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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PARAMOUNT PICTURES
CORPORATION et al.,

Plaintiffs,

v.

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

Defendants.

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

**ORDER GRANTING MOTION FOR
PRELIMINARY INJUNCTION (ECF
NO. 15)**

Plaintiffs Paramount Pictures Corporation, Universal City Studios Productions LLLP, Universal Content Productions LLC, Universal Television LLC, Warner Bros. Entertainment Inc., Columbia Pictures Industries, Inc., Disney Enterprises, Inc., Netflix Studios, LLC, Netflix US, LLC, and Netflix Worldwide Entertainment, LLC move for a preliminary injunction against Defendants, the anonymous operators of the Primewire website. Mot., ECF No. 15. Even though Defendants have been served, ECF No. 22, Defendants have not yet appeared. The Court held a hearing on January 3, 2022. ECF No. 28.

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I. BACKGROUND

Plaintiffs are companies that produce and distribute movies and television programs. *See* Miller Decl. ¶ 4, ECF No. 17. They own several copyrighted works and publicly perform these works, including by streaming performances over the internet. Klaus Decl. ¶¶ 2–139, ECF No. 18; Miller Decl. ¶ 4. Defendants are anonymous entities that own and operate the website PrimeWire. Van Voorn Decl. ¶ 7, ECF No. 16. PrimeWire allows users of the website to access streams of movies and television shows through embedded streaming or through third-party sites to which PrimeWire provides links. *Id.* ¶ 8. Links are added to PrimeWire in two different ways. First, Defendants, the PrimeWire operators, directly add links to the PrimeWire database. *Id.* ¶ 23. Second, Defendants ask users to submit links to a PrimeWire forum. *Id.* ¶ 24. These links are later approved by a PrimeWire moderator. *Id.* ¶ 26. Defendants generate revenue from this third-party streaming by hosting advertisements on the PrimeWire website. *Id.* ¶ 31.

Plaintiffs negotiate with distributors and licensees over the prices and circumstances of reproduction and performance of the copyrighted works. Miller Decl. ¶ 19. A large part of this strategy is windowing, or making the work available exclusively available through certain channels over a specific time period. *Id.* ¶ 20. Plaintiffs allege unauthorized streaming undermines their contractual commitments by weakening Plaintiffs’ future negotiating position and making it more difficult for counterparties to achieve a profit. *Id.* ¶¶ 24–25.

Plaintiffs filed suit on December 1, 2021 to enjoin Defendants from performing Plaintiffs’ works, to enjoin Defendants from hosting the works on the PrimeWire website, for damages, and for other associated relief. Compl., ECF No. 1.

II. LEGAL STANDARD

The Copyright Act authorized courts to grant injunctive relief “to prevent or restrain infringement of a copyright.” 17 U.S.C. § 502(a). Under Federal Rule of Civil Procedure 65(a)(1), a “court may issue a preliminary injunction only on notice to the adverse party.” A party seeking a preliminary injunction can obtain one by showing that

1 “(1) it is ‘likely to succeed on the merits,’ (2) it is ‘likely to suffer irreparable harm in
2 the absence of preliminary relief,’ (3) ‘the balance of equities tips in [its] favor,’ and
3 (4) ‘an injunction would be in the public interest.’” *Disney Enters., Inc. v. VidAngel,*
4 *Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) (alteration in original) (quoting *Winter v. Nat.*
5 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).

6 **III. DISCUSSION**

7 Plaintiffs argue they are entitled to a preliminary injunction because (1) they are
8 likely to succeed in demonstrating copyright infringement, (2) they will suffer
9 irreparable harm if Defendants continue to host and stream their copyrighted works,
10 (3) the balance of equities tips sharply in their favor, and (4) because an injunction
11 stopping copyright infringement would serve the public interest. *See generally* Mot.
12 Plaintiffs seek relief preventing Defendants, Defendants’ agents, and those in privity or
13 concert with Defendants from linking or streaming their copyrighted works (1) from
14 linking to, distributing, or doing anything associated with infringing the copyrighted
15 works; (2) from taking any action that directly or indirectly enables or encourages any
16 user or other third party to link to the copyrighted works; (3) from transferring the
17 registration of the various PrimeWire domain names to any other registrant or registrar;
18 and (4) from aiding or abetting any third party to perform the previous actions. Proposed
19 Order, ECF No. 15-1. Plaintiffs also seek an order requiring Defendants’ domain name
20 registrars and registries to disable the PrimeWire website and corresponding domain
21 names. *Id.*

22 Defendants have not filed an opposition. Under Local Rule 7-12, the Court may
23 grant Plaintiff’s motion for preliminary injunction in full. *See Sargsyan v. Barr*, No.
24 Edcv 19-2429-PSG (KS), 2020 WL 7636265, at *1 (C.D. Cal. Mar. 4, 2020). The Court,
25 however, fully considers the merits of the motion.

26 **A. Likelihood of Success on the Merits**

27 Plaintiffs have filed certificates of registration issued by the Copyright Office for
28 the 138 copyrighted works listed in the Complaint. Klaus Decl. ¶¶ 2–139. These

1 certificates create a presumption of copyright ownership and validity under 17 U.S.C.
2 § 410(c). *United Fabrics Int'l, Inc. v. C&J Wear, Inc.*, 630 F.3d 1255, 1257 (9th Cir.
3 2011). The Court accepts these uncontested certificates as proof of ownership.

4 The Copyright Act grants several rights to copyright holders. Two rights are
5 relevant here. First, copyright holders have the exclusive right “to reproduce” their
6 works. 17 U.S.C. § 106(1). Second, copyright holders have an exclusive right “to
7 perform the copyrighted work[s] publicly.” 17 U.S.C. § 106(4). Unauthorized internet
8 streaming violates the right of public performance, and unauthorized digital
9 reproduction violates the right of reproduction. *Columbia Pictures Indus., Inc. v.*
10 *Galindo*, No 2:20-cv-03129-SVW-GJS, 2020 WL 3124347, at *2 (C.D. Cal. May 11,
11 2020).

12 Here, Plaintiffs did not authorize the digital reproduction and streaming of their
13 copyrighted works. Thus, the streaming that occurs on PrimeWire or at websites to
14 which PrimeWire links violates the Copyright Act. These violations are attributable to
15 Defendants because under the doctrine of contributory infringement, a party is liable
16 for copyright infringement if it materially contributes to infringement it knows another
17 commits. *VHT, Inc. v. Zillow Grp., Inc.*, 918 F.3d 723, 745 (9th Cir. 2019). Here, the
18 material contribution element is met because PrimeWire is the central nexus for access
19 to the infringing reproductions and performances. Van Voorn Decl. ¶ 8. The knowledge
20 of the underlying infringement element is met because PrimeWire solicits infringing
21 reproductions and performances through the PrimeWire forum. *Id.* ¶ 24. Thus, Plaintiffs
22 have demonstrated there is a significant likelihood they will succeed on the merits in a
23 copyright claim against Defendants.

24 **B. Irreparable Harm**

25 The Ninth Circuit has found a likelihood of irreparable harm for unauthorized
26 reproductions and performances of copyrighted works when the unauthorized display
27 undermines the business model a plaintiff creates. *VidAngel*, 869 F.3d at 866. The Court
28 accepts Plaintiffs’ unchallenged allegations that Defendants’ unauthorized streaming

1 undermines Plaintiffs’ business model. *See* Miller Decl. ¶¶ 19–25. Thus, Plaintiffs have
2 demonstrated they would suffer irreparable harm without an injunction.

3 **C. Balancing the Equities**

4 “[W]here the only hardship a defendant will suffer from an injunction is lost
5 profits from an activity which has been shown likely to be infringing, such an argument
6 in defense merits little equitable consideration” *Cadence Design Sys., Inc. v.*
7 *Avant! Corp.*, 125 F.3d 824, 830 (9th Cir. 1997) (internal quotations omitted). Here, for
8 any relief Plaintiffs request that relates to stopping Defendants from performing or
9 reproducing the 138 copyrighted works, the balance of equities strongly tips in
10 Plaintiffs’ favor. As Plaintiffs stated at the preliminary injunction hearing, though,
11 PrimeWire hosts more videos and television shows than the 138 copyrighted works
12 identified in the Complaint. Indeed, Plaintiffs stated it was fully possible that a user
13 posting a link to the PrimeWire forum could be posting the user’s own copyrighted
14 work. This would not infringe any copyrighted work, let alone any of Plaintiffs’ 138
15 copyrighted works.

16 Plaintiffs stated at the hearing that the reproduction and performance of their
17 copyrighted works constitute a substantial portion of the activity of the PrimeWire
18 website. Because Defendants did not contest this allegation, the Court accepts this bare
19 allegation as true and finds that the balance of equities tips in the Plaintiffs’ favor as to
20 their requests to freeze the PrimeWire website and to prevent Defendants from
21 transferring PrimeWire to another domain name. The Court is ready and willing to
22 reconsider this conclusion if presented with any contrary evidence in a properly noticed
23 motion to dissolve or modify the preliminary injunction.

24 **D. Public Interest**

25 The public has an interest in maintaining a system of intellectual property
26 protection that encourages the creation and production of films, videos, and other useful
27 arts. *VidAngel*, 869 F.3d at 867. Because an injunction here would help maintain that
28 system by protecting against widespread copyright infringement, a preliminary

1 injunction would be in the public interest.

2 The Court finds Plaintiffs have demonstrated all four factors weigh in favor of a
3 preliminary injunction and that an injunction is warranted.

4 **E. Required Bond**

5 Federal Rule of Civil Procedure 65(c) provides that the Court may issue a
6 preliminary injunction “only if the movant gives security in an amount that the court
7 considers proper to pay the costs and damages sustained by any party found to have
8 been wrongfully enjoined or restrained.” The Ninth Circuit has held that district courts
9 have the “discretion as to the amount of security required, *if any.*” *Johnson v. Couturier*,
10 572 F.3d 1067, 1086 (9th Cir. 2009) (quoting *Jorgensen v. Cassidy*, 320 F.3d 906, 919
11 (9th Cir. 2003)) (emphasis in original). A district court should give “a clear
12 statement . . . concerning its reasons for requiring or not requiring a bond.” *Language*
13 *Line Servs., Inc. v. Language Servs. Assocs., Inc.*, 500 F. App’x 678, 682 (9th Cir.
14 2012).

15 Following the hearing, the Court ordered Plaintiffs to file supplemental briefing
16 on the requirements under Rule 65. ECF No. 29. The Court, after considering the
17 arguments, concludes a bond of \$20,000 is appropriate. Although Defendants have not
18 appeared, which would weigh against requiring a bond, *Warner Bros. Ent. Inc. v. Tusa*,
19 No. 2:21-cv-05456-VAP-ASx, 2021 WL 4815947, at *4 (C.D. Cal. Aug. 16, 2021), the
20 Court finds the possibility that Defendants host and gain advertisement revenue from
21 content that does not infringe Plaintiffs’ copyrightable works means there is a real
22 possibility that Defendant could suffer harm from this injunction. The Court requires
23 such a limited bond of \$20,000 because Defendants have stated in an email that
24 PrimeWire “does not generate revenue” in any meaningful amount. ECF No. 20-3.

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1 **IV. CONCLUSION**

2 The Court **GRANTS** the motion for a preliminary injunction. The Court orders
3 as follows:

4 Defendants, and all individuals who serve as Defendants’ officers, agents,
5 servants, employees, and attorneys, and other persons who have notice of this injunction
6 and are in privity with Defendants and/or acting in active concert or participation with
7 Defendants, their officers, agents, servants, employees, or attorneys, **ARE HEREBY**
8 **PRELIMINARILY RESTRAINED AND ENJOINED** from:

- 9 1. linking to, distributing, reproducing, copying, hosting, uploading, making
10 available for download, indexing, displaying, exhibiting, publicly performing
11 (including without limitation streaming, transmitting, or otherwise
12 communicating to the public), or otherwise exploiting or making any use of any
13 rights under the Copyright Act in any motion picture or other audiovisual work
14 (or portion(s) thereof in any form), the rights to which Plaintiffs or their affiliates
15 own or control (“Copyrighted Works”);
- 16 2. taking any action that directly or indirectly enables, facilitates, permits, assists,
17 solicits, encourages, or induces any user or other third party (i) to link to,
18 distribute, reproduce, copy, host, upload, download, index, display, exhibit,
19 publicly perform (including without limitation streaming, transmitting, or
20 otherwise communicating to the public), or otherwise use or exploit in any
21 manner any of Plaintiffs’ Copyrighted Works or portion(s) thereof; or (ii) to make
22 available any of Plaintiffs’ Copyrighted Works or portion(s) thereof for linking
23 to, distributing, reproducing, copying, hosting, uploading, downloading,
24 indexing, displaying, exhibiting, publicly performing (including without
25 limitation streaming, transmitting, or otherwise communicating to the public), or
26 for any other use or means of exploitation;
- 27 3. transferring or performing any function that results in the transfer of the
28 registration of the domain name of www.primewire.li, www.primewire.ag, or

1 www.primewire.vc (“PrimeWire Websites”) to any other registrant or registrar;
2 and

3 4. assisting, aiding, or abetting any other person or business entity in engaging in or
4 performing any of the activities referred to in the above subparagraphs (A)-(C);
5 and

6 IT IS FURTHER ORDERED that, except as requested by Plaintiffs, Defendants’
7 domain name registrars (1 API GmbH, Gandi SAS, Namecheap, Inc., collectively
8 “Registrars”) and domain registries (Nic AG, SWITCH, Afilias, Inc., collectively
9 “Registries”) must freeze and disable the PrimeWire Websites and/or the corresponding
10 domain names, associated with the PrimeWire Websites; and

11 IT IS FURTHER ORDERED that Plaintiffs may complete service of process by
12 email for Defendants ; and

13 IT IS FURTHER ORDERED that Plaintiffs shall post a bond of \$20,000.

14 The Court reminds Defendants that should they enter an appearance, they remain
15 free to seek dissolution or modification of this injunction by a properly noticed motion.
16 Plaintiffs shall serve this order on Defendants by any previously approved method of
17 service within seven days of this order.

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19 **IT IS SO ORDERED.**

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21 Dated: January 7, 2022



MARK C. SCARSI
UNITED STATES DISTRICT JUDGE

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cc: Fiscal Department

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