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14 **UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

15 THE CALIFORNIA BEACH CO., LLC.,

16 Plaintiff,

17 v.

18 MR. HAN XIAN DU,

19 Defendant.

Case No. 4:19-cv-08426-YGR-LB

~~PROPOSED~~ ORDER OF DEFAULT
JUDGMENT BY COURT AGAINST
DEFENDANT HAN XIAN DU

1 THIS MATTER comes before the Court on the Motion for Default Judgment submitted
2 by Plaintiff The California Beach Co., LLC (“CBC”), pursuant to Fed. R. Civ. P. 55(b). The
3 Court, having reviewed Plaintiff’s Motion, the accompanying Memorandum of Points and
4 Authorities, and the file on this matter, including the Second Report and Recommendation for
5 Damages, Fees, and Costs (ECF No. 61), hereby **FINDS AS FOLLOWS:**

6 1) Jurisdiction of the subject matter of this action is based on 28 U.S.C. § 1331, as
7 this case presents a well-pleaded question under the United States Copyright Act (17 U.S.C. §§
8 101 et seq.).

9 2) Plaintiff CBC is entitled to Default Judgment in its favor and against Defendant
10 Han Xian Du (“Du” or “Defendant”), on Plaintiff’s claim for relief for Misuse of Copyright –
11 False Takedown Notification Under 17 U.S.C. § 512.

12 3) On December 26, 2019, CBC filed its Complaint for Preliminary Injunctive
13 Relief for Violation of Digital Millennium Copyright Act in this action, in which CBC alleged a
14 claim for Misuse of Copyright – False Takedown Notification Under 17 U.S.C. § 512 against
15 Defendant. (Dkt. No. 1.)

16 4) Defendant was properly served with the Summons and Complaint.

17 5) Venue has been considered and is proper.

18 6) Defendant has filed no answer or otherwise defended in response to the
19 Complaint within the time permitted under Rule 12 of the Federal Rules of Civil Procedure, nor
20 has Defendant entered an appearance nor requested any extension of time within which to file
21 an answer or other responsive pleading. Defendant is in default.

22 7) On January 8, 2020, the Court issued a Temporary Restraining Order (“TRO”)
23 against Defendant, as follows in relevant part:

1 DU AND ALL PERSONS IN ACTIVE CONCERT OR
2 PARTICIPATION WITH DU, ARE TEMPORARILY
3 RESTRAINED from taking down, based on any alleged copyright
4 infringement, from Facebook and Instagram, or any other service
5 provider's website, CBC's online content or product line. Du is
6 temporarily not permitted to file any further takedown notices with
7 Facebook, Instagram, or any other service provider's website as to
8 CBC's online content or product line. Any current and operative
9 takedown notices in effect that were filed by Du as to CBC are
10 restrained, and are to be disregarded by the online service provider.
11 Accordingly, and specifically, Facebook (Report
12 #2576187715997707) and Instagram (Report #1407615876061304)
13 are directed to disregard Du's takedown notice and to reinstate
14 CBC's online content during the period of this Order.

15 (Dkt. No. 22.)

16 8) On January 24, 2020, the Court issued an Order making the injunction against
17 Defendant set forth in the TRO permanent. (Dkt. No. 26.)

18 9) By virtue of his decision not to defend and to default in this matter, Defendant
19 has admitted liability on Plaintiffs' claims.

20 10) As set forth in the Second Report and Recommendation for Damages, Fees, and
21 Costs (ECF No. 61), the Court finds that based on the Declarations and evidence in the record
22 that CBC has suffered damages resulting from the conduct of Defendant in the amount of
23 \$369,849.12, which includes \$316,991.00 in lost profits damages, \$51,474.00 in reasonable
24 attorneys' fees, and \$1,384.12 in recoverable costs.

25 11) Defendant is not an infant, incompetent person nor in the military service.

ACCORDINGLY, IT IS ORDERED that:

1) Plaintiff's Motion for Default Judgment is granted;

2) Judgment in the amount of \$369,849.12 shall enter in favor of CBC and against
Defendant Han Xian Du; and

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3) Plaintiff may move to amend the judgment entered herein to include pre-judgment interest that accrues from December 19, 2019, through the date of entry of judgment and post-judgment interest on all damages awarded herein.

IT IS SO ORDERED:

Dated: October 26, 2020


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE