

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

COLUMBIA PICTURES INDUSTRIES, INC.,
et al.,

Plaintiffs,

v.

ALEJANDRO GALINDO, et al.,

Defendants.

Case No.: 2:20-cv-03129-MEMF (GJSx)

**ORDER GRANTING PLAINTIFFS’
MOTION FOR DEFAULT JUDGMENT
AGAINST DEFENDANTS RICHARD
HORSTEN, ANNA GALINDO, MARTHA
GALINDO, OSVALDO GALINDO, RAUL
ORELLANA, AND FIRESTREAM LLC [ECF
NO. 227] AND GRANTING PLAINTIFFS’
REQUESTS FOR RELIEF PURSUANT TO
PLAINTIFFS’ SUPPLEMENTAL BRIEF IN
SUPPORT OF MOTION FOR
TERMINATING SANCTIONS AND ENTRY
OF JUDGMENT AGAINST DEFENDANT
ALEJANDRO GALINDO [ECF NO. 226]**

Before the Court is the Motion for Default Judgment filed by Plaintiffs Columbia Pictures, Industries, Inc.; Amazon Content Services, LLC; Disney Enterprises, Inc.; Paramount Pictures Corporation; Warner Bros. Entertainment Inc.; Universal City Studios Productions LLLP; Universal Television LLC; and Universal Content Productions LLC. ECF No. 227. Also before the Court is Plaintiffs’ Supplemental Brief in Support of their Motion for Terminating Sanctions and Entry of Judgment against Defendant Alejandro Galindo. ECF No. 226. For the reasons stated herein, the Court hereby GRANTS the Motion for Default Judgment and GRANTS Plaintiffs’ Request for judgment against Alejandro Galindo.

1 **I. Factual Background**¹

2 This case involves large-scale copyright infringement through an unlicensed internet
3 streaming² service. Plaintiffs Columbia Pictures Industries, Inc. (“Columbia”); Amazon Content
4 Services, LLC (“Amazon”); Disney Enterprises, Inc. (“Disney”); Paramount Pictures Corporation
5 (“Paramount”); Warner Bros. Entertainment, Inc. (“Warner Bros.”); Universal City Studios
6 Productions LLLP (“Universal City”); and Universal Content Productions LLC (“Universal
7 Content”) (collectively, “Plaintiffs”), either directly or through affiliates, “produce and distribute a
8 significant portion of the world’s most popular television programs and motion pictures.” SAC ¶ 31.
9 Plaintiffs own or hold “the exclusive U.S. rights . . . to reproduce, distribute, and publicly perform
10 countless works, including by means of streaming those works over the Internet to the public.” *Id.* ¶
11 32.

12 Defendants Richard Horsten (a/k/a “Rik de Groot”) (“Horsten”), Alejandro (“Alex”) Galindo,
13 Anna Galindo, Martha Galindo, Osvaldo Galindo, Raul Orellana (a/k/a “Touchstone”) (“Orellana”),
14 and Firestream LLC (“Firestream”) (collectively, the “Nitro Defendants”) owned and
15 operated Nitro TV, an unlicensed Internet Protocol television service (“IPTV”). *Id.* ¶¶ 1, 34.

16 **A. Nitro TV Platforms**

17 Nitro TV is a collection of web-based and application-based streaming platforms for use on
18 mobile phones and smart TVs (collectively, the “Nitro TV Platforms”). *Id.* ¶ 2. For \$20 per month,
19 the Nitro Defendants offered Nitro TV subscription packages consisting of thousands of live and
20 title-curated television channels available twenty-four hours a day, seven days a week, in the United
21 States and abroad. *Id.* ¶¶ 1–3, 42. Beginning in or around May 2017, Nitro Defendants marketed,
22 promoted, and sold Nitro TV subscriptions through NitroIPTV.com. *Id.* ¶ 41. Alex Galindo
23 registered the domain name NitroIPTV.com with Domain.com LLC in December 2016. *Id.* In April
24 2017, Horsten, under the alias Rik de Groot, registered the domain names for TekkHosting.com,
25

26 _____
27 ¹ Unless otherwise stated, the following factual background is derived from the Second Amended Complaint.
ECF No. 113 (“SAC”).

28 ² A “stream” is “digital data (such as audio or video material) that is continuously delivered one packet at a
time and is usually intended for immediate processing or playback.” *Stream*, Webster’s Dictionary,
<https://www.merriam-webster.com/dictionary/stream> (last visited Nov. 8, 2022).

1 Lalaluhosting.com, and Nitro.ltd with Namecheap, Inc. *Id.* All three sites are connected to the Nitro
2 TV Platforms.

3 Subscribers can obtain access to Nitro TV in two ways: (1) by purchasing a subscription
4 through the Nitro TV website or another website maintained by the Nitro Defendants or (2)
5 purchasing a subscription through a Nitro TV reseller. *Id.* ¶ 41. Many of the channels include
6 popular television programs and movies such as *The Office*, *Spider-Man: Homecoming*, *Toy Story 3*,
7 *Star Trek Beyond*, and *Joker*, and include works whose copyrights Plaintiffs own or exclusively
8 control (“Copyrighted Works” or the “Works”). *Id.* ¶ 1. The channels also include live, California-
9 based television networks such as Los Angeles ABC, CBS, CW, NBC, and FOX affiliates. *Id.* ¶ 50.
10 Nitro TV also includes a “Catch Up” feature³ which allows a subscriber to access “television
11 programming from the prior two days,” *id.* ¶ 51, and “24/7, title-curated channels,” which “are
12 devoted to a single television series, motion picture, or franchise.” *Id.* ¶ 52.

13 During the many years the Nitro Defendants operated Nitro TV, they infringed upon, at a
14 minimum, 1,897 Copyrighted Works. *See* SAC, Ex. A. The Nitro Defendants’ infringement was
15 willful—they actively selected the programming they sold and streamed illegally on Nitro TV,
16 notified Nitro TV subscribers when channels containing the Copyrighted Works became available,
17 solicited feedback from subscribers regarding preferred television programs, and added television
18 shows in response to such feedback. *Id.* ¶ 3. The Nitro Defendants also took steps to actively
19 advertise Nitro TV, such as on YouTube channels and through Facebook. *See id.* ¶¶ 28, 35–37.
20 However, at no point did the Nitro Defendants seek to register a Digital Millennium Copyright Act
21 (“DMCA”) agent for any Nitro TV website they operated. *Id.* ¶ 4. Instead, the Nitro Defendants took
22 steps to operate anonymously and “hide their tracks,” such as concealing registrant information on
23
24
25
26

27 ³ The SAC describes the “Catch Up” features as follows: “For example, a Nitro TV subscriber using this
28 feature on a Monday would be shown a guide of what aired on Sunday and Saturday, and may select and
watch a program that was telecast at a specific time on a specific channel . . . during the prior two days.” *Id.* ¶
51

1 the primary Nitro TV website from public access and advising subscribers to use a Virtual Private
2 Network (“VPN”).⁴ *Id.* ¶¶ 4, 39, 41.

3 **B. Nitro TV Reseller Network**

4 In addition to selling subscription packages directly to users, the Nitro Defendants also
5 developed a robust “reseller network” by which resellers market and sell the Nitro TV Platforms to
6 subscribers all over the world. *Id.* ¶¶ 5, 54. Nitro TV resellers purchase reseller credits hosted on
7 nitroiptv.com or other websites hosted by the Nitro Defendants. *Id.* ¶ 41. Profits and payments
8 generated from the reseller network are managed by Anna Galindo, Martha Galindo, and Osvaldo
9 Galindo who “hold and operate critical payment processor and bank accounts through which
10 millions of dollars’ worth of Nitro TV reseller credits and subscriptions have been sold.” *Id.* ¶¶ 6, 40.
11 Anna Galindo, Martha Galindo, and Osvaldo Galindo also used these accounts to pay Horsten,
12 Orellana, and Firestream for their work in connection with the “promotion, sales, and operation of
13 Nitro TV.” *Id.* ¶ 40

14 **II. Procedural Background**

15 On April 3, 2020, Plaintiffs filed their initial complaint against Alex Galindo and Does 1–20
16 for direct and secondary copyright infringement associated with Nitro TV. ECF No. 1. Soon after,
17 Plaintiffs sought—and were awarded—a preliminary injunction to enjoin Alex Galindo’s copyright
18 infringement, including his ongoing operation of Nitro TV. ECF Nos. 12 (“Motion for Preliminary
19 Injunction”); 34 (“Order Granting Preliminary Injunction”).

20 On May 4, 2020, Plaintiffs filed an application for entry of default against Alex Galindo.
21 ECF No. 31. The Clerk of Court entered default on May 5, 2020. ECF No. 32. However, on May 19,
22
23

24
25 ⁴ A VPN is a “a private computer network that functions over a public network.” VPN, Merriam-Webster,
26 <https://www.merriam-webster.com/dictionary/VPN> (last accessed Nov. 10, 2022); *see also United States v.*
27 *Fisher*, No. 217CR00073APGGWF, 2019 WL 3310508, at *3 (D. Nev. Mar. 28, 2019), *report and*
28 *recommendation adopted as modified*, No. 217CR00073APGGWF, 2019 WL 2419456 (D. Nev. June 10,
2019) (“A person using a VPN to communicate on the internet can obscure his or her true IP address and
identity because the communication appears to originate from the VPN’s IP address, rather than the user’s
actual IP address.”).

1 2020, pursuant the parties' stipulation, ECF No. 36, the Court set aside the entry of default. ECF No.
2 37. Discovery commenced soon after. *See* Civil Trial Order, ECF No. 43.

3 However, Alex Galindo refused to cooperate in discovery and did not produce any
4 documents. *See* ECF Nos. 53, 57. On August 19, 2020, Plaintiffs, suspecting that Alex Galindo had
5 engaged in spoliation of evidence, filed a discovery motion requesting an order requiring, among
6 other things, the preservation and production of relevant evidence and responses to interrogatories.
7 ECF No. 57. Magistrate Judge Gail Standish granted the motion and ordered Alex Galindo to
8 propound the requested discovery. *See* Report & Recommendation on Plaintiffs' Motion for
9 Sanctions Against Alejandro Galindo, ECF No. 209 ("R&R") at 9–10, *report and recommendation*
10 *adopted* ECF No. 222. Again, Alex Galindo failed to produce the ordered discovery.⁵ R&R at 11–
11 12. As a result, Plaintiffs filed a Motion for Terminating Sanctions against Alex Galindo. ECF No.
12 112. Judge Standish issued a Report and Recommendation granting the Motion for Terminating
13 Sanctions and granting Entry of Judgment on June 30, 2022. *See* R&R. On August 15, 2022, this
14 Court adopted the R&R and ordered Plaintiffs to submit supplemental briefing on the issue of
15 statutory damages and the amount of damages sought by Plaintiffs.⁶ ECF No. 222. Plaintiffs filed the
16 requested brief on October 3, 2022. ECF No. 226 ("Supplemental Brief").

17 On August 27, 2020, Plaintiffs filed a First Amended Complaint adding Horsten as a
18 defendant. ECF No. 63. On March 23, 2021, Plaintiffs filed the operative SAC adding Defendants
19 Anna Galindo, Osvaldo Galindo, Raul Orellana, Firestream, and Martha Galindo.⁷ ECF No. 112.
20 Plaintiffs allege three causes of action pursuant to the Copyright Act, 17 U.S.C. § 101, *et seq.*: (1)
21 direct copyright infringement against Defendants Alex Galindo, Anna Galindo, Martha Galindo,
22 Osvaldo Galindo, and Horsten; (2) secondary copyright infringement against all Nitro Defendants;
23 and (3) intentional inducement of infringement against all Nitro Defendants. *See* SAC ¶¶ 64–91.
24 Alex Galindo filed an answer on April 13, 2021. ECF No. 126. Despite properly effecting service on
25

26 _____
27 ⁵ A detailed summary of Alex Galindo's discovery violations may be found in the R&R.

28 ⁶ The Court addresses Plaintiffs' statutory damage supplemental briefing in a separate order.

⁷ Because Alex, Anna, Martha, and Osvaldo share the same last name, the Court refers to all four defendants by their first and last names.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.