

ENTERED

March 25, 2022

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VIACOM INTERNATIONAL INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. H-21-2612
	§	
PIXI UNIVERSAL, LLC d/b/a	§	
KEFI HTX and SANJU CHAND,	§	
	§	
Defendants.	§	

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING MOTION FOR PRELIMINARY INJUNCTION**

Pending is Plaintiff’s Motion for Preliminary Injunction (Document No. 9) (hereinafter, the “Motion”). Plaintiff Viacom International Inc. (“Viacom”) and Defendant Pixi Universal, LLC (“Pixi”) both waived an evidentiary hearing and agreed to the Motion being submitted to the Court on the pleadings and verified evidence.¹ Viacom and Pixi have submitted proposed findings of fact and conclusions of law.²

Defendant Sanju Chand, the owner of Pixi, had notice that Plaintiff’s Motion would be submitted to the Court on the pleadings and verified evidence and that he had one week after Viacom served

¹ See Document No. 21; see also Document No. 24, Viacom’s Proposed Order at 1; Document No. 26, Pixi’s Proposed Order at 2.

² See Document Nos. 24, 26.

its proposed findings to file a response.³ Viacom served Chand with its proposed findings of fact and conclusions of law on November 3, 2021,⁴ but he filed no response. Chand has since appeared, represented by Pixi's counsel, but still has not responded to the pending Motion.⁵ Chand's failure to respond is a representation of no opposition.⁶

Having considered the parties' submissions, the verified evidence, and applicable law, the Court makes the following findings of fact and conclusions of law and orders as follows.

³ See Document No. 21; see also Document No. 24 at 1; Document No. 26 at 1; Document No. 44.

⁴ See Document No. 28.

⁵ See Document Nos. 42-43.

⁶ "Failure to respond to a motion will be taken as a representation of no opposition." L.R. 7.4.

FINDINGS OF FACT⁷

From a preponderance of the evidence submitted, the Court finds, for purposes of the pending Preliminary Injunction Motion, as follows:

A. SpongeBob SquarePants

1. Viacom is a major media company that owns and operates a portfolio of television networks, including Nickelodeon.⁸ In 1999, the animated television series "SpongeBob SquarePants" premiered on Nickelodeon.⁹ Since then, SpongeBob SquarePants has aired consistently and continuously on television and other platforms.¹⁰

2. The SpongeBob SquarePants television series is the most widely distributed in Viacom history and has been the most-watched animated series for children for at least 17 years.¹¹

3. For decades, the SpongeBob SquarePants entertainment franchise has been immensely popular among both children and

⁷ The references below to APPX are to Viacom's appendix at Document Nos. 9-15.

⁸ APPX 173 ¶ 2.

⁹ APPX 174 ¶ 4.

¹⁰ Id.

¹¹ Id. at ¶ 5.

adults, and it has become an extremely valuable media franchise for Viacom that includes several spin-off series, three feature films, a Tony Award-winning Broadway musical, a comic book series, original music, video games, significant related merchandise, theme park rides, and theme hotels.¹² The series has won numerous awards.¹³ SpongeBob SquarePants is primarily marketed toward children ages six and older, but given the franchise's tremendous success for more than twenty years, some of SpongeBob SquarePants' biggest fans are adults.¹⁴

4. "SpongeBob SquarePants" chronicles the nautical adventures of SpongeBob SquarePants, a sea sponge, and takes place in the fantastical underwater city of "Bikini Bottom."¹⁵ As the series' opening song declares, SpongeBob SquarePants "lives in a pineapple under the sea," as shown below.¹⁶ The flowery shapes floating in the background behind SpongeBob and his home in the images below are ubiquitous in Bikini Bottom and therefore appear in much of Viacom's SpongeBob SquarePants-related marketing.¹⁷

¹² Id. at ¶ 6.

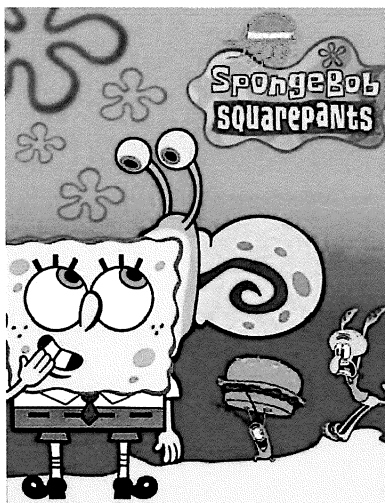
¹³ APPX 175 ¶ 7.

¹⁴ Id. at ¶ 9, APPX 197-198.

¹⁵ APPX 175 ¶ 10.

¹⁶ Id. APPX 175-76 ¶ 10.

¹⁷ Id. at ¶¶ 10-11.



B. Krusty Krab

5. SpongeBob SquarePants famously works as a fry cook for the "Krusty Krab," a fast-food restaurant in Bikini Bottom known for its "Krabby Patty" burgers.¹⁸ The Krusty Krab is so central to the SpongeBob SquarePants franchise that it has been featured heavily in more than 80% of the episodes of the animated television series, all three feature films, and the Broadway musical.¹⁹ For years, the Krusty Krab has been a household name, and instantly recognizable as being associated with Viacom and its SpongeBob SquarePants franchise.²⁰

¹⁸ APPX 177 ¶ 13.

¹⁹ Id.

²⁰ Id. Pixi admits that the "Krusty Krab has become a well-known name among fans of the show." Document No. 26, Pixi's Proposed Order at 2-3.

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