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11

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  
26 ALLACCESSTV and QUALITY  
RESTREAMS; and DOES 1-20,

27 Defendants.  
28

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

**PLAINTIFFS' REPLY IN SUPPORT  
OF MOTION FOR PRELIMINARY  
INJUNCTION**

Date: February 18, 2022  
Time: 10:00 a.m.  
Ctrm.: 7B

Filed concurrently with Supplemental  
Declaration of Jan Van Voorn

Assigned to the Hon. Andre Birotte, Jr.

Action Filed: December 2, 2021

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Absent from Defendant’s Opposition is any attempt to dispute the fundamental basis for issuing a preliminary injunction here: AllAccessTV (“AATV”) and Quality Restreams are operating unauthorized online streaming services that are engaging in mass-scale infringement of hundreds if not thousands of Plaintiffs’ copyrighted works. Indeed, Defendant fails to address, and thereby concedes, the vast majority of arguments and evidence presented by Plaintiffs in their Motion, including most of the evidence that shows how Defendant is involved with and doing business as AATV and Quality Restreams. Defendant instead attempts to obfuscate the issues by mounting attacks against the sufficiency of a small, cherry-picked subset of Plaintiffs’ evidence to argue there are no ongoing or threatened harms, and to disavow his connections to other individuals and entities who are acting in concert with Defendant and the individuals or entities, who, along with Defendant, own or operate those infringing services. But none of Defendant’s misguided and meritless arguments do anything to undercut the fundamental need for an injunction that stops the mass-scale infringement occurring here.

**II. PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION SHOULD BE GRANTED**

**A. Defendant Concedes the Balance of Hardships Tip in Plaintiffs’ Favor and an Injunction Serves the Public Interest**

Plaintiffs in their Motion explained how the balance of equities tips in their favor because the threat of harm to Plaintiffs is substantial, while Defendant could not complain of harm arising from having to cease an illegal operation. Mot. at 22-23. Defendant does not argue that he stands to suffer any harm from the requested preliminary injunction, much less present any evidence of any such anticipated harm. Plaintiffs similarly showed how the issuance of a preliminary injunction is in the public interest because a compelling interest is involved here—the upholding

1 of copyright protections. Mot. at 23-24. Defendant does not, and could not,  
2 contest this. Because Defendant failed to respond to these arguments, he waives  
3 any argument that these factors do not warrant entry of preliminary injunctive  
4 relief here. *See Stichting Pensioenfonds ABP v. Countrywide Fin. Corp.*, 802 F.  
5 Supp. 2d 1125, 1132 (C.D. Cal. 2011) (“[F]ailure to respond in an opposition brief  
6 to an argument put forward in an opening brief constitutes waiver or abandonment  
7 in regard to the uncontested issue.” (citation omitted) (collecting cases)).  
8 Accordingly, Plaintiffs have established the balance of hardships is decidedly in  
9 their favor and an injunction is in the public interest.

10 **B. Defendant Ignores or Misconstrues the Legal and Evidentiary**  
11 **Bases for Plaintiffs’ Likelihood of Success on the Merits**

12 Plaintiffs in their Motion established that they were likely to succeed on the  
13 merits of their infringement claim because they easily showed that (i) they own or  
14 control valid copyrights in the works Defendant exploits and (ii) Defendant’s  
15 unauthorized streaming services infringe Plaintiffs’ exclusive rights to reproduce  
16 and publicly perform their Copyrighted Works under 17 U.S.C. §§ 106(1), 106(4).  
17 Mot. at 11-19 (citing *e.g., Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856  
18 (9th Cir. 2017)).

19 Defendant does not contest that Plaintiffs own or control the Copyrighted  
20 Works. Instead, Defendant contends that Plaintiffs failed to submit sufficient  
21 evidence to support their claims of direct and secondary infringement. But  
22 Defendant’s arguments are wrong legally and blatantly disregard the facts and  
23 evidence submitted by Plaintiffs in support of their Motion.

24 **1. Plaintiffs Submitted Ample Evidence that Defendant**  
25 **Publicly Performs and Reproduces Plaintiffs’ Copyrighted**  
26 **Works**

27 As detailed in Plaintiffs’ Motion and supporting declarations and evidence,  
28 AllAccessTV (“AATV”) is an infringing Internet Protocol television (“IPTV”) and

1 video-on-demand (“VOD”) service that provides subscribers with unauthorized  
2 access to Plaintiffs’ Copyrighted Works. Declaration of Jan Van Voorn (“Voorn  
3 Decl.”), Dkt. No. 16 ¶¶ 6-7. Quality Restreams, meanwhile, is a “content-  
4 provider” for various illegal IPTV services, including AATV. *Id.* ¶ 8. Quality  
5 Restreams provides IPTV operators, like AATV, (and their customers) with  
6 unauthorized access to copyrighted movies and television programs through  
7 thousands of live television channels and VOD offerings. *Id.* Plaintiffs explained,  
8 in detail, how AATV and Quality Restreams interact and infringe Plaintiffs’  
9 Copyrighted Works. Mot. at 4-8; Voorn Decl. ¶¶ 21-25, 28-32, 34, 36, 40-42.  
10 Defendant does not address the vast majority of this evidence.

11 Defendant instead attacks—but only at the margins—the evidentiary basis for  
12 Plaintiffs’ claim that Defendant uses certain internet domains in the “infringing  
13 enterprises” and that “subscribers access infringing content through web-based  
14 applications.” Opp’n at 3. Defendant argues that screenshots, without URLs, are  
15 insufficient to support Plaintiffs’ arguments of access because without the URLs,  
16 there is “no actual evidence that the websites accused contain the alleged content”  
17 and no way to verify Plaintiffs’ claims. *Id.*; Mot at 12-13. Defendant cites no  
18 authority for this novel proposition, and, in any event, the argument has no merit.  
19 Many courts, including those in this District have relied on screenshots as evidence  
20 of infringement in similar cases. *See, e.g., Universal City Studios Prods. LLLP v.*  
21 *TickBox TV LLC*, No. CV 17-74960MWF (ASx), 2018 WL 1568698, at \*3 (C.D.  
22 Cal. Jan. 30, 2018) (screenshots documented pre-lawsuit user experience).

23 Moreover, Defendant’s argument ignores Plaintiffs’ un rebutted evidence,  
24 including testimony in the investigator’s signed declaration, explaining just how  
25 these internet domains facilitate the operation of AATV and Quality Restreams  
26 operations. As detailed in the Voorn Declaration, many of the domains at issue are  
27 used in the sign-up process for a user that wants to ultimately access the AATV  
28 platforms, i.e., they are used to promote and facilitate users’ access to the infringing

1 platforms and materials, not to stream the content. Voorn Decl. ¶¶ 12, 21-30. Other  
2 domains are used to source AATV’s content and to provide downloads for separate  
3 applications to access AATV’s live and VOD offerings. *See id.* ¶¶ 29, 42

4 Similarly, Defendant argues Plaintiffs have not supported their contention  
5 that Defendant offers over 600 movie titles and 600 television series for on-demand  
6 viewing. Opp’n at 3-4; Voorn Decl. ¶ 37. Defendant’s argument is irrelevant and  
7 undercut by the very evidence he cites. Plaintiffs established that the evidence in  
8 the Voorn Declaration was supported by personal knowledge and the results of the  
9 investigation. Voorn Decl. ¶ 3. The investigative team subscribed to and tested  
10 Defendant’s services and found all of the representative titles listed on Exhibit A to  
11 Plaintiffs’ Complaint on the AATV platforms ready for streaming. Voorn Decl. ¶¶  
12 9, 10, 25-26; see Dkt. No. 1-1, Ex. A (Representative List of Copyrighted Works).  
13 Further, Plaintiffs offered specific evidence of certain offerings of Plaintiffs’  
14 Copyrighted Works on Defendant’s VOD platforms. *Id.* ¶ 38, Ex. 21 (*The*  
15 *Godfather, Toy Story 3, Spider-Man, Da 5 Bloods*). This is sufficient to establish  
16 direct infringement. Although Defendant attempts to poke holes in the sufficiency  
17 of Plaintiffs’ evidence, he cannot (and does not) undercut the fundamental premise  
18 that he and his cohorts are operating an illegal streaming scheme.

19 Plaintiffs are likely to succeed on the merits of their direct infringement claim  
20 because the undisputed evidence shows that Defendant directly interferes with  
21 Plaintiffs’ exclusive rights to perform and reproduce the Copyrighted Works.

22 **2. Defendant Has Not Refuted Substantial Evidence of**  
23 **Secondary Infringement**

24 In lieu of a substantive defense to secondary infringement, Defendant argues  
25 that Plaintiffs fail to provide evidence sufficient to show direct infringement by  
26 either end users or the sources of the restreams at issue, citing to *Perfect 10, Inc. v.*  
27 *Amazon.com, Inc.*, 508 F.3d 1146, 1169 (9th Cir. 2007), for the proposition that  
28 “viewing copyrighted material online, without downloading, copying, or



1 retransmitting such material is not copyright infringement.” Opp’n at 4. This exact  
2 same argument, however, has been rejected by courts in this District.

3 In *TickBox*, the defendant similarly asserted that “merely viewing  
4 copyrighted material online, without downloading, copying, or retransmitting such  
5 material, is not actionable.” 2018 WL 1568698, at \*9. The Court rejected the  
6 defendant’s application of *Perfect 10*’s holding, concluding that that “the actions of  
7 the defendant’s customers (i.e., viewing still images or motion pictures without  
8 downloading them), standing on their own, do not infringe upon any of the  
9 plaintiffs’ exclusive rights under the Copyright Act.” *Id.* at \*10. However, the  
10 Court held the defendant “may be held contributorily liable under [*Metro-Goldwyn-*  
11 *Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913 (2005)] and [*Columbia Pictures*  
12 *Indus., Inc. v. Fung*, 710 F.3d 1020 (2013)] because it has served as the  
13 intermediary between third parties who directly infringe upon Plaintiffs’ public  
14 performance rights and its customers, who become a necessary component of the  
15 infringement (*i.e.*, the audience).” *Id.* So, too, here.

16 Plaintiffs have satisfied the knowledge element of their contributory  
17 infringement claim by showing that Defendant knows the streaming services are  
18 being used to copy Plaintiffs’ works without authorization. Mot. at 15-16; Voorn  
19 Decl. ¶¶ 17, 27, 49, 51-52. Plaintiffs have also satisfied the material contribution  
20 element by demonstrating how Defendant delivers access to customers demanding  
21 copies of Plaintiffs’ works. Mot. at 17. And Plaintiffs fulfilled the elements of their  
22 inducement claim by illustrating how Defendant distributes the infringing services,  
23 Voorn Decl. ¶¶ 7-10, 21-48; acts with the object of promoting the infringement, *id.*  
24 ¶¶ 16, 45-46; and causes infringement. Mot. at 18-19. The overwhelming evidence  
25 of secondary liability for copyright infringement remains undisputed.

26 **3. The Injunction is Directed Appropriately at Defendant and**  
27 **Those Who Act in Concert with Him**

28 Plaintiffs’ preliminary injunction asks the Court to enjoin “the individuals or

1 entities, who, along with Dwayne Anthony Johnson, own or operate the infringing  
 2 services of AATV and Quality Restreams,” including “all individuals acting in  
 3 concert or participation or privity with them, including Defendants’ resellers.” Mot.  
 4 at 2. Defendant argues that this request is “misdirected and overly broad.” Opp’n  
 5 at 5. Once again, Defendant’s arguments are lacking in legal and factual support.

6 (i) AATV and Quality Restreams

7 First, Defendant falsely claims that Plaintiffs have “no support” for the  
 8 allegation that Defendant is doing business as AATV or Quality Restreams, Opp’n  
 9 at 5. Plaintiffs’ investigator explained how part of any investigation regarding an  
 10 unauthorized pirate service involves trying to “identify the responsible individuals  
 11 and entities, as they typically take steps to obscure their involvement with the illicit  
 12 operation.” Voorn Decl. ¶ 11. Plaintiffs’ investigator then carefully set forth each  
 13 of the steps that led to the identification of Defendant as the one who owns, runs  
 14 and is responsible for the AATV and Quality Restreams services, providing exhibits  
 15 of each of the pieces of evidence tying him to these operations. *Id.* ¶¶ 11-20.

16 Notably, regarding AATV, in addition to other factors, Plaintiffs’ investigator  
 17 details that: (i) Defendant is the registrant for allaccessiptv.com and myaatv.com,  
 18 two domains associated with the AATV service (Voorn Decl. ¶ 14, Exs. 1-2); (ii)  
 19 Defendant is a registered manager of VPN Safe Vault LLC, a company that bears a  
 20 virtually identical name to the domain backoffice.vpnsafevault.com, the website  
 21 through which AATV subscriptions are sold (*id.* ¶ 19, Ex. 9); (iii) Defendant  
 22 created and administers the private Facebook group MediaBoxx Corporation that  
 23 was limited exclusively to AATV resellers (*id.* ¶ 17, Ex. 7); and (iv) Defendant  
 24 offered webinars on how to become an AATV reseller (*id.* ¶ 16, Ex. 6). Regarding  
 25 Defendant’s connections to the Quality Restreams service, among other things,  
 26 Plaintiffs’ investigator detailed that: (i) Defendant has advertised the service on the  
 27 website IPTV.Community under the name DJ\_Boxx, which is connected to the  
 28 Skype ID “dwayne.johnson34,” indicating that Defendant owns and/or operates the

1 Quality Restreams service (*id.* ¶ 15, Exs. 3-4); (ii) the listed date of birth on  
 2 DJ\_Boxx’s profile matches Defendant’s date of birth (*id.*); (iii) Defendant is also  
 3 the registrant for the website myaatv.com at the IP address 23.237.94.34—the same  
 4 IP address for qsplaylist.com; this IP address is within the same IP address range  
 5 leased to The MediaBoxx, an entity owned and operated by Defendant (*id.* ¶ 20);  
 6 and (iv) two of the three domains associated with Quality Restreams  
 7 (qualityrestreams.com and qsprovider.com) have also been associated with IPs  
 8 within the range of those leased to The MediaBoxx. *Id.* Defendant cannot escape  
 9 the fact that he has been doing business as AATV or Quality Restreams.

10 (ii) Resellers

11 Second, Defendant also cannot disclaim responsibility for his network of  
 12 resellers. Plaintiffs explained how Defendant created and fostered an extensive  
 13 network of resellers who attract new subscribers to the infringing services (Mot. at  
 14 9-10; Voorn Decl. ¶¶ 44-48), and how Defendant uses these resellers to hide the  
 15 illegal nature of the enterprises (*id.* at 10; Voorn Decl. ¶ 52). Again, Defendant  
 16 does not disprove this evidence; instead, Defendant argues only that he cannot be  
 17 responsible for the conduct of resellers. Opp’n at 5. But Defendant cannot escape  
 18 the fact of the resellers’ involvement in this illegal scheme and his role with them.  
 19 Notably, there is extensive evidence that resellers sign customers up for the service  
 20 on Defendant’s websites. Voorn Decl. ¶ 21. Resellers further market and promote  
 21 their services to attract new subscribers. *Id.* ¶¶ 44-45. The reseller scheme has  
 22 dramatically increased Defendant’s customer base and profits. *Id.* ¶ 47. Defendant  
 23 *himself* has advertised the reseller program as a “streaming TV franchise  
 24 opportunity,” *id.* ¶ 46, and has boasted in social media posts that the network has  
 25 over 600 “[s]ales agents.” *Id.* ¶ 47. According to Defendant, he “cannot and does  
 26 not respond” on behalf of the resellers, but Defendant does not dispute that he  
 27 posted on social media about the reseller program and connected it to the streaming  
 28 services. Voorn Decl. ¶¶ 46-47, Exs. 23-24. Defendant’s attempt to escape

1 application of the injunction to resellers does not withstand scrutiny.

2 (iii) VPN Safe Vault LLC

3 Finally, Defendant argues that the preliminary injunction may not cover VPN  
 4 Safe Vault LLC (“VPN Safe Vault”), a service that appears to be wholly owned by  
 5 Defendant (*see* Mot. at 8; Voorn Decl. ¶ 19; Ex. 9), because Plaintiffs did not name  
 6 the entity as a defendant. Opp’n at 5-6. Defendant further contends that Plaintiffs  
 7 have not presented evidence that VPN Safe Vault “is participating in any of the  
 8 activities that they allege constitute copyright infringement,” but is, instead, a  
 9 legitimate business enterprise that merely sells VPN access. *Id.*

10 Defendant offers no legal authority for the proposition that a preliminary  
 11 injunction may not enjoin the activities of parties who are not named as defendants  
 12 to the underlying lawsuit but who are clearly acting in concert with the Defendant,  
 13 nor could he. Under Federal Rule of Civil Procedure 65(d)(2)(C), a preliminary  
 14 injunction may apply to parties, their agents, employees and “other persons who are  
 15 in active concert or participation” with them. Courts routinely rely on that rule in  
 16 enjoining the activities of non-parties. *See, e.g., Virtue Global Holdings Ltd. v.*  
 17 *Rearden LLC*, No. 15-cv-00797-JST, 2016 WL 9045855, at \*9 (N.D. Cal. June 17,  
 18 2016) (rejecting argument that a non-party could not be enjoined).

19 Regardless, this argument elides how the illicit streaming scheme actually  
 20 operates. As the motion made clear, Defendant uses VPN Safe Vault as a portal to  
 21 sell subscriptions to the AATV service. Voorn Decl. ¶¶ 21, 26, Ex. 15. Although  
 22 Defendant suggests that Plaintiffs offer no “evidentiary support” for their claim that  
 23 VPN Safe Vault sells subscriptions to AATV services, Opp’n at 6, Plaintiffs did in  
 24 fact provide that evidence. In late October 2021, Plaintiffs’ investigator called  
 25 AATV’s “support line” and was given verbal instructions to use  
 26 backoffice.vpnsafevault.com to renew his AATV subscription. *Id.* ¶ 26. Through  
 27 that website, the investigator renewed his subscription and obtained credentials to  
 28 access the AATV platforms. *Id.* As that experience illustrates, VPN Safe Vault

1 allows Defendant to try to *circumvent* liability for the infringing services.  
 2 Highlighting the hypocrisy of Defendant’s argument, Plaintiffs’ investigator  
 3 confirmed that although Defendant has once again changed the method for  
 4 purchasing an AATV subscription, Defendant is *still* to this day using the VPN Safe  
 5 Vault entity to sell those subscriptions and provide credentials to access the AATV  
 6 services. *See* Supplemental Declaration of Jan Van Voorn (“Supp. Voorn Decl.”)  
 7 ¶¶ 6-7. In sum, although VPN Safe Vault is not itself a website through which  
 8 customers stream content, it operates to direct users to the infringing content and as  
 9 a shield for Defendant’s infringing activities.

10 Defendant’s various arguments attempting to limit the scope of any  
 11 injunction issued, even to those acting in concert with him or his businesses,  
 12 including VPN Safe Vault, only serve to illustrate why a preliminary injunction is  
 13 needed. Absent an injunction, Defendant will continue to obscure his and others’  
 14 involvement in the illicit operation and underlying infringement and shift the  
 15 mechanisms by which customers sign up for and use their streaming services.<sup>1</sup>

16 **C. Plaintiffs Are Still Likely to Suffer Irreparable Harm Absent**  
 17 **Preliminary Relief Despite Certain Domains Being Taken Offline**

18 While Defendant largely ignores Plaintiffs’ arguments for why they stand to  
 19 suffer irreparable harm, Defendant contends that because “aatvpanel.com” was  
 20 taken offline and other landing pages of the domains cited do not permit streaming  
 21 of content, they are not an ongoing threat to Plaintiffs. Opp’n at 3; Voorn Decl. ¶  
 22 27. Initially, not all the sites were used to stream infringing content, but they were  
 23 all used in furtherance of Defendant’s illegal operations. *See* Section II.B.1, above.

24 Further, voluntary cessation of challenged conduct moots a case “only if it is  
 25

26  
 27 <sup>1</sup> While Plaintiffs submit that the evidence provided supports extending the  
 28 injunction to cover domains associated with VPN Safe Vault LLC pursuant to Rule  
 65’s “acting in concert” provision, because those domains are being used by  
 Defendant to obtain subscribers, Plaintiffs are prepared to amend the Complaint to  
 name VPN Safe Vault LLC as a defendant should the Court deem it necessary.

1 absolutely clear that the allegedly wrongful behavior could not reasonably be  
2 expected to recur.” *Adarand Constructors, Inc. v. Slater*, 528 U.S. 216, 222 (2000)  
3 (per curiam) (citation and internal quotation marks omitted). Here there is ample  
4 evidence that Defendant is trying not only to obscure his role in the operations, but  
5 make changes to make it harder to track them and the parties involved. Indeed,  
6 Plaintiffs have presented extensive evidence that Defendant has changed the method  
7 for purchasing and managing AATV subscriptions at least twice. Voorn Decl. ¶ 21;  
8 Supp. Voorn Decl. ¶ 6. In late October 2021, one of Plaintiffs’ investigators  
9 contacted AATV’s “support line” and was directed to a new website to renew his  
10 subscription. Voorn Decl. ¶ 26. Once he did so, he obtained credentials to access  
11 the AATV platforms once again. *Id.* And on February 3, 2022, Plaintiffs’  
12 investigator purchased a subscription to the AATV services through yet another  
13 website, clientarea.vpnsafevault.com, and received credentials to access the AATV  
14 platforms. Supp. Voorn Decl. ¶¶ 6-7. Plaintiffs have confirmed that the AATV  
15 services are still accessible to this day using these credentials, permitting the  
16 unlawful streaming of their Copyrighted Works. *Id.* ¶¶ 5, 8. It is not surprising that  
17 Defendant redirects subscribers to another website, as such activity only serves to  
18 further obscure the role of the parties and sites. *See Columbia Pictures Indus., Inc.*  
19 *v. Galindo*, No. 2:20-cv-03129-SVW-GJS, 2020 WL 3124347, at \*2 (C.D. Cal.  
20 May 11, 2020) (“Due to the diffuse nature of streaming services, it will be difficult  
21 for Plaintiffs to discern the full extent of Defendant’s copyright violations.”).  
22 Defendant’s argument only illustrates why preliminary injunctive relief is necessary  
23 here. Absent an injunction, Defendant may continue to shift the mechanism by  
24 which subscribers are directed to the infringing platforms and Plaintiffs only stand  
25 to suffer further irreparable harm in the interim.

26 **D. Defendant’s “Evidentiary Objections” Lack Merit and Can Be**  
27 **Quickly Overruled**

28 Defendant posits a number of generalized objections to evidence submitted

1 by Plaintiffs, including the entirety of the Voorn Declaration and the Declaration of  
 2 Steve Kang (“Kang Decl.”). Opp’n at 7-10. In doing so, Defendant attempts to  
 3 hold Plaintiffs to an evidentiary standard that is not applicable to this stage of the  
 4 proceedings. In considering Plaintiffs’ requested preliminary injunction, this Court  
 5 “is not strictly bound by the rules of evidence.” *Galindo*, 2020 WL 3124347, at \*1  
 6 (granting preliminary injunction). Instead, a “preliminary injunction is customarily  
 7 granted on the basis of procedures that are less formal and evidence that is less  
 8 complete than in a trial on the merits.” *Univ. of Texas v. Camenisch*, 451 U.S. 390,  
 9 395 (1981). Because of the extraordinary nature of injunctive relief, including the  
 10 potential for irreparable injury if relief is not granted, a district court may consider  
 11 otherwise inadmissible evidence, including exhibits and declarations. *Johnson v.*  
 12 *Couturier*, 572 F.3d 1067, 1083 (9th Cir. 2009). Plaintiffs’ declarations and  
 13 exhibits thereto easily meet this standard, and Defendant’s other “objections” are  
 14 easily overcome.

15 **1. The Voorn Declaration Supports Plaintiffs’ Claims of**  
 16 **Copyright Infringement**

17 Defendant offers various irrelevant non-specific objections to the Voorn  
 18 Declaration, including that Mr. Van Voorn is unreliable and “biased” because he is  
 19 an investigator with the Motion Picture Association, which Defendant admits is not  
 20 a party to the litigation, but he alleges is “interested in this litigation.” Opp’n at 7.

21 As an initial matter, courts routinely rely upon evidence collected by  
 22 investigators retained or employed by plaintiffs when assessing claims of copyright  
 23 infringement. *See Arista Records LLC v. Lime Grp. LLC*, No. 06 CV 5936 (KMW),  
 24 2011 WL 1641978, at \*8 (S.D.N.Y. Apr. 29, 2011) (“Courts have consistently  
 25 relied upon evidence of downloads by a plaintiff’s investigator to establish both  
 26 unauthorized copying and distribution of a plaintiff’s work.”) (collecting  
 27 cases); *Arista Records LLC v. Usenet.com, Inc.*, 633 F. Supp. 2d 124, 150 n. 16  
 28 (S.D.N.Y. 2009) (“Defendants’ argument that these downloads are not proof of

1 unauthorized copying because Plaintiffs had ‘authorized’ the downloads by their  
2 investigators is without merit. Courts routinely base findings of infringement on the  
3 actions of plaintiffs’ investigators.”) (collecting cases). It does not matter that the  
4 declarant “is not an independent third-party.” Opp’n at 7.

5 Moreover, Defendant’s generalized objection to Mr. Van Voorn’s alleged  
6 “bias” has no foundation in the law. Defendant appears to offer a two-fold  
7 objection to Mr. Van Voorn’s declaration (i) that Mr. Van Voorn cannot be an  
8 expert because he is “biased,” and (ii) Mr. Van Voorn cannot offer “opinions”  
9 because he is not an expert. Neither objection has merit. First, putting aside the  
10 lack of merit to Defendant’s assertion of bias, Mr. Van Voorn is not currently being  
11 offered as an expert witness. The declaration is based on personal knowledge and  
12 the results of an extensive investigation. Voorn Decl. ¶ 3. Second, while Defendant  
13 generally objects to Mr. Van Voorn’s “opinions,” he identifies no specific  
14 statements to which he objects on this ground. Third, to the extent Mr. Van Voorn  
15 does make any statements of “opinion,” he does so “rationally based on” his first-  
16 hand experiential knowledge from other cases. At most, Defendant’s objection  
17 goes to the weight this Court should give to the Voorn Declaration, rather than its  
18 admissibility. *See Am. Hotel & Lodging Ass’n v. City of Los Angeles*, 119 F. Supp.  
19 3d 1177, 1185 (C.D. Cal. 2015).

20 Defendant’s remaining evidentiary objections to the Voorn Declaration are  
21 equally unavailing. Defendant first objects to Exhibit 1 to the Voorn Declaration,  
22 arguing that it does not indicate any “current evidence that Defendant owns the  
23 allaccessiptv.com domain” and that it shows the registration for the domain expired  
24 on March 23, 2018. Opp’n at 7. Defendant similarly objects to Exhibit 2 of the  
25 Voorn Declaration on the ground that it “does not contain any date or timeframe  
26 whatsoever on the reply from Domains by Proxy.” *Id.* Defendant asserts with  
27 respect to both exhibits that by virtue of these alleged issues they do not support  
28 Plaintiffs’ request for injunctive relief and undermine Plaintiffs’ arguments as to



1 “ongoing and threatened harms.” *Id.* at 7-8. But none of these arguments are  
2 evidentiary objections. Rather, they once again go solely to the weight the Court  
3 should give this evidence. Moreover, as already set forth in detail above, Defendant  
4 misconstrues the purpose for and relevancy of this evidence. As detailed by the  
5 Voorn Declaration and Plaintiffs’ Motion, both exhibits are used, among a wealth of  
6 other evidence, to show Defendant’s connections to the AATV and Quality  
7 Restreams services. Defendant’s non-specific objections to these exhibits should  
8 thus be overruled.

9 Defendant next objects to “at least” Exhibits 3-5, 7, 10-12 and 14-21 on the  
10 basis that the screenshots in the exhibits do not show the URL from which they  
11 were taken. Opp’n at 8. Again, and as already discussed above, Defendant cites no  
12 specific evidentiary objection, or other authority, for this novel proposition, and, in  
13 any event, the argument has no merit. In fact, courts in this District have relied on  
14 the same type of identifying screenshots in similar cases involving infringing  
15 services such as those at issue here. *See TickBox*, 2018 WL 1568698, at \*3  
16 (screenshots documented pre-lawsuit user experience). Moreover, the Voorn  
17 Declaration attests to the URLs from which the screenshots were taken, a fact  
18 Defendant completely ignores.

19 Defendant’s “objections” to alleged “inaccuracies” in the Voorn Declaration  
20 are even more puzzling. Opp’n at 8-9. As an initial matter, Defendant once again  
21 identifies no evidentiary objection that could apply to these alleged “inaccuracies.”  
22 Nor could he because Defendant’s “objections” are nothing more than a bare  
23 conclusory argument as to the weight to be given such evidence. Even if the Court  
24 entertains Defendant’s unsupported request to take judicial notice of alleged “facts,”  
25 Defendant once again misses the purpose for which the domains were identified as  
26 involved in the illegal enterprise.

27 Finally, Defendant complains that “[t]here is no identification of the alleged  
28 ‘24/7 support line’” that Mr. Van Voorn contacted to access subscription credentials

1 and no screen shots of the text messages provided. Opp'n at 9. But Defendant  
 2 provides no citation to any legitimate evidentiary objection to the investigator's  
 3 testimonial evidence of his and his investigative team's actions, nor could he.  
 4 Furthermore, as has been held in other similar cases "repeated access to Plaintiffs'  
 5 copyrighted content . . . is sufficient evidence of actual access to that content by . . .  
 6 users." *TickBox*, 2018 WL 1568698, at \*9 (rejecting argument that the declarant's  
 7 experiences did not provide evidence of users' access to the plaintiffs' content).

8 Because Defendant offers no legitimate evidentiary objections to the Voorn  
 9 Declaration or its exhibits, Defendant's generalized objections must be overruled  
 10 and the Voorn Declaration may be relied upon to conclude that a preliminary  
 11 injunction is necessary to enjoin the activities of the infringing services.

## 12 **2. The Kang Declaration Supports Plaintiffs' Arguments** 13 **Regarding Irreparable Harm**

14 Defendant's objection to the entirety of Mr. Kang's declaration, presumably  
 15 pursuant to Federal Rule of Evidence 602's requirement of personal knowledge, is  
 16 equally without merit. Opp'n at 9-10. Mr. Kang testified, among other things, that  
 17 the infringing services usurp Plaintiffs' control over the exercise of their exclusive  
 18 rights by interfering with their distribution strategies. Kang Decl. ¶¶ 10-11, 21. He  
 19 also testified that the streaming services harm Plaintiffs' relationships and goodwill  
 20 with legitimate partners, who negotiate their licenses and abide by contractual  
 21 restrictions. *Id.* ¶ 25.

22 Defendant contends that Plaintiffs may not rely on Mr. Kang's declaration  
 23 because he cannot testify on behalf of entities other than NBCUniversal. Opp'n at  
 24 9-10. But this argument has been squarely rejected by numerous courts, including  
 25 this Court. In *Disney Enterprises, Inc. v. VidAngel, Inc.*, a similar group of  
 26 plaintiffs argued that they would suffer irreparable harm in the absence of a  
 27 preliminary injunction against a streamer of their copyrighted works. 224 F. Supp.  
 28 3d 957, 975 (C.D. Cal. 2016), *aff'd*, 869 F.3d 848 (9th Cir. 2017). To support that

1 argument on behalf of all plaintiffs, the plaintiffs provided a declaration from a  
2 senior executive at 20th Century Fox Home Entertainment. *Id.* The defendant  
3 argued that the plaintiffs’ harms were speculative and that there was no evidence of  
4 actual harm other than the declaration of that executive. *Id.* at 976. This Court  
5 rejected that assertion, holding that the executive’s declaration provided sufficient  
6 evidence that the defendant’s “service undermines Plaintiffs negotiating position  
7 with licensees and also damages goodwill with licensees.” *Id.*

8 Similarly, in *TickBox*, 2018 WL 1568698, at \*12, plaintiffs filed a declaration  
9 from a senior executive at Warner Bros. to support their argument that they would  
10 be irreparably harmed absent preliminary injunctive relief. The Court found the  
11 executive’s declaration “persuasive” and reasoned that the harms the declarant  
12 cited “have been recognized as sufficiently irreparable to support the issuance of a  
13 preliminary injunction.” *Id.* at \*13. *See also Fox Television Stations, Inc. v.*  
14 *FilmOn X LCC*, 966 F. Supp. 2d 30, 49 (D.D.C. 2013) (relying on the declaration  
15 of a corporate executive to conclude that all of the plaintiffs had supported their  
16 irreparable harm assertions). Significantly, those harms—“interference with  
17 relationships with distributors and licensees, and the undermining of the market  
18 and Warner Bros.’ business model more generally”—are *the same harms* that  
19 Plaintiffs would experience here if a preliminary injunction does not issue.  
20 *TickBox*, 2018 WL 1568698, at \*13; Kang Decl. ¶¶ 10-11, 21, 25.

21 Mr. Kang’s declaration may be relied upon in establishing that all of the  
22 Plaintiffs would suffer irreparable harm without a preliminary injunction. Mr.  
23 Kang testifies based on his professional experience and personal knowledge. Kang  
24 Decl. ¶ 3. His declaration describes harms that are applicable to each of the other  
25 Plaintiffs. Defendant’s objections should not bar consideration of this evidence.

### 26 **III. CONCLUSION**

27 For the reasons stated above, Plaintiffs respectfully request that the Court  
28 granted the motion for a preliminary injunction.

1 DATED: February 4, 2022

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