

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

**WOUAFF WOUAFF LLC,**

**Plaintiff,**

**v.**

**Case No: 6:18-cv-418-Orl-41TBS**

**MELISSA T. MCELORY,**

**Defendant.**

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**ORDER**

THIS CAUSE is before the Court on Plaintiff's Motion for Entry of Default Judgment (Doc. 16). United States Magistrate Judge Thomas B. Smith submitted a Report and Recommendation ("R&R," Doc. 17), in which he recommends the Court deny Plaintiff's Motion and dismiss the Complaint (Doc. 1) for lack of subject matter jurisdiction. Judge Smith found that Plaintiff failed to state a federal cause of action under the Defend Trade Secrets Act ("DTSA"), the only potential basis for subject matter jurisdiction within the Complaint. (*Id.* at 4). As a result, Judge Smith reasoned that the Court cannot exercise supplemental jurisdiction over Plaintiff's remaining state law claims. (*Id.* at 6). *See Maughon v. City of Covington*, 505 F. App'x. 818, 823 (11th Cir. 2013) (rejecting the "claim that the district court should take supplemental jurisdiction of her state law claims" when federal claims were already resolved). Judge Smith also reasoned that Plaintiff should be given leave to amend the Complaint "out of an abundance of caution." (Doc. 17 at 7).

Plaintiff filed what it contends is an Objection to the R&R. (Doc. 19). However, in the Objection, Plaintiff concedes that it has not alleged, and cannot allege, a cause of action under the


DTSA. (*Id.* at 2). Plaintiff requests that the Court dismiss only the DTSA claim—Count II—and that the case be “remanded to a state court sitting in Orange County, Florida.” (*Id.* at 2–3).

After an independent *de novo* review the Court agrees with the analysis set forth in the R&R, with the exception that the case will be dismissed without leave to amend. Because Plaintiff concedes that it has not and cannot state a federal cause of action, amendment would be futile. Additionally, Plaintiff’s request for remand will be denied. Plaintiff brought this case in federal court; thus, remand is improper.

Accordingly, it is **ORDERED** and **ADJUDGED** as follows:

1. To the extent that it is consistent with this Order, the Report and Recommendation (Doc. 17) is **ADOPTED and CONFIRMED** and made a part of this Order.
2. Plaintiff’s Objection to the Report and Recommendation (Doc. 19), to the extent it may be construed as a motion to remand, is **DENIED**.
3. Plaintiff’s Motion for Entry of Default Judgment (Doc. 16) is **DENIED**.
4. The Complaint (Doc. 1) is **DISMISSED** for lack of subject matter jurisdiction.
5. The Clerk is directed to close this case.

**DONE** and **ORDERED** in Orlando, Florida on April 3, 2019.



CARLOS E. MENDOZA  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record