

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:21-cv-04603-RGK-PVC	Date	November 29, 2021
Title	<i>Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming</i>		

Present: The Honorable R. GARY KLAUSNER, UNITED STATES DISTRICT JUDGE

Sharon L. Williams (not present)

Not Reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: **(IN CHAMBERS) Order Re: Plaintiff's Motion for Default Judgment [DE 25]**

I. INTRODUCTION

Plaintiff Triller Fight Club II LLC ("Triller" or "Plaintiff") is the copyright owner and publisher of the Triller Fight Club broadcast of the April 17, 2021 "Jake Paul vs. Ben Askren" boxing match (the "Broadcast"). Triller transmitted the Broadcast via satellite to licensed content distributors. Defendants Matthew P. Space and Eclipt Gaming (together, "Defendants") own and operate a YouTube channel. Plaintiff alleges that on or about April 19, 2021, Defendants unlawfully uploaded, distributed, and publicly displayed the Broadcast without authorization. On June 3, 2021, Plaintiff filed a Complaint alleging: (1) copyright infringement; (2) vicarious copyright infringement; and (3) violation of the Federal Communications Act. Plaintiff seeks statutory penalties and attorneys' fees and costs.

Plaintiff properly served both Defendants on June 8, 2021, and both failed to respond. Accordingly, the clerk of court entered default as to both Defendants on August 27, 2021. Presently before the Court is Plaintiff's Motion for Default Judgment ("Motion"). For the following reasons, the Court **GRANTS** Plaintiff's Motion.

II. FACTUAL BACKGROUND

The following facts are taken from Plaintiff's Complaint unless otherwise stated:

Plaintiff is the copyright owner and publisher of the Triller Fight Club broadcast of the "Jake Paul vs. Ben Askren" boxing match, which aired on April 17, 2021. (Pl.'s Mot. for Default J. ("Mot"), ECF No. 25, at 1.) The Broadcast was uplinked via satellite technology and then made available to paying customers via various applications and devices. Plaintiff registered its copyright in the Broadcast on May 4, 2021.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:21-cv-04603-RGK-PVC

Date November 29, 2021

Title *Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming*

Defendants own and operate a YouTube channel, and, beginning on April 19, 2021, they used the channel to upload and distribute the Broadcast to the public without authorization. Plaintiff promptly notified YouTube of the copyright infringement, and YouTube removed the video from its website. At the time Plaintiff filed its complaint, Defendants' video had at least 300 views. Because Plaintiff charged \$49.99 per viewer for the Broadcast, Plaintiff lost approximately \$15,000 in income from Defendants' infringing conduct. (Mot. at 5.) Additionally, a declaration in support of Plaintiff's Motion states that, as a result of Defendants' displaying the Broadcast, Defendants' YouTube channel gained 70,000 views. (Gura Decl., ECF No. 25-1 at ¶ 4.) Plaintiff thus alleges that it suffered approximately \$3,500,000 in lost income (\$49.99 x 70,000). (Mot. at 5.) Plaintiff further alleges that Defendants generated a profit of approximately \$60 from displaying the Broadcast on its YouTube channel.

III. JUDICIAL STANDARD

Federal Rule of Civil Procedure ("Rule") 55(a) allows a court to enter a default judgment upon entry of default by the clerk and if a party has failed to plead or otherwise defend a case. Fed. R. Civ. P. 55(a). An applicant may seek a clerk-ordered judgment only when the claim is for an amount that is certain or capable of being made certain by computation. Fed. R. Civ. P. 55(b)(1). In all other cases, the applicant must apply for a court-ordered default judgment. *Id.* at 55(b)(2).

Local Rule 55-1 requires the court-ordered default judgment application to include: (1) when and against what party the default was entered; (2) the identification of the pleading to which the default was entered; (3) whether the defaulting party is an infant or incompetent person, and if so, whether that person is represented; (4) that the Servicemembers Civil Relief Act does not apply; and (5) that notice has been served on the defaulting party if required by Rule 55(b)(2). C.D. Cal. L. R. 55-1.

Furthermore, an entry of default does not automatically entitle a plaintiff to a court-ordered judgment. *See Draper v. Coombs*, 792 F.2d 915, 924-25 (9th Cir. 1986). Rather, it is within the court's discretion to grant or deny a default judgment. *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). In exercising its discretion, the court may consider the following factors (collectively, the "*Eitel* factors"):

- (1) the possibility of prejudice to the plaintiff,
- (2) the merits of plaintiff's substantive claim;
- (3) the sufficiency of the complaint,
- (4) the sum of money at stake in the action;
- (5) the possibility of a dispute concerning material facts;
- (6) whether the default was due to excusable neglect; and
- (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:21-cv-04603-RGK-PVC

Date November 29, 2021

Title *Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming*

Id. at 1471–72. *See PepsiCo, Inc. v. Cal. Sec. Cans*, 238 F. Supp. 2d 1172, 1175–77 (C.D. Cal. 2002) (demonstrating application of the *Eitel* factors).

Lastly, for the purposes of default judgment, all well-pleaded factual allegations from the complaint, except those relating to the amount of damages, are assumed to be true. *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917–18 (9th Cir. 1987).

IV. DISCUSSION

Default judgment is warranted because Plaintiff satisfies the procedural requirements and the *Eitel* factors weigh in Plaintiff's favor. Plaintiff requests maximum statutory damages for each of its claims, as well as attorneys' fees and costs, and the Court addresses each in turn below.

A. Procedural Requirements

Plaintiff has met the procedural requirements under Central District Local Rule 55-1. Plaintiff's declaration supporting its Motion for Default Judgment states that default was entered against Defendants on August 27, 2021 after they were served and failed to respond to the Complaint. (Gura Decl. at ¶¶ 7–8.) The declaration also specifies that the defaulting parties are not infants, incompetent persons, nor persons in military service. (*Id.*) Additionally, notice is not required to be served on the defaulting party under Federal Rule of Civil Procedure 55(b)(2) because the party against whom the default judgment is sought has not appeared, either personally or through a representative. *See* C.D. Cal. L.R. 55-1.

B. *Eitel* Factors

The Court next evaluates each of the factors set forth in *Eitel*, 782 F.2d at 1471–72, to determine whether default judgment is appropriate.

1. Merits of Substantive Claims and Sufficiency of Complaint

The first and second *Eitel* factors concern the merits of Plaintiff's claims and whether they were sufficiently pleaded. A plaintiff must state a claim upon which he may recover for a court to grant a motion for a default judgment. *See Alan Neuman Prods., Inc. v. Albright*, 862 F.2d 1388, 1392 (9th Cir. 1988). Upon default, the well-pleaded allegations of the complaint relating to liability are taken as true. *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). "On the other hand, a defendant is not held to admit facts that are not well-pleaded or to admit conclusions of law." *Wecosign, Inc. v. IFG Holdings, Inc.*, 845 F. Supp. 2d 1072, 1078 (C.D. Cal. 2012).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:21-cv-04603-RGK-PVC

Date November 29, 2021

Title *Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming*

a. Copyright Infringement

To state a claim for copyright infringement, a plaintiff must allege (1) ownership of a valid copyright in a work and (2) the defendant's violation of the plaintiff's exclusive rights in that work. 17 U.S.C. § 501(a). Under 17 U.S.C. § 412(2), to recover statutory damages and attorneys' fees, the copyrighted work must have been registered before the commencement of the infringement or within three months after first publication of the work. *See Derek Andrew, Inc. v. Poof Apparel Corp.*, 528 F.3d 696, 699 (9th Cir. 2008). Additionally, the infringed work must be registered with the United States Copyright Office prior to instituting the action. 17 U.S.C. § 411(a). Finally, to receive maximum statutory damages, a plaintiff must also allege that defendant's violation was willful. 17 U.S.C. § 504(c)(2).

Here, the Broadcast took place on April 17, 2021, and Defendants publicly displayed the Broadcast without permission beginning on April 19, 2021. (Mot. at 1.) Plaintiff has provided prima facie evidence of its ownership of a valid copyright of the Broadcast because it provided proof of the copyright's registration on May 4, 2021—within three months of the work's publication on April 17. (Gura Decl., Ex. A.) Thus, Plaintiff owned a valid copyright of the Broadcast at the time Defendants displayed the Broadcast on their YouTube channel without Plaintiff's permission. Plaintiff has alleged that Defendants' public display of the Broadcast without authorization violated its exclusive rights. (Mot. at 4.) Accordingly, Plaintiff has stated a valid claim for copyright infringement.

b. Communications Act

To state a claim for violation of the Communications Act, "Plaintiff must establish (a) that Defendant intercepted a satellite communication; (b) knowing that such communication was intercepted; and (c) used the communication for his own benefit or for the benefit of another." *DIRECTV, Inc. v. Palmke*, 405 F. Supp. 2d 1182, 1187 (E.D. Cal. 2005). Here, the Broadcast aired via encrypted satellite signal. (Compl. ¶ 28.) Plaintiff alleges that Defendants "unlawfully intercepted, received and/or descrambled Plaintiff's satellite signal" to view the Broadcast and distribute it to others in exchange for payment. (*Id.* at ¶ 31.) Thus, Plaintiff has stated a valid claim for violation of the Communications Act.

Accordingly, the first two *Eitel* factors weigh in favor of default judgment as to both of its claims.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:21-cv-04603-RGK-PVC

Date November 29, 2021

Title *Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming*

2. *Sum of Money at Stake in Relation to Defendants' Conduct*

This factor “examines the amount of money at stake in relation to the seriousness of a defendant’s conduct.” *Wecosign, Inc.*, 845 F. Supp. 2d at 1082. “[T]he Court has discretion in determining the amount of any damages award, thus ensuring that the award corresponds to Plaintiff’s actual injuries based on Defendant’s infringement.” *IO Grp., Inc. v. Jordon*, 708 F. Supp. 2d 989, 999 (N.D. Cal. 2010).

Here, Plaintiff seeks the maximum statutory damages for both claims. For the willful copyright infringement claim, Plaintiff seeks \$150,000. For the Communications Act claim, Plaintiff seeks \$10,000. Plaintiff also seeks \$11,190 in fees and costs. For the reasons explained below, the Court has determined the amounts requested to be high considering the seriousness of Defendant’s conduct, and thus finds that this factor weighs against default judgment.

3. *Possibility of Prejudice to Plaintiff*

Plaintiffs are prejudiced absent a default judgment because they are “denied the right to judicial resolution of the claims presented, and would be without other recourse for recovery.” *Elektra Entm’t Grp. v. Crawford*, 226 F.R.D. 388, 392 (C.D. Cal. 2005). Because Plaintiff here would be denied the right to resolution of its claims absent default judgment, this factor weighs in favor of default judgment.

4. *Possibility of Dispute Concerning Material Facts*

Defendants have not responded to Plaintiff’s Complaint, and thus, the Court deems the facts alleged in the Complaint to be true. Plaintiff has also put forth evidence supporting its claim for copyright infringement under 17 U.S.C. § 501(a). Therefore, this factor favors entry of default judgment.

5. *Whether Default was Due to Excusable Neglect*

This factor favors entry of default judgment “when the defendant has been properly served or the plaintiff demonstrates that the defendant is aware of the lawsuit.” *Wecosign Inc.*, 845 F. Supp. 2d at 1082. Here, Plaintiffs properly served the summons and Complaint on the father of individual Defendant Matthew P. Space. (Proofs of Serv., ECF Nos. 12, 13.) Matthew P. Space is the registered agent of corporate Defendant Eclipt Gaming, meaning service was properly effectuated on both Defendants. Therefore, this factor supports entry of default judgment.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:21-cv-04603-RGK-PVC

Date November 29, 2021

Title *Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming*

6. *Policy in Favor of Decision on the Merits*

There is a strong public policy in favor of deciding cases on the merits. However, “a decision on the merits is impractical, if not impossible, when the defendant takes no part in the action.” *Weeks v. Fresh-Pic Produce Co.*, Case No. 08-cv-02058 BTM (WVG) 2012 WL 1815648, at *4 (S.D. Cal. 2012). As Defendants have not appeared here, a decision on the merits is “impractical if not impossible.” Therefore, this factor supports entry of default judgment.

Accordingly, a majority of the *Eitel* factors support entry of default judgment.

C. Damages

Plaintiff requests the maximum statutory damages on both its Copyright Act claim and its Communications Act claim. This amounts to \$150,000 for the Copyright Claim and \$10,000 for the Communications Act claim. Plaintiff also requests attorneys’ fees and costs for both claims in the amount of \$11,190. The Court considers the attorneys’ fee requests together and addresses each of the damages requests in turn.

1. Copyright Act Claim

Because the Court has determined that default judgment is appropriate on Plaintiff’s Copyright Act claim, the remaining question is the amount of damages Plaintiff is entitled to recover. Under the Copyright Act, “the copyright owner may elect . . . to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work . . . in a sum of not less than \$750 or more than \$30,000 as the court considers just.” 17 U.S.C. § 504(c)(1). In the case of willful infringement, “the court in its discretion may increase the award of statutory damages to a sum of not more than \$150,000.” 17 U.S.C. § 504(c)(2). “Because awards of statutory damages serve both compensatory and punitive purposes, a plaintiff may recover statutory damages ‘whether or not there is adequate evidence of the actual damages suffered by plaintiff or of the profits reaped by defendant,’ in order ‘to sanction and vindicate the statutory policy of discouraging infringement.’” *Los Angeles News Serv. v. Reuters Television Int’l, Ltd.*, 149 F.3d 987, 996 (9th Cir. 1998), *as amended on denial of reh’g and reh’g en banc* (Aug. 25, 1998) (internal citations, quotations omitted).

In determining statutory damages, courts are guided by “what is just in the particular case, considering the nature of the copyright, the circumstances of the infringement and the like.” *Peer Int’l Corp. v. Pausa Rec.’s, Inc.*, 909 F.2d 1332, 1336 (9th Cir.1990). Courts consider factors such as “(1) the expenses saved and the profits reaped; (2) the revenues lost by the plaintiff; (3) the value of the

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:21-cv-04603-RGK-PVC

Date November 29, 2021

Title *Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming*

copyright; (4) the deterrent effect on others besides the defendant; (5) whether the defendant's conduct was innocent or willful; (6) whether a defendant has cooperated in providing particular records from which to assess the value of the infringing material produced; and (7) the potential for discouraging the defendant." *Warner Bros. Home Ent. Inc. v. FilmAndMusicUSA, LLC*, No. CV 13-00874 SJO JCX, 2013 WL 4478956, at *6 (C.D. Cal. Aug. 20, 2013).

Here, Defendant purportedly saved \$49.99 by infringing on Plaintiff's Broadcast without paying Plaintiff for it. Plaintiff also lost revenues because of Defendants' conduct, although the amount of lost revenue remains in question. Plaintiff asserts that the lost revenue could be as high as \$3,500,000 given that Defendants' YouTube channel saw an increase of about 70,000 video views as a result of streaming the Broadcast. (Mot. at 5.) However, this figure does not necessarily indicate that 70,000 unique individuals streamed the Broadcast through Defendants' channel. Rather, because the same person could have watched the Broadcast several times, or could have watched various non-infringing videos on Defendants' channel, it simply shows that Defendants' *entire YouTube channel* gained 70,000 views after the Broadcast was uploaded. There does not appear to be a way to derive from these figures the number of individual users who specifically viewed the Broadcast as opposed to the multitude of other videos available on Defendants' channel. Plaintiff's Complaint alleges that 300 unique viewers watched the Broadcast through Defendants' channel, and it includes a screenshot showing that the video had garnered 297 views. Thus, the Court finds it more plausible that 300 individual viewers watched the Broadcast in the short time it was available than that 70,000 individuals did so. Because the Court takes all well-pleaded factual allegations as true in evaluating a default judgment, it is reasonable that Plaintiff lost \$15,000 (\$49.99 x 300 viewers) as a result of Defendants' conduct.

Defendants have not cooperated in providing particular records from which to assess the value of the Broadcast, and "[o]n a motion for default judgment, the Court presumes that allegations of willfulness are true." *BWP Media USA, Inc. v. P3R, LLC*, No. 2:13-CV-05315 SVW, 2014 WL 3191160, at *3 (C.D. Cal. July 3, 2014) (citing *Aries Music Entm't, Inc. v. Angelica's Rec. Distrib., Inc.*, 506 Fed. Appx. 550, 552 (9th Cir. 2013)). Additionally, a larger award is more likely to discourage Defendants and other individuals from further infringing on Plaintiff's copyright. See *Jackson v. Sturkie*, 255 F. Supp. 2d 1096 (N.D. Cal. 2003) (awarding \$33,474, double the royalty fee for the song at issue, in order to discourage future violations). See also *Sega Enter.'s Ltd. v. MAPHIA*, 948 F. Supp. 923, 940 (N.D. Cal. 1996) (awarding \$5,000 per work for infringement of video games).

Here, there is little evidence to show Plaintiff's actual damages. Given that the facts of the Complaint indicate Plaintiff has lost \$15,000 from Defendants' infringing activity, the Court finds \$15,000 to be a justified statutory damages award. This figure takes into account the single act of infringement and the relatively limited harm done to Plaintiff due to the short time the Broadcast was

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:21-cv-04603-RGK-PVC	Date	November 29, 2021
Title	<i>Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming</i>		

available on Defendants' YouTube page. The Court considers this figure to achieve the compensatory and punitive aims of statutory damages under the Copyright Act.

2. Communications Act Claim

Statutory damages for a violation of 47 U.S.C. § 605 range from a minimum of \$1,000 to a maximum of \$10,000 and are awarded as the court considers just. *See* 47 U.S.C. § 605(e)(3)(C)(i)(II). Plaintiff seeks the statutory maximum of \$10,000 for Defendants' single violation. Courts in similar circumstances consider the amount of viewers or customers, the profit that a defendant earned, and whether the defendant previously violated the Act. *See Joe Hand Promotions, Inc. v. Roseville Lodge No. 1293*, 161 F. Supp. 3d 910, 915–16 (E.D. Cal. 2016) (awarding \$2,000 where approximately 60 patrons in the establishment watched a boxing match); *see also Joe Hand Promotions, Inc. v. Albright*, Case No. 2:11-CIV-2260 WBS CMK, 2013 WL 2449500 (E.D. Cal. June 5, 2013) (awarding \$1,000 in statutory damages where there was also no evidence of cover charge or previous violation, but there were fewer patrons in the establishment).

Here, the facts are similar. Defendants displayed the Broadcast over a YouTube channel, generating a profit of approximately \$60. (Mot. at 5.) The evidence submitted with Plaintiff's Complaint shows that the video garnered at least 297 views, though the evidence does not indicate how many unique viewers there were. (Compl. at ¶ 2.) The Complaint does not allege that Defendants have previously violated the Federal Communications Act, and Plaintiff alleges only one violation in the instant case. Furthermore, Plaintiff does not indicate how long Defendants' YouTube video of the Broadcast remained available to the viewing public, providing only that it "promptly" notified YouTube of the infringing content. Assuming that 300 individuals¹ watched the Broadcast via Defendants' YouTube channel and that none of them paid a fee to Defendants, the Court finds that an award of \$1,000 is appropriate here.²

¹ Plaintiff submitted evidence with its Motion showing that "as a result of illegally streaming the Broadcast, [Defendants'] YouTube channel gained nearly 1,000 subscribers and 70,000 video views." (Mot. at 5; Gura Decl. ¶ 4.) As explained above, the Court is not convinced that 70,000 views equates to 70,000 unique individuals viewing the Broadcast. Because the Court takes all well-pleaded factual allegations in the Complaint as true when evaluating an application for default judgment, the Court relies on the 300-viewer figure in Plaintiff's Complaint.

² The Court enters its judgment on both claims against Defendants jointly and severally because, due to Space's default, he has admitted to Plaintiff's allegation that he controls the actions of Eclipt Gaming, the corporate defendant. "A corporate 'officer or director is, in general, personally liable for all torts

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:21-cv-04603-RGK-PVC	Date	November 29, 2021
Title	<i>Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming</i>		

D. Attorneys' Fees

Plaintiff seeks attorneys' fees in the amount of \$10,463 and reimbursement of costs in the amount of \$727. (Gura Decl. at ¶ 9.) The Copyright Act permits a prevailing party to recover full costs, including reasonable attorneys' fees. 17 U.S.C. § 505. As Defendant has failed to defend in this action, and Plaintiff has obtained a default judgment, the Court finds such an award appropriate.

In determining the amount of a reasonable attorney's fee, Courts normally apply the "lodestar method," under which the party seeking to recover fees bears the burden of submitting evidence to justify the fees claimed. *Carson v. Billings Police Dep't*, 470 F.3d 889, 891 (9th Cir. 2006). However, this district's Local Rule 55-3 "gives lawyers who obtain default judgments . . . the option of recovering a set amount without going through the hassle of submitting records." *Vogel v. Harbor Plaza Ctr., LLC*, 893 F.3d 1152, 1160 (9th Cir. 2018). Recovery under the Local Rule is made by following the schedule of attorneys' fees provided for in Local Rule 55-3. For an amount of judgment between \$10,000 and \$50,000, the schedule calculates an attorneys' fee award of \$1,200 plus 6% of the amount over \$10,000. *See* C.D. Cal. L.R. 55-3.

Here, Plaintiff has elected to claim a fee in excess of that which would be permitted under the schedule based on the amount of the judgment. Therefore, Plaintiff is ordered to file a written request for attorneys' fees, including any supporting documentation, and the Court "shall hear the request and render judgment for such a fee as the Court may deem reasonable." *Id.* Plaintiff shall submit any such request within ten days of the entry of this Order.

which he authorizes or directs or in which he participates, notwithstanding that he acted as an agent of the corporation and not on his own behalf." *Comm. for Idaho's High Desert, Inc. v. Yost*, 92 F.3d 814, 823 (9th Cir. 1996).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:21-cv-04603-RGK-PVC

Date November 29, 2021

Title *Triller Fight Club II, LLC v. Matthew P. Space and Eclipt Gaming*

V. CONCLUSION

For the foregoing reasons, the Court **GRANTS** Plaintiff's Motion for Default Judgment. The Court shall determine the final amount of the judgment after evaluation of Plaintiff's request for attorneys' fees, provided one is filed within ten days of entry of this order. In accordance with 28 U.S.C. Section 1961, interest will be added to the judgment.

IT IS SO ORDERED.

Initials of Preparer

:
