

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-60352-CIV-DIMITROULEAS/SNOW

ABS-CBN CORPORATION, *et al.*,

Plaintiffs,

vs.

KISSASIAN.COM,

Defendant.

/

FINAL DEFAULT JUDGMENT AND PERMANENT INJUNCTION

THIS CAUSE is before the Court on Plaintiffs' Motion for Entry of Final Default Judgment Against Defendant (the "Motion") [DE 18], filed herein on July 31, 2017. The Court granted the Motion in an Order entered separately today. Pursuant to Federal Rule of Civil Procedure 58(a), the Court enters this separate final judgment.

Accordingly, it is **ORDERED AND ADJUDGED** that Final Default Judgment is hereby entered in favor of Plaintiffs, ABS-CBN Corporation, ABS-CBN Film Productions, Inc. d/b/a Star Cinema, and ABS-CBN International ("Plaintiffs"), and against Defendant, the Individual, Partnership or Unincorporated Association identified as "kissasian.com" ("Defendant") as follows:

(1) Permanent Injunctive Relief:

Defendant, its officers, directors, employees, agents, subsidiaries, distributors, and all persons acting in concert and participation with Defendant are hereby permanently restrained and enjoined from:

- a. Advertising, promoting, performing, copying, broadcasting, and/or distributing any of Plaintiffs' content or copyrighted works, including but

not limited to those works identified in Paragraph 24 of the Complaint, Schedule “C” of the Complaint, and in Exhibits 2 and 4 thereto (the “Copyrighted Works”);

- b. advertising, promoting, offering, using, or causing to be advertised, promoted, or offered, services using Plaintiffs’ registered or common law trademarks identified in Paragraphs 14 and 18 of the Complaint and in Schedules “A” and “B” thereto (the “ABS-CBN Marks”).
- c. using the ABS-CBN Marks in connection with any unauthorized services or performances of Plaintiffs’ copyrighted works;
- d. using any logo, and/or layout which may be calculated to falsely advertise the services or products of Defendant offered or promoted via the Internet website using the domain name identified as “kissasian.com” (the “Subject Domain Name”) and/or any other website or business, as being sponsored by, authorized by, endorsed by, or in any way associated with Plaintiffs;
- e. falsely representing themselves as being connected with Plaintiffs, through sponsorship or association;
- f. engaging in any act which is likely to falsely cause members of the trade and/or of the public to believe any content or services of Defendant offered via the Subject Domain Name and/or any other website, domain name, or business, are in any way endorsed by, approved by, and/or associated with Plaintiffs;
- g. using any reproduction, counterfeit, copy, or colorable imitation of the ABS-CBN Marks in connection with the publicity, promotion, distribution, or advertising of any content or services by Defendant via the Subject Domain Name, and/or any other website, domain name, or business;
- h. affixing, applying, annexing or using in connection with the promotion, distribution, or advertisement of any content or services, a false description or representation, including words or other symbols tending to falsely describe or represent Defendant’s content or services offered by the Defendant via the Subject Domain Name and/or any other website or business, as being connected with Plaintiffs, or in any way endorsed by Plaintiffs;
- i. otherwise unfairly competing with Plaintiffs;
- j. using the ABS-CBN Marks, or any confusingly similar trademarks, within domain name extensions, metatags or other markers within website source code, from use on any webpage (including as the title of any web page), from any advertising links to other websites, from search engines’ databases or cache memory, and any other form of use of such terms

which is visible to a computer user or serves to direct computer searches to websites registered by, owned, or operated by Defendant, including the Internet website operating under the Subject Domain Name; and

- k. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth above.

(2) Additional Equitable Relief:

- a. In order to give practical effect to the Permanent Injunction, the Subject Domain Name is hereby ordered to be immediately transferred by Defendant, its assignees and/or successors in interest or title, and the Registrar to Plaintiffs' control. To the extent the current Registrar does not facilitate the transfer of the Subject Domain Name to Plaintiffs' control within five (5) days of receipt of this judgment, the Registry shall, within twenty (20) days, change the Registrar of Record for the Subject Domain Name to a Registrar of Plaintiffs' choosing, and that Registrar shall transfer the Subject Domain Name to Plaintiffs; and
- b. Upon the Plaintiffs' request, the top level domain (TLD) Registry for the Subject Domain Name, or their administrators, including backend registry operators or administrators, within twenty (20) days of receipt of this Order, shall place the Subject Domain Name on Registry Hold status for the life of the current registration, thus removing it from the TLD zone files maintained by the Registry which link the Subject Domain Name to the IP address where the associated website is hosted.

(3) Statutory damages in favor of Plaintiffs pursuant to 15 U.S.C. § 1117(c):

- a. Award Plaintiffs damages of \$1,000,000.00 against Defendant, for which let execution issue;

(4) Statutory damages in favor of Plaintiffs pursuant to 17 U.S.C. § 504(c):

- a. Award Plaintiffs damages of \$810,000.00 against Defendant, for which let execution issue;

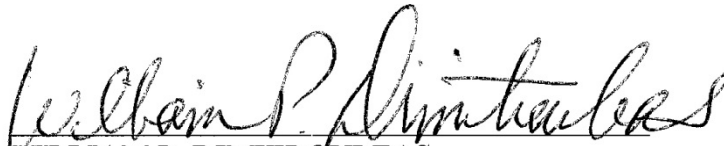
(5) Interest from the date this action was filed shall accrue at the legal rate. *See* 28 U.S.C. § 1961.

(6) The Court retains jurisdiction to enforce this Judgment and permanent injunction.

(7) Plaintiffs are ordered to serve a copy of this Order upon Defendant (a) via electronic mail (“e-mail”) to the e-mail addresses provided by Defendant (i) as part of the domain registration data for the Subject Domain Name, including service via registrar for the Subject Domain Name, and/or (ii) directly on the Internet website operating under the Subject Domain Name, including customer service e-mail addresses and onsite contact forms; and (b) via publication by posting a true and accurate copy of the foregoing on the website <http://servingnotice.com/BLSN1S/index.html>.

(8) The Clerk shall **CLOSE** this case and deny any pending motions as moot.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida,
this 16th day of August, 2017.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:

Counsel of Record