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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KONINKLIJKE PHILIPS
ELECTRONICS, N.V.,

Plaintiff - Appellee,

v.

FUSHENG LIU, AKA Liu Fusheng, AKA
Fu Sheng Liu,

Defendant - Appellant,

and

KXD TECHNOLOGY, INC.; ASTAR
ELECTRONICS, INC.; ASTAR
ELECTRONICS USA, INC.; SHENZHEN
KXD MULTIMEDIA CO., LTD.;
SHENZHEN KAIXINDA
ELECTRONICS CO. LTD.; KXD
DIGITAL ENTERTAINMENT, LTD.;
JINGYI LUO, AKA James Luo;
SUNGALE GROUP, INC.; SUNGALE
ELECTRONICS (SHENZHEN), LTD.;
AMOI ELECTRONICS, INC.; AMOI
ELECTRONICS CO., LTD.; AMOI
ELECTRONICS, LTD.; CHINA
ELECTRONICS CORPORATION;

No. 08-16763

D.C. No. 2:05-cv-01532-RLH-
GWF

MEMORANDUM*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

AMOISONIC ELECTRONICS, INC.;
INTERNATIONAL NORCENT
TECHNOLOGY, INC.; NORCENT
HOLDINGS, INC.; SHANGHAI
HONGSHENG TECHNOLOGY CO.,
LTD.; SHENZHEN NEWLAND
ELECTRONIC INDUSTRY CO., LTD.;
DESAY A&V (USA) INC.; DESAY A&V
SCIENCE & TECHNOLOGY CO., LTD.;
DESAY HOLDINGS CO., LTD.; XORO
ELECTRONICS (SHANGHAI) LTD.;
SHENZHEN XORO ELECTRONICS CO.
LTD.; MAS ELEKTRONIK AG
CORPORATION; SHENZHEN
ORIENTAL DIGITAL TECHNOLOGY
CO., LTD.,

Defendants.

Appeal from the United States District Court
for the District of Nevada
Roger L. Hunt, District Judge, Presiding

Argued and Submitted June 3, 2009
Las Vegas, Nevada

Before: RAWLINSON and BYBEE, Circuit Judges, and BURNS **, District
Judge.

** The Honorable Larry Burns, United States District Judge for the
Southern District of California, sitting by designation.

Fusheng Liu (Liu) appeals from the district court’s entry of default judgment against him. However, because Liu failed to file a motion in the district court under either Federal Rule of Civil Procedure 55(c) or 60(b) seeking to set aside the second entry of default or entry of default judgment, *Consorzio del Prosciutto di Parma v. Domain Name Clearing Company, LLC*, 346 F.3d 1193, 1195 (9th Cir. 2003) mandates dismissal. Liu’s “argument that service was insufficient is not a matter properly before this court.” *Id.*

Nothing in Rule 27 of the Federal Rules of Appellate Procedure or the Rules of the Ninth Circuit required Appellee to file a motion to dismiss the appeal before raising Liu’s failure to seek relief from the default judgment.

APPEAL DISMISSED.