAICS GLOBAL, SHINEX MOSAICS USA, INEX INDUSTRIES, LTD, and SACHIN PALSOKAR, (hereafter “Defendants”), and pursuant to **Fed. R. Civ. P. 55(c)**, hereby files this Motion To Set Aside Default and Motion for Leave to File Defendants’ Answer in this action, on the grounds that a proper case has been made and that good cause exists to set aside the default based on the foregoing facts and circumstances. In support of the within Motion, Defendants show this court as follows:

1. On April 24, 2024, Plaintiff SICIS, s.r.l., filed its Verified Complaint and request for Injunctive Relief against Defendants for alleged copyright

infringement. [Doc. 1].

2. On April 26, 2024, Plaintiff SICIS, s.r.l., filed its Motion for Temporary Restraining Order against Defendants. [Doc. 12].
3. On April 29, 2024, Defendants' counsel filed his Entry of Appearance on behalf of Defendants Shinex Mosaics Global, Shinex Mosaics USA, Inex Industries, Ltd, and Sachin Palsokar. [Doc. 13].
4. On April 29, 2024, Defendants' counsel communicated with Plaintiff's counsel regarding the alleged infringement and Defendants' desire to remove any allegedly infringing content from its platforms. Further, Defendants' counsel communicated Defendants' desire to remove any infringing content from its platforms.
5. On May 2, 2024, in contemplation of a prompt resolution and dismissal of the case, the Parties stipulated, agreed, and consented to entry of the Stipulated Preliminary Injunction to resolve Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction [Doc. 13].
6. On May 2, 2024, the Court entered an order granting the Parties Consent motion for Stipulated Preliminary Injunction [Doc. 15].
7. On May 8, 2024, as ordered by the Court, Defendants filed its Certificate of

Compliance with the terms of the Stipulated Preliminary Injunction. [Doc. 16].

8. From the time of filing of its Certificate of Compliance with the Court on May 8, 2024, Defendants' counsel and Plaintiff's counsel have been in regular communication regarding alleged ongoing infringement by Defendants.
9. Further, Defendants have been actively working to remove any infringing content from its platforms, and Plaintiff has been aware of Defendants ongoing efforts to remove any infringing content that Defendants have control over or have been made aware of by the Plaintiff.
10. At no point throughout the duration of the Parties' communications and their active efforts to comply with the Stipulated Preliminary Injunction has the Plaintiff made any request for Defendants to file an Answer to Plaintiff's Complaint.
11. Default was not culpable or willful, as Defendants did not file an Answer due to the sincere belief that the Parties would promptly resolve this matter outside of the court system.
12. There will be no prejudice to Plaintiff from setting aside the Default given the relatively short period of time between service of the Verified Complaint upon Defendants and the filing of Defendants' Motion to Set Aside Default and

Answer.

13. Plaintiff filed its Verified Complaint on April 24, 2024, and perfected service upon Defendants on April 25, 2024. Defendants' Answer was due on May 16, 2024. Plaintiff moved for entry of Default on May 22, 2024, only *Seven (7) days* after the deadline for Defendants' Answer. Accordingly, Plaintiff will not be prejudiced from Defendants' being permitted to set aside Default and file its Answer to Plaintiff's Complaint at this time as the time elapsed since the filing of the Complaint and the service of the action has been relatively brief, thus minimizing any potential adverse effects on the Plaintiff's case. See Catalina Worldwide, LLC v. Info. and Infrastructure Techs., Inc., No. 1:22-CV-02757-JPB, 2023 WL 346656 (N.D. Ga. Jan. 19, 2023). (*finding "good cause" to set aside default where Plaintiff had not been prejudiced by Defendant filing its answer 12 days after the deadline*).
14. Defendant has meritorious defenses to Plaintiff's Complaint.
15. Defendants' tiles and mosaics did not infringe on the copyrights held by Plaintiff because the Defendants' tiles and mosaics are not substantially *similar* to those designed by the Plaintiff. Under the Copyright Act, 17 U.S.C. §§ 101 *et seq*, the Plaintiff must demonstrate that the Defendants copied the protected elements of a copyrighted work by showing that the works would be substantially similar to a lay observer. Architects Collective v. Pucciano &

Eng., Inc., 247 F. Supp. 3d 1322 (N.D. Ga. 2017).

16. The tiles and mosaics manufactured by Defendants would not be substantially similar to Plaintiff's tiles in the eyes of a lay observer. This is because although the Defendants and Plaintiff's tiles and mosaics use common elements, the configuration and arrangement of these elements is not substantially similar, and thus, the Defendants tiles do not infringe on the copyright held by the Plaintiffs.
17. To the extent that Defendants are found to be liable for copyright infringement of the Plaintiff's works, any and all alleged infringement on the part of Defendants was not done "willfully" as to enhance the actual damages award to the Plaintiff based upon the known facts of this case.
18. Defendants' tiles and mosaics do not violate the Georgia Uniform Deceptive Trade Practices Act because they sold their own tiles fabricated by them and did not pass off their tiles or mosaics as those fabricated by Plaintiff, as required under O.C.G.A. § 10-1-370(a)(1).
19. Defendants did not cause a likelihood of confusion or misunderstanding concerning the source, sponsorship, approval or certification of their tiles and mosaics, as required under O.C.G.A. § 10-1-370(a)(2), because they never actively or passively held out their products as being sourced from, sponsored by, approved by, or certified by Plaintiff.

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