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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

15 UNIVERSAL CITY STUDIOS
16 PRODUCTIONS LLLP; UNIVERSAL
CITY STUDIOS LLC; UNIVERSAL
17 TELEVISION LLC; UNIVERSAL
CONTENT PRODUCTIONS LLC;
18 DREAMWORKS ANIMATION LLC;
DISNEY ENTERPRISES, INC.;
PARAMOUNT PICTURES
19 CORPORATION; AMAZON CONTENT
SERVICES LLC; APPLE VIDEO
20 PROGRAMMING LLC; WARNER
BROS. ENTERTAINMENT INC.;
21 NETFLIX US, LLC; COLUMBIA
PICTURES INDUSTRIES, INC.; and
22 SCREEN GEMS, INC.,

23 Plaintiffs,

24 vs.

25 DWAYNE ANTHONY JOHNSON d/b/a
ALLACCESSTV and QUALITY
26 RESTREAMS; and DOES 1-20,

27 Defendants.
28

Case No. **2:21-cv-09361-AB (MRWx)**

**PLAINTIFFS’ OPPOSITION TO
DEFENDANT’S “OPPOSED
MOTION” FOR PRELIMINARY
INJUNCTION AND DEFENDANT’S
DEADLINE FOR RESPONSE TO
COMPLAINT**

Assigned to the Hon. Andre Birotte, Jr.

Action Filed: December 2, 2021

1 Plaintiffs Universal City Studios Productions LLLP, Universal City Studios
2 LLC, Universal Television LLC, Universal Content Productions LLC, DreamWorks
3 Animation LLC, Disney Enterprises, Inc., Paramount Pictures Corporation, Amazon
4 Content Services LLC, Apple Video Programming LLC, Warner Bros. Entertainment
5 Inc., Netflix US, LLC, Columbia Pictures Industries, Inc., and Screen Gems, Inc.
6 (collectively, “Plaintiffs”) oppose Defendant Dwayne Anthony Johnson d/b/a
7 AllAccessTV and Quality Restreams’s (“Defendant”) request for a further extension
8 to respond to Plaintiffs’ Motion for Preliminary Injunction (“Motion”) and postpone
9 Defendant’s deadline to respond to Plaintiff’s Complaint for the following reasons:

10 This action involves unauthorized online streaming services that engage in
11 mass-scale infringement of Plaintiffs’ copyrighted works. Plaintiffs filed their
12 Motion seeking to enjoin the activities of Defendant over a month and a half ago.
13 This is Defendant’s second request to move the hearing date on the Motion and
14 extend the time for Defendant to respond to the Motion. Plaintiffs remain willing to
15 engage in meaningful discussions with Defendant to explore options for resolving the
16 matter entirely. But Plaintiffs cannot do so while the threat remains that Defendant
17 will continue his infringing activities, either alone, or through others associated or
18 working in active concert with him or his business enterprises. To do so would
19 unfairly prejudice Plaintiffs.

20 Accordingly, Plaintiffs oppose Defendant’s request to (1) continue the hearing
21 on Plaintiffs’ Motion for a Preliminary Injunction and (2) postpone Defendant’s
22 deadline to respond to Plaintiffs’ Complaint, Dkt. No. 26 (the “Application”), until
23 such time as they can be assured they will not be prejudiced in the interim.¹

24
25 ¹ As discussed further below, in responding to Defendant’s request, Plaintiffs have
26 elected to treat Defendant’s filing as an ex parte application, rather than a motion.
27 Defendant styled his filing as a “Motion,” but did not select a hearing date, nor
28 could he select a hearing date that would precede the current hearing date on
Plaintiffs’ Motion. *See* L.R. 6-1. Further, while Plaintiffs do not rely on this
ground alone to oppose Defendant’s request, Plaintiffs note that Defendant did not
even attempt to comply with rules governing the filing of ex parte applications
found in this Court’s Standing Order or the Local Rules.

1 **A. Plaintiffs Would Be Prejudiced By Further Delay Without**
2 **Commitments from Defendant Regarding the Scope of Injunctive**
3 **Relief**

4 Plaintiffs are generally not opposed to reasonable continuances and agree
5 with the principle, expressed in the Court’s Standing Order, that “professional
6 courtesy dictates that parties work cooperatively to resolve calendar conflicts and
7 especially to avoid motion work simply to adjust dates.” Dkt. No. 13, Section 16.
8 Indeed, Plaintiffs already stipulated to Defendant’s first request to postpone the
9 hearing on the preliminary injunction motion. Dkt. No. 22; Declaration of Sean M.
10 Sullivan (“Sullivan Decl.”) ¶ 5.

11 But the grounds for why a preliminary injunction here is warranted still exist,
12 absent an agreement from Defendant to enjoin illegal activity. *See Warner Bros.*
13 *Entm’t, Inc. v. WTV Sys.*, 824 F.Supp.2d 1003, 1012 (C.D. Cal. 2011) (where
14 defendants operate an “infringing service without the normal licensing restrictions
15 imposed by Plaintiffs, [it] interfere[s] with Plaintiffs’ ability to control the use and
16 transmission of their Copyrighted works, thereby, causing irreparable injury.”).
17 Defendant has refused to agree, even in principle, to restrictions on his activities
18 (along with those acting in concert with him) that would prevent such illegal
19 activities during the requested extension.

20 When Defendant’s counsel approached Plaintiffs’ counsel with a proposal to
21 enter into a stipulated preliminary injunction in lieu of full briefing on Plaintiffs’
22 Motion, Plaintiffs fully engaged in the discussions in good faith. In response,
23 Plaintiffs consistently maintained that they could only agree to an extension on
24 briefing as long as the parties had an understanding on certain core principles
25 relating to the contemplated stipulated preliminary injunction. *Id.* ¶ 7. The reason
26 for this is simple; each day that Defendant is permitted (whether by himself or
27 through those associated with or working in active concert with him) to continue to
28 operate his mass-scale infringing activities without restriction only serves to further

1 harm Plaintiffs. This is precisely the reason Plaintiffs filed their Motion seeking a
2 preliminary injunction.

3 One core principle Plaintiffs have insisted upon from the outset is that any
4 proposed stipulated injunction must restrain not just Defendant Dwayne Anthony
5 Johnson, but also any other individuals or entities, who, along with him, own or
6 operate AllAccessTV and Quality Restreams or were or are acting in active concert
7 or participation with Defendant and those business entities. *Id.* This restriction is
8 consistent with the relief sought by Plaintiffs in their Motion and injunctive relief in
9 general. Dkt. No. 14. This restriction not only serves to stop any continuing
10 infringing activity, but also serves to ensure that no further actions are taken to
11 obscure or modify any of the existing ownership structure of the entities and
12 operations in such a way as to shield Defendant personally from liability.

13 Although Defendant affirmed agreement on some other core terms of a
14 proposed stipulated injunction, Defendant has resisted this standard term. Sullivan
15 Decl. ¶ 8. Instead, Defendant provided a draft stipulated injunction that would
16 cover his conduct alone; in other words, only Defendant personally would be
17 enjoined from operating or doing business as AllAccessTV and Quality Restreams
18 and only Defendant personally would be restrained from transferring or modifying
19 any of the domains at issue. *Id.* ¶ 6.

20 Defendant's position exposes Plaintiffs to obvious prejudice: absent an
21 agreement over the scope of the injunction during the pendency of a further
22 extension, any individual or entity affiliated with Defendant would be free to
23 continue and move the business operations at issue to other domains or otherwise
24 obscure their role in the illegal infringement that is the subject of this lawsuit.
25 There would be no restriction on other individuals (including family members)
26 further infringing and/or circumventing the requirements of the preliminary
27 injunction, including preserving evidence.

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1 Plaintiffs' concerns are not unfounded. Days after Plaintiffs filed their
2 Complaint, the public registry information for one domain that is subject to this
3 lawsuit, allaccessiptv.com, was changed so that it no longer lists Defendant as the
4 registrant, but instead makes all registrant information private. *Id.* ¶ 9; Declaration
5 of Jan Van Voorn, Dkt. No. 16 ¶ 14, Exs. 1-2.

6 Thus, because Plaintiffs could suffer very real harm in the absence of
7 injunctive relief that applies not just to Defendant, but to those individuals or
8 entities, who, along with him, own or operate AllAccessTV and Quality Restreams
9 or were or are acting in active concert or participation with Defendant and those
10 business entities, Defendant's request for a continuance of the hearing on Plaintiffs'
11 Motion and to postpone Defendant's deadline to respond to the Complaint should
12 be denied.

13 **B. Defendant's Application Is Procedurally Defective**

14 Although styled as an "opposed motion," Defendant's brief fails to comply
15 with the rules governing the submission of motions: it lacks a motion hearing date
16 and a memorandum of points and authorities. C.D. Cal. L.R. 7-4, 7-5.
17 Accordingly, Plaintiffs have responded to Defendant's brief as if it were an ex parte
18 application.

19 This Court's procedures found on the Court's website,
20 <https://www.cacd.uscourts.gov/honorable-andr%C3%A9-birotte-jr>, permit ex parte
21 applications for routine exceptions to the Local Rules. All other ex parte
22 applications are solely for extraordinary relief. *See id.* and Dkt. No. 13 at Section
23 14. Defendant does not argue that he is seeking extraordinary relief. Even
24 assuming the relief sought by Defendant here qualifies as a routine exception to the
25 Local Rules, Defendant's ex parte application is improper for a number of
26 substantive and procedural reasons:

- 27 • **Defendant is at fault.** As an initial matter, "it must be established that
28 the moving party is without fault in creating the crisis that requires ex

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parte relief, or that the crisis occurred as a result of excusable neglect.”
Mission Power Eng’g Co. v. Cont’l Cas. Co., 883 F. Supp. 488, 492
(C.D. Cal. 1995). Defendant is at fault because he has had well over a
month to prepare an opposition to Plaintiffs’ Motion and still has time
to respond to the Complaint. Defendant’s response to the Complaint is
not even due until February 14, 2022. While the parties have been
engaged in discussions in an attempt to avoid briefing on Plaintiffs’
Motion, Plaintiffs have consistently maintained their position that they
could only agree to an extension if certain conditions were met that
satisfied them they could avoid harm in the interim. Defendant
provides no explanation for his delay while such uncertainty existed,
and does not explain why he cannot prepare a response to the
Complaint in the weeks remaining before it is due. This ex parte
application arises purely from circumstances of Defendant’s own
making.

• **Defendant Failed to Follow Procedures for an Ex Parte**

Application. Section 14 of this Court’s Standing Order and Local
Rule 7-19 impose certain requirements on parties seeking ex parte
relief. Defendant complied with none of them, including failing to
provide counsel for Plaintiffs’ contact information in its brief and
failing to provide notice to Plaintiffs of when their response would be
due.

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C. Conclusion

Plaintiffs remain willing to continue to work to resolve this case with Defendant. But Defendant’s desire for a further extension should not prevent entry of a preliminary injunction that protects against infringing activity and other actions that may prejudice Plaintiffs. As Plaintiffs repeatedly explained to Defendant, if Defendant is willing to affirm the scope of the proposed preliminary injunction, then Plaintiffs remain willing to discuss a reasonable extension.

DATED: January 28, 2022

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