

United States District Court
for the
Southern District of Florida

ABS-CBN Corporation, and others,)
Plaintiffs,)
)
v.) Case No. 17-60650-CIV-SCOLA
)
Cinesilip.net, and others,)
Defendants.)

Final Default Judgment And Permanent Injunction

This matter is before the Court on the Plaintiffs' Motion for Default Judgment (ECF No. 31).

The Plaintiffs have moved for a default judgment consistent with Federal Rule of Civil Procedure 55(b)(2). Previously, the Clerk of Court entered default under Rule 55(a) (ECF Nos. 28, 29). "A defendant, by his default, admits the plaintiff's well-pleaded allegations of fact," as set forth in the operative complaint. *Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.*, 561 F.3d 1298, 1307 (11th Cir. 2009). "Even when a default judgment is warranted based on a party's failure to defend, the allegations in the complaint with respect to the amount of damages are not deemed true. The district court must instead conduct an inquiry in order to ascertain the amount of damages with reasonable certainty." *Almeira v. GB House, LLC*, No. 14-cv-00045, 2014 WL 1366808, at *1 (M.D. Fla. Apr. 7, 2014) (quoting *In re Catt*, 368 F.3d 789, 793 (7th Cir. 2004)). An evidentiary hearing on damages is unnecessary as long as "the amount claimed is liquidated or capable of ascertainment from definite figures contained in the documentary evidence or in detailed affidavits." *Dundee Cement Co. v. Howard Pipe & Concrete Prods., Inc.*, 722 F.2d 1319, 1323 (7th Cir. 1983); see also *S.E.C. v. Smyth*, 420 F.3d 1225, 1231, 1232 n.13 (11th Cir. 2005).

The Court has carefully reviewed the Plaintiffs' motion, the record, and the relevant legal authorities. Accordingly, it is **ordered and adjudged** that the Plaintiffs' Motion for Default Judgment (ECF No. 31) is **granted**. Judgment is hereby entered in favor of Plaintiffs ABS-CBN Corporation, ABS-CBN Film Productions, Inc. d/b/a Star Cinema, and ABS-CBN International, and against the Defendants, the Individuals, Partnerships, and Unincorporated Associations identified on Schedule "A" hereto (collectively "Defendants"), on all Counts of the Complaint as follows:

1. Permanent Injunctive Relief:

The Defendants and their officers, agents, representatives, servants, employees and attorneys, and all persons acting in concert and participation with them are hereby permanently restrained and enjoined from:

- a. Advertising, promoting, performing, copying, broadcasting, and/or distributing any of the Plaintiffs' content or copyrighted works, including but not limited to those works identified in Paragraph 25 of the Complaint and in Exhibits 2 and 4 thereto;
- b. advertising, promoting, offering, using, or causing to be advertised, promoted, or offered, services using the Plaintiffs' registered or common law trademarks identified in Paragraphs 14 and 18 of the Complaint and in Schedules "B" and "C" thereto (the "ABS-CBN Marks");
- c. using the ABS-CBN Marks in connection with any unauthorized services or performances of the Plaintiffs' copyrighted works.
- d. using any logo, and/or layout which may be calculated to falsely advertise the services or products of the Defendant offered or promoted via the domain names identified on Schedule "A" hereto (the "Subject Domain Names") and/or any other website, domain name, or business, as being sponsored by, authorized by, endorsed by, or in any way associated with Plaintiffs;
- e. falsely representing themselves as being connected with the Plaintiffs, through sponsorship or association;
- f. engaging in any act which is likely to falsely cause members of the trade and/or of the public to believe any content or services of the Defendants offered via the Subject Domain Names and/or any other website, domain name, or business, are in any way endorsed by, approved by, and/or associated with the Plaintiffs;
- g. using any reproduction, counterfeit, copy, or colorable imitation of the ABS-CBN Marks in connection with the publicity, promotion, distribution, or advertising of any content or services by the Defendants via the Subject Domain Names, and/or any other website, domain name, or business;

- h. affixing, applying, annexing or using in connection with the promotion, distribution, or advertisement of any content or services, a false description or representation, including words or other symbols tending to falsely describe or represent the Defendants' content or services offered by the Defendants via the Subject Domain Names and/or any other website or business, as being connected with the Plaintiffs, or in any way endorsed by the Plaintiffs;
- i. otherwise unfairly competing with the Plaintiffs;
- j. using the ABS-CBN Marks, or any confusingly similar trademarks, within domain name extensions, metatags or other markers within website source code, from use on any webpage (including as the title of any web page), from any advertising links to other websites, from search engines' databases or cache memory, and any other form of use of such terms which is visible to a computer user or serves to direct computer searches to websites registered by, owned, or operated by the Defendants, including the Internet websites operating under the Subject Domain Names; and
- k. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth above.

2. Additional Equitable Relief:

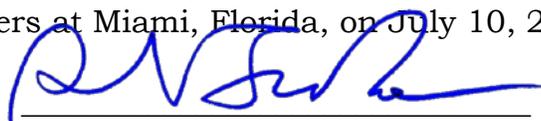
The Plaintiffs are additionally entitled to the following equitable relief:

- a. In order to give practical effect to the Permanent Injunction, the Subject Domain Names are hereby ordered to be immediately transferred by the Defendants, their assignees and/or successors in interest or title, and the Registrar to the Plaintiffs' control. To the extent the current Registrars do not facilitate the transfer of the Subject Domain Names to the Plaintiffs' control within five (5) days of receipt of this judgment, the Registries shall, within thirty (30) days, change the Registrar of Record for the Subject Domain Names to a Registrar of the Plaintiffs' choosing, and that Registrars shall transfer the Subject Domain Names to the Plaintiffs;
- b. Upon the Plaintiffs' request, the top-level domain ("TLD") Registry for each of the Subject Domain Names, or their administrators,

including backend registry operators or administrators, within thirty (30) days of receipt of this Order, shall place the Subject Domain Names on Registry Hold status for the life of the current registration, thus removing them from the TLD zone files maintained by the Registries which link the Subject Domain Names to the IP addresses where the associated websites are hosted.

3. **Statutory damages** in favor of the Plaintiffs pursuant to 15 U.S.C. § 1117(c) are determined to be \$1,000,000.00 against each Defendant, for which sum let execution issue:
4. **Statutory damages** in favor of the Plaintiffs pursuant to 17 U.S.C. § 504(c) are determined to be:
 - a. \$30,000.00 against fullpinoymovies.com (Defendant Number 5) for which sum let execution issue;
 - b. \$30,000.00 against pinoytopmovies.info (Defendant Number 14) for which sum let execution issue;
 - c. \$30,000.00 against wildpinoy.net (Defendant Number 18) for which sum let execution issue;
 - d. \$30,000.00 against pinoy-hd.com (Defendant Number 19) for which sum let execution issue.
5. Interest from the date this action was filed shall accrue at the legal rate. See 28 U.S.C. § 1961.
6. The bond posted by the Plaintiffs in the amount of \$10,000.00 is **ordered to be released** by the Clerk.
7. The Court retains jurisdiction to enforce this Judgment and permanent injunction.
8. The Clerk will **close** this case.

Done and ordered in chambers at Miami, Florida, on July 10, 2017.



Robert N. Scola, Jr.
United States District Judge

SCHEDULE "A"
DEFENDANTS BY NUMBER AND SUBJECT DOMAIN NAME

Def. No.	Subject Domain Name
1	cinesilip.net
2	pinoychanneltv.me
2	pinoytambayantv.me
2	pinoytambayanreplay.net
3	drembed.com
4	embeds.me
5	fullpinoymovies.com
6	lambingan.ph
7	magtvna.com
8	pinoy1tv.ch
8	pinoy1tv.cc
9	pinoychannel.co
10	pinoye.com
11	wowpinoytambayan.ws
11	pinoytelebyuwers.se
12	pinoyteleserye.org
13	pinoytvnetwork.net
14	pinoytopmovies.info
15	pinoytvreplay.ws
16	teleserye.me
17	watchpinaytv.com
18	wildpinoy.net
19	pinoy-hd.com