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 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 DEFENDANTS’
 CHANGES TO PRIMEWIRE
 WEBSITES AND AMENDED
 REQUEST FOR PERMANENT
 INJUNCTIVE RELIEF**

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

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

Filed concurrently with
 (1) Second Supplemental Declaration of
 Jan van Voorn
 (2) Amended Proposed Permanent
 Injunction

1 **INTRODUCTION**

2 Plaintiffs’ Motion for Default Judgment and Permanent Injunction, ECF No.
3 36, is pending. The Court notified the parties that the Motion will be taken under
4 submission and decided without oral argument. ECF No. 38. Plaintiffs have
5 learned about changes that Defendants, within the last few days, have made to their
6 PrimeWire Websites. Plaintiffs would like to ensure the Court has the updated
7 information that Plaintiffs have discovered.

8 Specifically, Defendants have made two types of changes to the PrimeWire
9 Websites:

- 10 (1) The www.primewire.li and www.primewire.vc websites, while still
11 active,¹ now display only a message that directs Defendants’ users to a
12 newly created PrimeWire Website, www.primewire.tf.
- 13 (2) This newest PrimeWire Website, www.primewire.tf, continues to
14 feature Plaintiffs’ Copyrighted Works. At first, www.primewire.tf
15 appeared to be nearly identical to the preexisting PrimeWire Websites,
16 including insofar as it provided links to infringing copies of Plaintiffs’
17 Copyrighted Works. In the last few days, however, Defendants have
18 temporarily removed those links, apparently in an effort to avoid this
19 Court’s injunction.

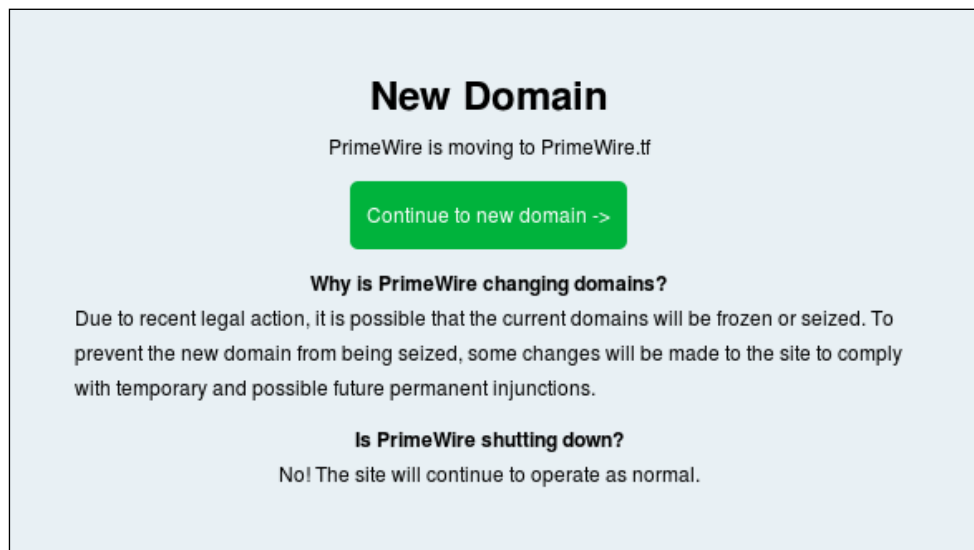
20 Plaintiffs do not believe these changes affect the merits of Plaintiffs’ request
21 for a Permanent Injunction. While it appears Defendants, for the moment, have
22 disabled links to Plaintiffs’ Copyrighted Works, such a tactical maneuver does not
23 undermine the need for permanent injunctive relief against a dedicated infringing
24 service. Under well-established law, a defendant’s voluntary cessation of unlawful
25 conduct does not defeat a request for injunctive relief unless it is “absolutely clear”
26

27 ¹ The domain name registrar for PrimeWire Website, www.primewire.ag, disabled
28 that site following the Court’s Preliminary Injunction. See ECF No. 36-1 ¶ 24.

1 that Defendants will not resume their wrongful conduct. *Friends of the Earth, Inc.*
2 *v. Laidlaw Env'tl. Servs. (TOC), Inc.*, 528 U.S. 167, 189–90 (2000). Defendants
3 have made no such showing, as would be their burden to do had they actually
4 appeared to defend this litigation. And Defendant’ statement on their newest
5 PrimeWire website, and their conduct before and after Plaintiffs filed this lawsuit,
6 all show that Defendants are likely to revert to their infringing ways as soon as the
7 threat of a permanent injunction has passed. Plaintiffs respectfully request that the
8 Court enter the requested Permanent Injunction (ECF No. 36-20), amended to add
9 www.primewire.tf to the definition of “PrimeWire Websites” and the domain name
10 registry for www.primewire.tf to the list of registries.

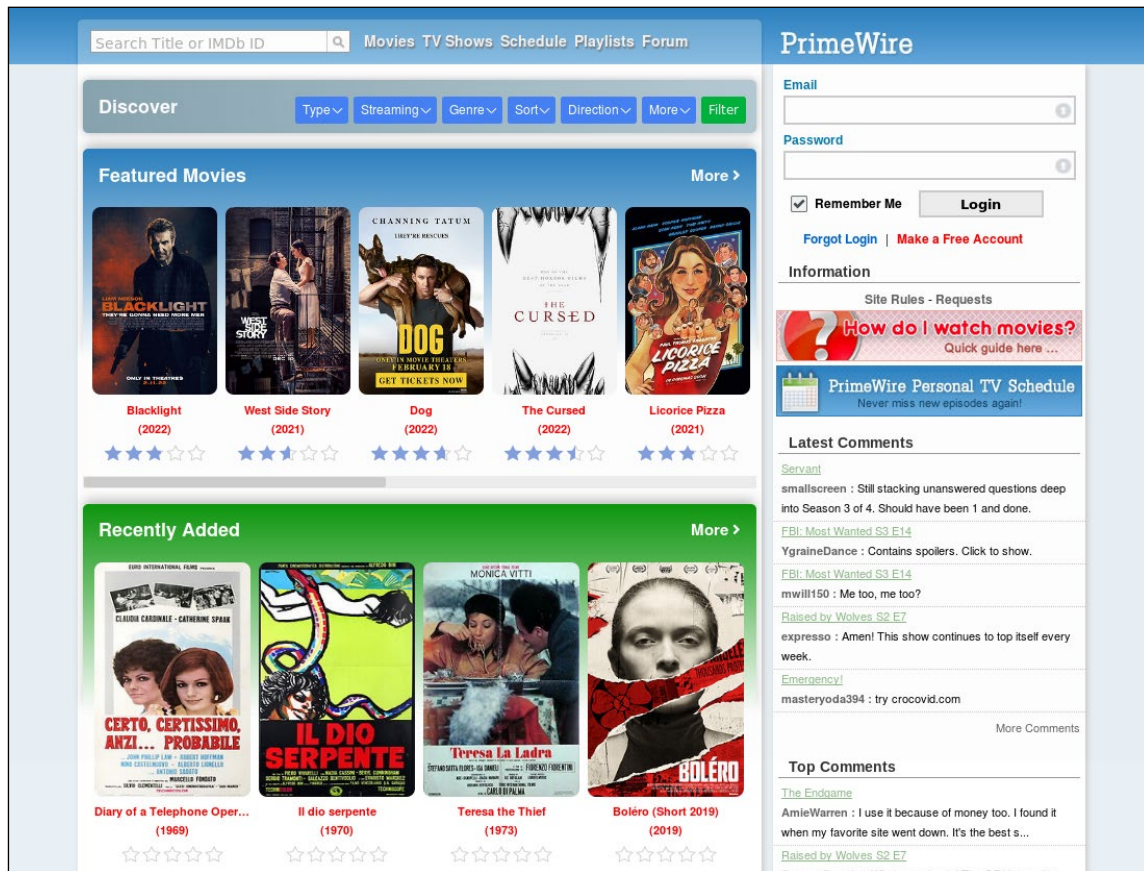
11 **NOTICE OF CHANGES & AMENDED REQUEST FOR RELIEF**

12 Plaintiffs have been monitoring the PrimeWire Websites to determine
13 whether Defendants and the registrars and registries subject to the Preliminary
14 Injunction have complied with the Court’s Order. With the exception of one
15 registrar disabling one domain (www.primewire.ag), n. 1, *supra*, all of these parties
16 had failed to comply with the Preliminary Injunction. On March 8, 2022, however,
17 Plaintiffs discovered that Defendants had replaced the content available on
18 www.primewire.li and www.primewire.vc with a message and hyperlink redirecting
19 users to a new website that also has the PrimeWire name.



1 Second Supplemental Declaration of Jan van Voorn (“Second Suppl. van Voorn
 2 Decl.”) ¶ 2 & Ex. A.

3 The www.primewire.tf website appears to be largely identical to its
 4 predecessor sites. *Id.* ¶ 3 & Ex. B. The website has the same general landing page,
 5 categories, movie and television show title pages, search functionality, and other
 6 features as were located on the other PrimeWire Websites:



21 *See id.* And, as of March 8, Plaintiffs’ investigators confirmed they could receive
 22 streams of Plaintiffs’ Copyrighted Works through links offered on
 23 www.primewire.tf, the new PrimeWire domain. *See id.* ¶ 5.

24 Plaintiffs’ proposed permanent injunction defines “PrimeWire Websites” to
 25 mean www.primewire.li, www.primewire.ag, and www.primewire.vc. ECF No. 36-
 26 20 ¶ 2(c). In light of Defendants’ creation of yet another PrimeWire Website,
 27 Plaintiffs respectfully request that the Court also include www.primewire.tf in the
 28 list of PrimeWire Websites and include the domain name registry (Association

1 Française pour le Nommage Internet en Coopération) for www.primewire.tf.
2 Plaintiffs’ amended proposed permanent injunction includes that change.

3 Beginning on March 9, Plaintiffs’ investigators observed another change, this
4 one involving the links to the source copies for the infringing streams of Plaintiffs’
5 Copyrighted Works. Over the course of the last couple of days, Defendants appear
6 to have removed those links, so that users of www.primewire.tf are not able to
7 obtain infringing streams from the PrimeWire pages for Plaintiffs’ movies and
8 television shows on that website. Second Suppl. van Voorn Decl. ¶ 6.

9 Defendants respectfully submit that the bases for their request for a
10 Permanent Injunction applicable to all the PrimeWire Websites, including
11 www.primewire.tf, should still be granted, notwithstanding the changes Plaintiffs
12 have recently observed.

13 The Supreme Court has made it clear that a defendant’s voluntarily cessation
14 of illegal activity does not moot a request for injunctive relief unless the defendant
15 sustains “the formidable burden of showing that it is absolutely clear the allegedly
16 wrongful behavior could not reasonably be expect to recur.” *Friends of the Earth*,
17 528 U.S. at 189–90. “Otherwise, a defendant could engage in unlawful conduct,
18 stop when sued to have the case declared moot, then pick up where he left off,
19 repeating this cycle until he achieves all his unlawful ends.” *Already, LLC v. Nike*,
20 *Inc.*, 568 U.S. 85, 91 (2013). Accordingly, Plaintiffs’ Motion for Permanent
21 Injunctive relief is not mooted unless Defendants’ cessation of their illegal activity
22 is “total” and “irrefutably demonstrated.” *Polo Fashions, Inc. v. Dick Bruhn, Inc.*,
23 793 F.2d 1132, 1135 (9th Cir. 1986).

24 Given the entire record of Defendants’ massive infringing operations, there is
25 no reason to believe they will make permanent their temporary disabling of links to
26 Plaintiffs’ Copyrighted Works. On the contrary, Defendants’ statement urging their
27 users to migrate to www.primewire.tf emphatically declares that PrimeWire is not
28 shutting down and that the newest website “*will continue to operate as normal.*”

1 Second Suppl. van Voorn Decl. ¶ 2, Ex. A (emphasis added). For these Defendants,
2 “operating as normal” means providing the links to infringing streams of Plaintiffs’
3 Copyrighted Works.

4 Defendants’ additional statements—made with reference to “recent legal
5 action,” *i.e.*, this case and the Court’s Preliminary Injunction—that “some changes
6 will be made to the site to comply with temporary and possible future permanent
7 injunctions,” *id.*, likewise fail to moot Plaintiffs’ request for permanent injunctive
8 relief. Even in cases where defendants have appeared and offered evidence in
9 support of their attempt to moot injunctive relief, courts have granted permanent
10 injunctions to bar those defendants from returning to their infringing ways. *See,*
11 *e.g., Disney Enters., Inc. v. VidAngel, Inc.*, No. CV 16-04109-AB (PLAx), 2019 WL
12 4565168, at *1 (C.D. Cal. Sept. 5, 2019) (granting permanent injunction
13 notwithstanding infringer’s argument that it had stopped infringing service and had
14 no plans to restart it); *Brighton Collectibles, Inc. v. Coldwater Creek, Inc.*, No. 06-
15 CV-1848 H (POR), 2009 WL 10671767, at *2 (S.D. Cal. 2009) (granting permanent
16 injunction despite infringer’s argument that it had “ceased selling the infringing
17 products”); *Rolex Watch U.S.A., Inc. v. Zeotec Diamonds, Inc.*, No. CV 02-01089
18 GAF (VBKx), 2003 WL 23705746, at *5 (C.D. Cal. Mar. 7, 2003) (claim for
19 permanent injunctive relief not moot even where infringer had halted its unlawful
20 conduct); *see also Polo Fashions*, 793 F.2d at 1135 (reversing district court’s denial
21 of permanent injunction, and explaining that infringer’s cessation of conduct after
22 lawsuit did not render permanent injunctive relief unnecessary). Defendants have
23 made no showing to this Court at all. Indeed, they have not even appeared in the
24 litigation, even though their statement references the litigation and the injunctions
25 against them.²

26 _____
27 ² Defendants have been served with and downloaded copies of the filings in this
28 litigation. Dkts. 14, 19, 20-1, 21, 23, 24, 26-1, 27, 31, 35, 37-1.

1 Defendants do not merit the benefit of any doubt. If Defendants actually
 2 intend to keep links to Plaintiffs’ Copyrighted Works off of their newest PrimeWire
 3 Website, Defendants can appear, make a showing, and seek relief from this Court.
 4 That is not their intent. Defendants have tried similar tactics of switching domains
 5 when their websites have been blocked in other countries. Second Suppl. van Voorn
 6 Decl ¶ 7. All evidence indicates they will do the same thing here if the
 7 www.primewire.tf domain is not included in the injunction. Defendants will be able
 8 to restore the links as quickly as they took them down. “[T]he entire purpose of an
 9 injunction is to take away defendant’s discretion not to obey the law.” *Metro-*
 10 *Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 518 F. Supp. 2d 1197, 1222 (C.D.
 11 Cal. 2007).

12 Plaintiffs respectfully request the Court grant their request for a Permanent
 13 Injunction, as amended in the form filed with this notice.

14
 15 DATED: March 12, 2022

MUNGER, TOLLES & OLSON LLP

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

20 Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE

I, Kelly M. Klaus, do hereby certify that service of **NOTICE OF DEFENDANTS’ CHANGES TO PRIMEWIRE WEBSITES AND AMENDED REQUEST FOR PERMANENT INJUNCTIVE RELIEF, SECOND SUPPLEMENTAL DECLARATION OF JAN VAN VOORN, and AMENDED [PROPOSED] PARTIAL DEFAULT JUDGMENT AND PERMANENT INJUNCTION** 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 12, 2022.

/s/ Kelly M. Klaus

Kelly M. Klaus