

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**NUTRAMAX LABORATORIES,  
INC. and NUTRAMAX  
LABORATORIES VETERINARY  
SCIENCES, INC.,**

**Plaintiffs,**

**v.**

**Case No: 6:24-cv-1242-CEM-EJK**

**OHMI INVESTMENTS LLC,**

**Defendant.**

**ORDER**

This cause comes before the Court on Plaintiffs' Request for Clerk's Entry of Default (the "Motion") (Doc. 25), filed October 30, 2024. Upon consideration, the Motion is due to be denied without prejudice.

**I. BACKGROUND**

Plaintiff Nutramax Laboratories, Inc., and Plaintiff Nutramax Laboratories Veterinary Sciences, Inc. (collectively, "Plaintiffs"), filed a Complaint against Defendant Ohmi Investments LLC ("Defendant"), pursuant to the Lanham Act, 15 U.S.C. §§ 1114 *et seq.*, alleging trademark infringement and unfair competition. (Doc. 1.) The Affidavit of Service reflects that Defendant was served on July 31, 2024, through service on an individual designated by law to accept service on behalf of Defendant. (Doc. 14.) Plaintiffs now seeks entry of a clerk's default against Defendant for its failure to appear in this case. (Doc. 25.) The Motion is now ripe for review.

## II. STANDARD

“When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). Before the clerk may enter default, he or she must determine that effective service has been made on the defaulting defendant because, without effective service, there is no jurisdiction and no obligation to answer or “otherwise defend.” *See Kelly v. Florida*, 233 Fed. App’x 883, 885 (11th Cir. 2007) (unpublished).

## III. DISCUSSION

Defendant is an LLC that operates in Winter Park, Florida. (Doc. 1 ¶ 5.) Under the federal rules, a corporate defendant may be served by:

delivering a copy of the summons and of the complaint to an officer, a managing or general agent, **or any other agent authorized by appointment or by law to receive service of process** and—if the agent is one authorized by statute and the statute so requires—by also mailing a copy of each to the defendant[.]

Fed. R. Civ. P. 4(h)(1)(B) (emphasis added).

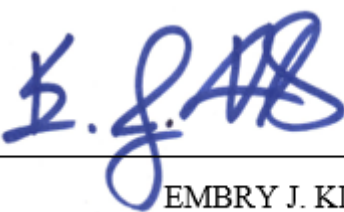
The Affidavit of Service reflects that Defendant was served on July 31, 2024, through service on an individual—Brooke Ratliff—who is designated by law to accept service of process on behalf of Defendant. (Doc. 14.) Plaintiffs also allege Brooke Ratliff identified herself as Defendant’s agent, authorized by law to accept service on behalf of Defendant pursuant to Federal Rule of Civil Procedure 4(h)(1)(B). (Doc. 25 at 2.) But Florida public records identify Duane Schramm as Defendant’s registered

agent.<sup>1</sup> It is unclear from the information currently before the Court whether service was proper on Defendant due to the discrepancy between Defendant's listed registered agent and Brooke Ratliff's representation. It is incumbent upon Plaintiffs to explain how Brooke Ratliff is authorized by law to accept service on behalf of Defendant. Thus, the Court will deny the motion for entry of default against Defendant without prejudice, and Plaintiffs may renew its motion against Defendant with supporting documentation to establish that service was properly effectuated.

#### IV. CONCLUSION

Accordingly, it is **ORDERED** that Plaintiffs' Request for Clerk's Entry of Default (Doc. 25) is **DENIED WITHOUT PREJUDICE**. Plaintiffs shall have **thirty days** from the date of this Order to re-serve Defendant Ohmi Investments LLC or file an amended motion addressing the deficiencies identified herein.

**DONE** and **ORDERED** in Orlando, Florida on December 10, 2024.

  
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EMBRY J. KIDD  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> Detail by Entity Name of Ohmi Investments LLC, *Division of Corporations, an Official State of Florida Website*, <https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=OHMIINVESTMENTS%20L210004612320&aggregateId=fla1-121000461232-542851c9-701d-4316-834a-bbe202bd91b9&searchTerm=OHMI%20INVESTMENTS%20LLC&listNameOrder=OHMIINVESTMENTS%20L210004612320> (last visited Dec. 5, 2024).