

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA  
**CIVIL MINUTES – GENERAL**

Case No. **2:21-cv-08533-MCS-SP** Date July 8, 2024

Title ***MG Premium Ltd. v. Does d/b/a GoodPorn.to***

Present: The Honorable **Mark C. Scarsi, United States District Judge**

Stephen Montes Kerr  
 Deputy Clerk

Not Reported  
 Court Reporter

Attorney(s) Present for Plaintiff(s):  
 None Present

Attorney(s) Present for Defendant(s):  
 None Present

**Proceedings: (IN CHAMBERS) ORDER RE: MOTION TO ALTER OR AMEND THE  
 DEFAULT JUDGMENT [ECF No. 281]**

Plaintiff MG Premium Ltd. moves to alter or amend the default judgment entered against Defendants Amrit Kumar, Lizette Lundberg, and Emilie Brunn. (Mot., ECF No. 281.) Defendant Kumar filed an opposition, (Opp’n, ECF No. 287), and Plaintiff filed a reply, (Reply, ECF No. 288).<sup>1</sup> The Court deems the motion appropriate for decision without oral argument. Fed. R. Civ. P. 78(b).

<sup>1</sup> As a threshold matter, “[e]ntry of a defendant’s default cuts off a defendant’s right to appear in an action or to present evidence.” *Thompson v. Civil*, No. CV 19-5690-RSWL-AS, 2020 WL 8610841, at \*7 n.8 (C.D. Cal. Aug. 10, 2020) (alteration in original) (internal quotation marks omitted). The Court entered default against Defendants after they failed to appear at the final pretrial conference in this matter. (Default by Clerk, ECF No. 234; *see* Mins., ECF No. 233.) The Court also further entered default against Defendant Kumar as a sanction for his discovery misconduct. (Default by Clerk, ECF No. 263; *see* R. & R., ECF No. 210; Order Accepting R. & R., ECF No. 261.) And the Court previously denied Defendant Kumar’s application to vacate the default. (Order Denying Ex Parte Appl., ECF No. 273.) As such, the Court strikes Defendant Kumar’s opposition to the instant motion. *See Thompson*, 2020 WL 8610841, at \*7 n.8 (“Because Defendant’s Motion was filed after the Clerk

## I. BACKGROUND

The Court incorporates by reference its summary of the facts from a prior order. (Order Re: Mot. for Summ. J. 1–2, ECF No. 195.) In short, Plaintiff holds copyrights to thousands of audiovisual works available for viewing on websites Defendants own and operate, GoodPorn.to and GoodPorn.se.<sup>2</sup> Plaintiff asserts claims for copyright infringement based on the unauthorized streaming, uploading, and downloading of its copyrighted works on goodporn.to.

The Court previously granted in part Plaintiff’s motion for default judgment, (Order Re: Default J., ECF No. 278), but declined to grant Plaintiff’s requested injunctive relief, (*id.* at 9), and prejudgment interest, (*id.* at 9–10), for failure to present evidence with the motion. For similar reasons, the Court also awarded attorneys’ fees consistent with the schedule of fees set forth in Local Rule 55-3, and statutory damages of \$1,500 per infringement, less than the sums Plaintiff requested. (*Id.* at 7, 9.)

Through the instant motion, Plaintiff asks the Court to grant a permanent injunction, increase the damages award, and increase the award of attorneys’ fees. (*See generally* Mot.)

## II. LEGAL STANDARD

Rule 59(e) authorizes a motion to alter or amend a judgment to be filed no later than 28 days after entry of a judgment. “A district court has considerable discretion when considering a motion to amend a judgment under Rule 59(e).” *Turner v. Burlington N. Santa Fe R.R. Co.*, 338 F.3d 1058, 1063 (9th Cir. 2003). “There are four grounds upon which a Rule 59(e) motion may be granted: 1) the motion is necessary to correct manifest errors of law of fact upon which the judgment is based; 2) the moving party presents newly discovered or previously unavailable evidence; 3) the motion is necessary to prevent manifest injustice; or 4) there is an intervening change in controlling law.” *Id.* (emphasis removed) (internal quotation marks omitted).

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entered default against Defendant, it must therefore be stricken.” (quoting *Warner Bros. Home Ent. v. Meyers*, No. CV 13-00890-SJO (VBKx), 2013 WL 12142605, at \*1 (C.D. Cal. Apr. 24, 2013))).

<sup>2</sup> The Court refers to Defendants’ websites as goodporn.to.

### III. DISCUSSION

#### A. Injunction

Plaintiff argues that altering or amending the judgment is necessary here based on new evidence that goodporn.to “continues to display thousands of Plaintiff’s Works.” (Mot. 7; *see* Tucker Decl. ¶¶ 20–27 & Exs. A–I, ECF Nos. 281-3 to -4.) Plaintiff’s evidence shows infringement of more than 50,000 videos either owned or licensed by Plaintiff. (Tucker Decl. ¶ 22.) Further, while the Court’s prior order awarding default judgment in part stated that “Plaintiff did not plead entitlement to injunctive relief directed to nonparties to this case,” (Order Re: Default J. 9), the Court now recognizes that Plaintiff’s first amended complaint does request injunctive relief against “any or all persons acting in concert or participation with” Defendants or under Defendants’ “direction or control,” (FAC, Prayer for Relief ¶¶ A–C, ECF No. 30). The scope of the injunctive relief requested in the instant motion is consistent with the injunctive relief prayed for in the first amended complaint, unlike the proposed order upon the motion for default judgment. (*See* Proposed J. ¶ 7, ECF No. 248-2 (providing injunctive relief from specific nonparties)); *see also* Fed. R. Civ. P. 54(c) (“A default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings.”). On these bases, the Court finds that it is appropriate to consider Plaintiff’s request for an injunction under Rule 59(e).

A plaintiff may obtain injunctive relief by means of a default judgment. *See PepsiCo*, 238 F. Supp. 2d at 1178. Under 17 U.S.C. § 502(a), the Court may grant “final injunctions . . . to prevent or restrain infringement of a copyright.” To obtain a permanent injunction,

[a] plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.

*eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006).

The Ninth Circuit has found a likelihood of irreparable harm for unauthorized reproductions and performances of copyrighted works when the unauthorized display undermines the business model a plaintiff creates. *Disney Enters., Inc. v.*

*VidAngel, Inc.*, 869 F.3d 848, 866 (9th Cir. 2017). The Court accepts Plaintiff’s unchallenged allegations that Defendants’ unauthorized streaming undermines Plaintiff’s business model. (See Baba Decl. ¶¶ 8, 24, 29, ECF No. 281-1; Tucker Decl. ¶ 37.) Thus, Plaintiff has demonstrated it would suffer irreparable harm without an injunction.

“Plaintiffs have no adequate remedy at law for unauthorized streaming where they are unlikely to collect any damages.” *Paramount Pictures Corp. v. Does*, No. 2:21-cv-09317-MCS-SK, 2022 U.S. Dist. LEXIS 109051, at \*14 (C.D. Cal. Apr. 20, 2022) (citing *Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 518 F. Supp. 2d 1197, 1219–20 (C.D. Cal. 2007)); see *Jackson v. Sturkie*, 255 F. Supp. 2d 1096, 1103 (N.D. Cal. 2003) (granting permanent injunction as part of default judgment in copyright infringement action in part because “defendant’s lack of participation in this litigation has given the court no assurance that defendant’s infringing activity will cease”). The Court notes that Defendant Kumar has failed to pay \$4,287.25 in sanctions for failure to appear at his deposition, (Bjorgum Decl. ¶ 4, ECF No. 281-5), and Defendant Lundberg has failed to pay \$7,831 in attorney’s fees in connection with Plaintiff’s successful anti-SLAPP motion, (*id.*). Accordingly, the Court suspects Plaintiff will face an equal or greater challenge collecting the more sizeable money damages awarded at default judgment. As such, this factor weighs in favor of an injunction.

As to the third factor, the Court must consider the parties’ relative hardships. Here, relief Plaintiff requests relates to stopping Defendants from performing or reproducing Plaintiff’s copyrighted works. “Obviously, ‘the fact that Plaintiffs recordings can be replicated into infinity, for free, establishes that a distinct hardship rests with’” Plaintiff. *Metro-Goldwyn-Mayer Studios, Inc.*, 518 F. Supp. 2d at 1220 (quoting *UMG Recordings, Inc. v. Blake*, No. 5:06-CV-00120-BR, 2007 WL 1853956, at \*3 (E.D.N.C. June 26, 2007)). In contrast, the Court fails to perceive any undue hardship on the part of Defendants. See *Cadence Design Sys., Inc. v. Avant! Corp.*, 125 F.3d 824, 830 (9th Cir. 1997) (“[W]here the only hardship a defendant will suffer from an injunction is lost profits from an activity which has been shown likely to be infringing, such an argument in defense merits little equitable consideration . . . .” (internal quotation marks omitted)). Thus, this factor weighs in favor of an injunction.

Finally, the public has an interest in maintaining a system of intellectual property protection that encourages the creation and production of films, videos, and other useful arts. *VidAngel*, 869 F.3d at 867. Because an injunction here would help

maintain that system by protecting against widespread copyright infringement, an injunction would be in the public interest.

The Court finds Plaintiff has demonstrated all four factors weigh in favor of a permanent injunction and that an injunction is warranted.

That said, the scope of Plaintiff's requested injunction remains inconsistent with the pleadings and the factual record before the Court. While the record supports issuing an injunction as to goodporn.to and goodporn.se, neither the declarations supporting the instant motion nor the broader record as the Court perceives it refer to GPStatus.org. As such, the Court declines to include the specific language regarding GPStatus.org to the extent that the website is not already covered by the injunction's broader language. Further, because Defendants are in default and therefore cannot appear or present evidence, *Thompson*, 2020 WL 8610841, at \*7 n.8, the Court declines to order Defendants to file any reports.

#### **B. Damages and Attorney's Fees**

While Plaintiff's motion puts forth grounds to amend or alter the judgment under Rule 59(e) as to an injunction, it does not do so with respect to its arguments for increased damages or attorney's fees. The reasons stated above for revisiting the Court's decision on an injunction apply only to injunctive relief. Plaintiff offers arguments why the Court should augment the award of damages and attorneys' fees, (*see generally* Mot. 12–21), but it could have raised these arguments at the default judgment stage. Because “[a] Rule 59(e) motion may not be used to raise arguments or present evidence for the first time when they could reasonably have been raised earlier in the litigation,” and given the “extraordinary remedy” relief the rule represents, the Court declines to disturb its rulings on damages and attorneys' fees. *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003).

#### **IV. CONCLUSION**

For the reasons stated above, the Court grants in part and denies in part Plaintiff's motion. The Court shall issue an amended judgment. The Court grants Plaintiff's requested permanent injunction. The Court orders the following:

1. Defendants and their respective agents, servants, officers, directors, employees, attorneys, privies, representatives, successors and assigns and parent and subsidiary corporation or other related entities, and any or all

persons acting in concert or participation with any of them, or under their direction or control, are permanently enjoined from:

- a. Hosting, linking to, distributing, reproducing, copying, downloading, uploading, making available for download, indexing, displaying, exhibiting, communicating to the public, streaming, transmitting, or otherwise exploiting or making any use of any of MG Premium's copyrighted works, including the Subject Works, or any portion(s) thereof in any form;
- b. Enabling, facilitating, permitting, assisting, soliciting, encouraging or inducing, whether directly or indirectly, any user or other third party (1) to host, link to, distribute, reproduce, copy, download, upload, make available for download, index, display, exhibit, communicate to the public, stream, transmit, or otherwise exploit or make any use of MG Premium's copyrighted works, including the Subject Works, or portion(s) thereof; or (2) to make available any of MG Premium's copyrighted works, including the Subject Works, for hosting, linking to, distributing, reproducing, copying, downloading, uploading, making available for download, indexing, displaying, exhibiting, communicating to the public, streamlining, transmitting, or other exploitation or use;
- c. Using, operating, maintaining, distributing, or supporting any computer server, website, software, domain name, email address, social media account, bank account, or payment processing system in connection with the hosting, linking to, distributing, reproducing, copying, downloading, uploading, making available for download, indexing, displaying, exhibiting, communicating to the public, streaming, transmitting, or other exploitation or use of any of MG Premium's copyrighted works, including the Subject Works;
- d. Enabling, facilitating, permitting, assisting, soliciting, encouraging or inducing, whether directly or indirectly, any user or other third party to visit any website, including but not limited to any website operated by Defendants, that hosts, links to, distributes, reproduces, copies, downloads, uploads, make available for download, indexes, displays, exhibits, communicates to the public, streams, transmits, or otherwise exploits or makes any use of MG Premium's copyrighted works, including the Subject Works, or portion(s) thereof;
- e. Transferring or performing any function that results in the transfer of the registration of Goodporn.to and Goodporn.se, (collectively the "Goodporn Websites") to any other registrant or registrar; and

- f. Assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in this Paragraph including infringing upon any of Plaintiff's copyrighted works.
2. Defendants, their agents, servants, officers, directors, employees, attorneys, privies, representatives, successors and assigns and parent and subsidiary corporations or other related entities, and any or all persons or entity acting in concert or participation with any of them, or under their direction or control, including any internet search engines, web hosting and Internet service providers, domain name registrars, domain name registries and other service or software providers are ordered, within five business days from Plaintiff's service of the Judgment on those parties to block or use reasonable efforts to attempt to block access by United States users of the Goodporn Websites by blocking or attempting to block access to all domains, subdomains, URLs, and/or IP addresses that have as its sole or predominant purpose to enable to facilitate access to the Goodporn Websites.

**IT IS SO ORDERED.**