

1 KELLY M. KLAUS (State Bar No. 161091)
Kelly.Klaus@mto.com
2 ROSE LEDA EHLER (State Bar No. 296523)
Rose.Ehler@mto.com
3 SHANNON GALVIN AMINIRAD (State Bar No. 324780)
Shannon.Aminirad@mto.com
4 MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue
5 Fiftieth Floor
Los Angeles, California 90071-3426
6 Telephone: (213) 683-9100
Facsimile: (213) 687-3702

7 Attorneys for Plaintiffs

8
9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION
12

13 PARAMOUNT PICTURES
CORPORATION; UNIVERSAL CITY
14 STUDIOS PRODUCTIONS LLLP;
UNIVERSAL CONTENT
15 PRODUCTIONS LLC; UNIVERSAL
TELEVISION LLC; WARNER BROS.
16 ENTERTAINMENT INC.,
COLUMBIA PICTURES
17 INDUSTRIES, INC.; DISNEY
ENTERPRISES, INC.; NETFLIX
18 STUDIOS, LLC; NETFLIX US, LLC;
and NETFLIX WORLDWIDE
19 ENTERTAINMENT, LLC,

20 Plaintiffs,

21 vs.

22 DOES 1-10 d/b/a PRIMEWIRE,

23 Defendants.
24
25
26
27
28

Case No. 2:21-cv-09317-MCS-SK

**NOTICE OF DEFAULTING
DEFENDANTS' RESPONSE**

**RE: ECF No. 36, PLAINTIFFS'
MOTION FOR PARTIAL
DEFAULT JUDGMENT AND
PERMANENT INJUNCTION
(UNDER SUBMISSION)**

Judge: Hon. Mark C. Scarsi
Courtroom: 7C

[Filed concurrently: Declaration of
Shannon Galvin Aminirad in Support of
Notice of Defaulting Defendants'
Response]

1 The Court took Plaintiffs' Motion for Partial Default Judgment and
2 Permanent Injunction, ECF No. 36 ("Motion"), under submission. On March 12,
3 2022, Plaintiffs filed a Notice of Defendants' Changes to PrimeWire Websites and
4 Amended Request for Permanent Injunctive Relief, ECF No. 39 ("Notice").
5 Following service of the Notice, the defaulting Defendants contacted Plaintiffs by
6 email regarding Plaintiffs' Motion, but they still have not appeared before this
7 Court. In the interest of candor, Plaintiffs submit this notice to update the Court
8 regarding Defendants' communication.

9 **I. Defendants' Response To Plaintiffs' March 12, 2022 Notice**

10 Plaintiffs' Notice explained that Defendants had recently made changes to the
11 PrimeWire Websites, including by launching a new domain, www.primewire.tf. *See*
12 *generally* ECF No. 39. Plaintiffs asked that the Court enter a permanent injunction
13 that included www.primewire.tf as part of the definition of the PrimeWire Websites.
14 Plaintiffs served these filings to Defendants via email on March 12, 2022.
15 Declaration of Shannon Galvin Aminirad ("Aminirad Decl.") ¶ 3, filed concurrently.

16 On March 13, 2022, an individual or individuals identified only as the
17 "PrimeWire Team" responded to Plaintiffs' service email, ostensibly on behalf of
18 the Defendants. *Id.* ¶ 4 & Ex. A. The "PrimeWire Team" stated that they wanted to
19 "explain the motivation behind [their recent actions] and their intended effect." *Id.*
20 Ex. A. They wrote that they had moved PrimeWire to the new domain "to comply
21 with the temporary injunction," had removed links to the 138 works identified by
22 Plaintiff in Exhibit A to the Complaint, and had limited link submissions on the new
23 website to four services. *Id.* The "PrimeWire Team" further wrote that they
24 supported in part the proposed permanent injunction but wanted the injunction to
25 exclude www.primewire.tf, "as there is no evidence to suggest that any links to
26 unauthorized streams of the Plaintiffs [sic] works is being or has ever been
27 distributed over this domain." *Id.*

28

1 Plaintiffs responded substantively to this correspondence on March 14, 2022.
2 *Id.* ¶ 5 & Ex. B. Plaintiffs repeated their request that Defendants identify
3 themselves. *Id.* Ex. B. Plaintiffs further noted that Defendants’ statements in the
4 “PrimeWire Team” email contradicted the record. Defendants’ transfer of domains
5 to Sarek Oy and prior response to the disabling of domains in other jurisdictions
6 suggests a pattern of evasion and unwillingness to comply with Plaintiffs’ requests
7 or the Court’s orders. *Id.* Moreover, there *is* evidence that www.primewire.tf had
8 been used to infringe. *Id.* As recent as March 8, Plaintiffs’ investigators were able
9 to stream Plaintiffs’ copyrighted works on the new domain. *Id.*; Second
10 Supplemental Declaration of Jan Van Voorn ¶ 5, ECF No. 39-2. Lastly, Plaintiffs
11 explained that Defendants’ “intentions” were not sufficient to rebut the case for
12 injunctive relief and informed Defendants that they or their counsel needed to
13 appear in the case if they wished to oppose Plaintiffs’ motion for partial default
14 judgment or the scope of the permanent injunction. Aminirad Decl. Ex. B.
15 Plaintiffs requested a response by March 18, 2022, but have received none. *Id.*;
16 Aminirad Decl. ¶ 6.

17 **II. Defendants’ Response Should Not Change The Merits Of Plaintiffs’**
18 **Request For Relief**

19 While Plaintiffs submit this information to the Court in the interests of candor
20 and transparency, Defendants’ out-of-court assertions, made in anonymous emails,
21 merit little weight. The Federal Rules of Civil Procedure require that a party,
22 through counsel, certify that their representations made to the Court are made in
23 good faith and that factual contentions “have [or will have] evidentiary support”;
24 these requirements are backed up by sanctions for failure to comply with the Rule’s
25 requirements. Fed. R. Civ. P. 11(b), (c). Rule 11 authorizes this Court to strike
26 submissions that are not signed by an attorney of record or an unrepresented party,
27 or to impose sanctions for failure to comply with the requirements of Rule 11(b).
28

1 Defendants seek to evade the requirements of Rule 11 by not making any
2 filings with the Court, and instead sending anonymous emails to Plaintiffs’ counsel,
3 apparently calculating that their communications will ultimately reach the Court
4 through Plaintiffs’ counsel’s exercise of their duty of candor. Defendants’ failure to
5 appear in this litigation is also presumably a calculated attempt to avoid submitting
6 themselves to the discovery process that would allow Plaintiffs to explore the
7 veracity of assertions Defendants have thus far only made in out-of-court emails.
8 Defendants’ evasive conduct—which also simultaneously confirms receipt of
9 service and awareness of the relief Plaintiffs seek—weighs decidedly *in favor of*
10 entry of a default judgment. *See Hangzhou Inshot Tech Co. v. Studio Video*
11 *Downloader X*, No. CV 21-00397 CBM(MRWx), 2021 WL 4184905, at *3 (C.D.
12 Cal. Apr. 27, 2021).

13 Further, Defendants’ assertions do not change the merits of Plaintiffs’ request
14 for permanent injunctive relief or the need for that relief. Defendants’
15 unsubstantiated assertions that they have changed their ways decidedly do not meet
16 the legal requirements of the voluntary cessation doctrine and therefore do not moot
17 Plaintiffs’ requested relief. *See* ECF No. 39 (discussing cases).

18
19
20
21
22
23
24
25
26
27
28

DATED: March 22, 2022

MUNGER, TOLLES & OLSON LLP

By: /s/ Kelly M. Klaus
 KELLY M. KLAUS

Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Kelly M. Klaus, do hereby certify that service of **NOTICE OF DEFAULTING DEFENDANTS’ RESPONSE RE: ECF No. 36, PLAINTIFFS’ MOTION FOR PARTIAL DEFAULT JUDGMENT AND PERMANENT INJUNCTION (UNDER SUBMISSION) and DECLARATION OF SHANNON GALVIN AMINIRAD IN SUPPORT OF NOTICE OF DEFAULTING DEFENDANTS’ RESPONSE** shall be made upon the Defendants, DOES 1-10 d/b/a PRIMEWIRE, by sending the aforementioned documents to the following email addresses:

admin@primewire.li
admin@primewire.ag
primewire.inbox@protonmail.com

Service shall be made on this day, March 22, 2022.

/s/ Kelly M. Klaus

Kelly M. Klaus