

affidavits persuade me that the default, although perhaps negligent, was not willful. The prejudice to the plaintiff is primarily the commercial embarrassment from having already notified trade journals of the judgment in his favor, but that is neither a severe prejudice nor the type of prejudice of concern here. Specifically, there is no showing that the plaintiff will have greater difficulty in proving his case because of the short delay that has taken place. Finally, the defendants have presented a “meritorious defense” within the meaning of that term since that factor “does not go so far as to require that the movant demonstrate a likelihood of success on the merits. Rather, a party’s averments need only plausibly suggest the existence of facts which, if proven at trial, would constitute a cognizable defense.” *Id.* at 77. The defendants have presented such a defense, both in their personal jurisdiction assertions and in their patent invalidity assertions.

For these reasons, default judgment is **VACATED**, entry of default is removed and the defendants’ motion for leave to file an answer and counterclaim is **GRANTED**.

The Clerk’s Office shall schedule oral argument on the defendants’ motion to dismiss for lack of personal jurisdiction. The lawyers shall be prepared to address the applicability of Fed. R. Civ. P. 4(k)(2) and shall consult the Advisory Committee Note.

SO ORDERED.

DATED THIS 17TH DAY OF JANUARY, 1997.

D. BROCK HORNBY
UNITED STATES CHIEF DISTRICT JUDGE