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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

COLUMBIA PICTURES INDUSTRIES,
INC.; AMAZON CONTENT SERVICES,
LLC; DISNEY ENTERPRISES, INC.;
PARAMOUNT PICTURES
CORPORATION; WARNER BROS.
ENTERTAINMENT INC.; UNIVERSAL
CITY STUDIOS PRODUCTIONS LLLP;
UNIVERSAL TELEVISION LLC; and
UNIVERSAL CONTENT
PRODUCTIONS LLC,

Plaintiffs,

v.

ALEJANDRO GALINDO, RICHARD
HORSTEN (a/k/a RIK DE GROOT),
ANNA GALINDO, MARTHA
GALINDO, OSVALDO GALINDO,
RAUL ORELLANA, FIRESTREAM
LLC, and DOES 8-10,

Defendants.

Case No. 2:20-cv-03129-MEMF-GJSx

**JOINT CASE MANAGEMENT
STATEMENT**

Judge: Honorable Maame Ewusi-
Mensah Frimpong
Trial Date: None

1 Plaintiffs Columbia Pictures Industries, Inc., Amazon Content Services, LLC,
2 Disney Enterprises, Inc., Paramount Pictures Corporation, Warner Bros.
3 Entertainment Inc., Universal City Studios Productions LLLP, Universal Television
4 LLC, and Universal Content Productions LLC (together, “Plaintiffs”) and Defendant
5 Alejandro Galindo jointly submit the following case management statement¹:

6 **a. Date Case Was Filed**

7 April 3, 2020

8 **b. List/Description of Each Party**

9 Plaintiffs are entertainment companies that own or control the copyrights
10 and/or exclusive rights in the motion pictures and television shows that they and
11 their affiliates produce. In an effort to provide consumers with a safe, reliable, and
12 high quality content ecosystem, Plaintiffs have invested and continue to invest
13 substantial resources and effort each year to develop, produce, distribute, and
14 publicly perform their copyrighted works through legitimate market channels.
15 Plaintiffs allege that Defendants infringed their copyrights in movie and television
16 programs through their ownership and operation of an infringing Internet Protocol
17 television (“IPTV”) service commonly referred to as Nitro TV.

18 The named Defendants—Alejandro Galindo, Richard Horsten, Anna Galindo,
19 Martha Galindo, Osvaldo Galindo, Raul Orellana, and Firestream LLC—include six
20 individuals and one entity, which are all alleged to have infringed Plaintiffs’
21 copyrights. Only Defendant Alejandro Galindo has appeared and answered the
22 operative Second Amended Complaint.

23 **c. Summary of All Claims**

24 **1. Plaintiffs’ Statement**

25 Plaintiffs allege the seven named Defendants owned operated, and marketed
26 Nitro TV from the shadows of the Internet. Second Amended Complaint (“SAC”)

27 _____
28 ¹ None of the other defendants have appeared.

1 [Dkt. No. 113] ¶ 1. Plaintiffs allege the channels available on Nitro TV include
2 many popular television programs and motion pictures such as *The Office*, *Spider-*
3 *Man: Homecoming*, *Toy Story 3*, *Star Trek Beyond*, *Homecoming*, and *Joker*,
4 including works whose copyrights Plaintiffs own or exclusively control. *Id.* As set
5 forth in the SAC, until enjoined by this Court, Defendants offered Nitro TV
6 subscription packages consisting of thousands of live and title-curated television
7 channels available twenty-four hours a day, seven days a week, throughout the
8 United States and abroad. *Id.* During the several years Defendants operated Nitro
9 TV, Defendants infringed, at a minimum, the 1,897 copyrighted works identified by
10 title and copyright registration number in Exhibit A of the SAC.

11 Plaintiffs allege that Defendants' infringement was willful, as Defendants
12 actively selected the programming that they sold and streamed illegally to
13 subscribers on Nitro TV Platforms, notified Nitro TV subscribers when channels
14 containing Plaintiffs' Copyrighted Works had been added, asked subscribers for
15 feedback regarding what television programs they would like Defendants to add to
16 Nitro TV's channel lineup, and apparently added television shows in response to
17 subscribers' feedback. *Id.* ¶ 3. Further, Defendants continued to operate and
18 promote Nitro TV after receiving notices that they were infringing Plaintiffs'
19 copyrights. *Id.* And Defendants attempted to hide their tracks and operate
20 anonymously. *Id.* ¶ 4.

21 There are no counter-claims, cross-claims, or third-party claims in this case.

22 2. Defendant Alejandro Galindo's Statement

23 Defendant Galindo disputes allegations and willful infringement and the
24 alleged infringement count.

25 **d. Brief Description of Events Underlying Action**

26 A brief description of the events underlying the action is encompassed in the
27 description of the claims set forth above. The procedural history is described below.

28

1 **e. Description of Relief Sought and Damages Claimed**

2 Plaintiffs seek, among other things, (1) the maximum statutory damages for
3 willful infringement for each work infringed by Defendants; and (2) an accounting,
4 the imposition of a constructive trust, and restitution of Defendants’ unlawful
5 proceeds from copyright infringement. *See also* SAC at 27–29 (Prayer for Relief).
6 As noted above, Plaintiffs allege that Defendants willfully infringed at least 1,897
7 of their copyrighted works in the several years during which they were operating the
8 subscription-based Nitro TV and streaming thousands of television channels around
9 the clock.

10 Plaintiffs also seek a (1) permanent injunction enjoining Defendants from (i)
11 infringing any of Plaintiffs’ rights in the copyrighted works, (ii) operating Nitro TV,
12 and (iii) operating any website, system, software, or service that is substantially
13 similar to the Nitro TV service; (2) a declaration that Defendants’ activities
14 constitute direct and secondary copyright infringement of Plaintiffs’ exclusive rights
15 in violation of 17 U.S.C. § 106; (3) prejudgment interest according to law; and (4)
16 attorneys’ fees and costs in connection with this action. *See id.*

17 **f. Discovery Status**

18 **1. Plaintiffs’ Statement**

19 Once Defendant Alejandro Galindo decided to appear and defend the
20 litigation in June 2020, Plaintiffs promptly pursued discovery from him.² However,
21 as outlined below and detailed in Plaintiffs’ Motion for Sanctions filed on June 2,
22 2021 (Dkt. Nos. 159, 164), Defendant Alejandro Galindo engaged in a series of
23 serious discovery abuses and has not produced a single document to Plaintiffs. The
24 evidence Plaintiffs obtained through third-party subpoenas conclusively establishes
25

26 _____
27 ² When Defendant Alejandro Galindo did not timely respond to the original
28 complaint, his default was entered. Dkt. Nos. 31, 32. At his request, the default was
set aside, and he answered the complaint. Dkt Nos. 35–39.

1 that Defendant Alejandro Galindo has numerous responsive documents in his
2 possession, custody, and control that he has failed and refused to produce.

3 Magistrate Judge Standish held a hearing on Plaintiffs’ Motion for Sanctions
4 on July 7, 2021, at which time the Court stated it would be issuing sanctions and
5 ordered Plaintiffs to file proposed findings of fact and conclusions of law, which
6 Plaintiffs filed on July 14, 2021. Dkt. Nos. 171, 176. Magistrate Judge Standish has
7 not yet issued her findings of fact and conclusions of law.

8 Magistrate Judge Standish has also not yet ruled on Plaintiffs’ Application for
9 Attorneys’ Fees and Costs in Connection with their Motion for Sanctions, which
10 Plaintiffs filed in response to the Court’s instructions at the July 7, 2021 hearing.
11 Dkt. No. 177.

12 To provide additional background and for the Court’s convenient reference,
13 Plaintiffs provide below a high-level overview of the catalogue of Defendant
14 Alejandro Galindo’s discovery abuses during the course of this litigation, which
15 underlie their pending Motion for Sanctions. Dkt. Nos. 159, 164.

16 *First*, Defendant destroyed relevant evidence within days of being served with
17 the Complaint and retaining counsel, and his evidence destruction continued
18 thereafter. Dkt. No. 164 at 4–6, 16–18.

19 *Second*, Defendant submitted false discovery responses under oath. Dkt. No.
20 164 at 10; Dkt. No. 57 at 28-29.

21 *Third*, as noted before, Defendant has refused to produce a single document
22 to Plaintiffs since the outset of this case. Dkt. No. 164 at 8–9.

23 In connection with this egregious refusal to product documents, Defendant
24 employed multiple and changing tactics. Initially, prior to the filing of Plaintiffs’
25 motion to compel and for an evidence preservation order in August 2020
26 (“Discovery Motion”), Defendant claimed that he had no responsive documents to
27 produce and could not identify any of the people involved in Nitro TV by name
28 because he supposedly conducted business only via a messenger application called

1 Telegram set to auto-delete messages. Plaintiffs demonstrated the falsity of
2 Defendant’s averments in their Discovery Motion, which Magistrate Judge Standish
3 granted in substantial part during the hearing on October 14, 2020. *See generally*
4 Dkt. No. 57; Dkt. No. 88 (October 14, 2020 hearing transcript); Dkt. Nos. 136–39.

5 Then, even after being ordered to produce documents, Defendant still has not
6 done so. After the October hearing, Defendant asserted the Fifth Amendment as a
7 new basis for his continued refusal to meet his discovery obligations. But, as
8 detailed in Plaintiffs’ Motion for Sanctions, Defendant waived this objection by
9 failing to timely assert it and, in any event, he cannot assert the Fifth Amendment to
10 avoid discovery because the “foregone conclusion” exception applies. Dkt. No. 164
11 at 11–14.

12 *Fourth*, Defendant improperly asserted the Fifth Amendment at his Court-
13 ordered deposition to avoid answering questions on basic factual matters that
14 Magistrate Judge Standish ordered be addressed in his exploratory deposition, *e.g.*,
15 Defendant’s document repositories, preservation (or lack thereof) of evidence, and
16 identification of the individuals involved in Nitro TV along with Defendant. Dkt.
17 No. 88 Tr. at 5:7–7:2; Dkt. No. 164 at 3–4, 15.³

18 *Finally*, Defendant withdrew his answer to the (non-operative) complaint
19 right before his opposition to Plaintiffs’ Discovery Motion was due in an effort to
20 trigger entry of his default and somehow “moot” Plaintiffs’ Discovery Motion. Dkt.
21 Nos. 66–68. That did not work, and, as noted above, Plaintiffs’ Discovery Motion
22 was largely granted. When the Court granted Plaintiffs leave to file the Second
23 Amended Complaint, Defendant reversed course and filed an answer in which he
24 asserts that his infringement is “innocent.” Dkt. No. 126.

25 _____
26 ³ Magistrate Judge Standish permitted Plaintiffs to depose Defendant on certain
27 discovery issues and interrogatories to which he had not properly responded.
28 Magistrate Judge Standish further ordered that Plaintiffs would have the right to
depose Defendant again. Dkt. No. 139 at 4.

1 No discovery cutoff dates have been set.

2 2. Defendant Alejandro Galindo’s Statement

3 Defendant has asserted his 5th amendment right against self-incrimination.
4 Plaintiff has failed to prosecute this matter in a timely manner, and the case continues
5 to drag on with no new progress. The case should be dismissed for a failure to timely
6 prosecute and since all the parties are in default including Defendant Galindo who
7 has stated he is not seeking to further litigate this matter per last discussion. A
8 motion to withdraw as counsel will be filed this week.

9 **g. Procedural History**

10 Plaintiffs filed the complaint and a motion for preliminary injunction on April
11 3, 2020. Dkt. Nos. 1, 12. The motion for preliminary injunction was granted on
12 May 11, 2020. Dkt. No. 34.

13 Originally, Defendant Alejandro Galindo was the only defendant in the case.
14 Through third-party subpoenas, Plaintiffs learned of Richard Horsten’s involvement
15 with Nitro TV. The parties stipulated to the filing of a First Amended Complaint in
16 August 2020 (Dkt. Nos. 60 –64), which added Defendant Richard Horsten.

17 Plaintiffs subsequently discovered that additional parties played central roles
18 in the Nitro TV enterprise. Over Defendant Alejandro Galindo’s opposition, the
19 Court granted Plaintiffs leave to file the SAC on March 22, 2021 (Dkt. No. 111).
20 Plaintiffs filed the operative SAC on March 23, 2021. Dkt. No. 113. The Second
21 Amended Complaint added Martha Galindo, Anna Galindo, Osvaldo Galindo, Raul
22 Orellana, and Firestream LLC.

23 The case was referred to Magistrate Judge Standish for discovery purposes on
24 April 3, 2020. Dkt. No. 7.

25 The court-required mediation took place on December 14, 2020, and the
26 matter was not resolved.

27 In addition to what is described above, since the filing of the complaint,
28 Plaintiffs have filed and Judge Wilson and Magistrate Judge Standish have granted

1 multiple motions. On October 14, 2020, Magistrate Judge Standish granted in
 2 substantial part Plaintiffs’ Discovery Motion, ordering (1) evidence preservation, (2)
 3 an exploratory deposition of Defendant Alejandro Galindo, (3) document production
 4 in response to Plaintiffs’ requests for production, and (4) Google’s preservation of
 5 emails. Dkt. Nos. 78, 88, 136–39. On October 13, 2021, Judge Wilson granted
 6 Plaintiffs’ motion for leave to serve Defendant Martha Galindo by alternative means.
 7 Dkt. 189.

8 Defendant Alejandro Galindo answered the SAC on April 13, 2021. Dkt. No.
 9 126. The six other defendants have been served with the SAC, and the clerk has
 10 entered default as to all of them, as the following chart reflects:

Defendant	Service of SAC	Request for Entry of Default	Clerk’s Entry of Default
Oswaldo Galindo	April 6, 2021 (Dkt. No. 133)	May 5, 2021 (Dkt. No. 140)	May 6, 2021 (Dkt. No. 147)
Anna Galindo	April 6, 2021 (Dkt. No. 130)	May 5, 2021 (Dkt. No. 141)	May 6, 2021 (Dkt. No. 146)
Firestream LLC	March 31, 2021 (Dkt. No. 131)	May 5, 2021 (Dkt. No. 142)	May 6, 2021 (Dkt. No. 145)
Raul Orellana	April 1, 2021 (Dkt. No. 134)	May 5, 2021 (Dkt. No. 143)	May 6, 2021 (Dkt. No. 144)
Richard Horsten	April 16, 2021 (Dkt. No. 132)	May 13, 2021 (Dkt. No. 148)	May 14, 2021 (Dkt. No. 149)
Martha Galindo	October 14/15, 2021 (Dkt. No. 190)	November 12, 2021 (Dkt. No. 191)	November 15, 2021 (Dkt. No. 192)

1 As addressed in prior filings with the Court, Plaintiffs had intended to move
2 for default judgment as to these six Defendants once they obtained discovery bearing
3 on damages through their Motion for Sanctions. See Dkt. No. 172 (ordering
4 Plaintiffs to move for default judgment no later than 30 days after the Motion for
5 Sanctions is decided). As discussed above, however, Magistrate Judge Standish has
6 still not issued findings of fact and conclusions of law in connection with that Motion
7 for Sanctions.

8 There are two applications for attorneys' fees pending before Magistrate
9 Judge Standish, one in connection with Plaintiffs' Motion for Sanctions (as
10 discussed above), and another in connection with Plaintiffs' Discovery Motion. Dkt.
11 Nos. 82, 177.

12 **h. Other Deadlines in Place**

13 There are no deadlines in place.

14 **i. Requested Modification of Dates**

15 Not applicable.

16 **j. Whether Parties Will Consent to Magistrate Judge for Trial**

17 **1. Plaintiffs' Statement**

18 Plaintiffs will not consent to a Magistrate Judge for trial.

19 **2. Defendant Alejandro Galindo's Statement**

20 Counsel for Defendant expects to file a motion to withdraw as counsel of
21 record and is not able to make this determination at this time. Communication with
22 Client has ceased.

23 **k. Need for Case Management Conference**

24 **1. Plaintiffs' Statement**

25 Plaintiffs believe there is an urgent need for a case management conference.
26 *First*, Plaintiffs have reason to believe Defendant Alejandro Galindo may not further
27 defend himself in this case and may intend to default at this point. Plaintiffs would
28 like this issue to be addressed before the Court and request that a case management

1 conference be held for this purpose either with Defendant Alejandro Galindo's
2 counsel or Defendant Alejandro Galindo if his counsel has withdrawn by the time
3 the conference is held.

4 *Second*, to the extent Defendant Alejandro Galindo intends to continue to
5 defend against the allegations in this case, a case management conference is needed
6 to discuss the potential for a schedule pursuant to which a ruling on Plaintiffs'
7 Motion for Sanctions will be decided or may be expected. Plaintiffs seek to bring
8 this matter to a point where judgment may be efficiently pursued and entered against
9 all defendants. Their efforts have been stalled because, even though Plaintiffs
10 complied with Magistrate Judge Standish's order to provide their proposed findings
11 of fact and conclusions of law on their Motion for Sanctions on July 14, 2021,
12 Magistrate Judge Standish has not yet issued a ruling. Given this delay, Plaintiffs
13 may be forced to pursue a summary judgment motion against Defendant Alejandro
14 Galindo even though such a motion would be unnecessary if Magistrate Judge
15 Standish were to recommend the imposition of case-dispositive sanctions against
16 Defendant Alejandro Galindo, and those recommendations were adopted.

17 2. Defendant Alejandro Galindo's Statement

18 The case has dragged on far too long now. There is nothing new being
19 learned, or sought to be learned. Defendant asserts and continues to assert his 4th,
20 5th and 14th, amendment rights given the circumstances at issue. A case management
21 hearing will serve no useful purpose as counsel has not been able to reach Mr.
22 Galindo and is not able to seek confirmation of any times, dates, or resolve any
23 issues. A motion to withdraw as counsel will be filed this week. Client has
24 previously consented to this. Any case management conference should be
25 determined once a new counsel is present, or Defendant presents himself in pro per
26 if that is what he decides to do.

27 **I. Statement of Immediate Relief Sought Regarding Case Schedule**

28 1. Plaintiffs' Statement

1 Plaintiffs request a case management conference as soon as possible, as
2 described above, but have no other requests regarding the case schedule at this time.

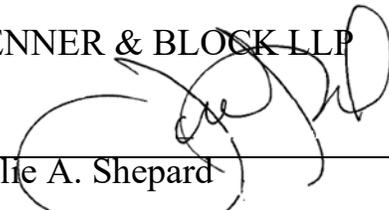
3 2. Defendant Alejandro Galindo’s Statement

4 Defendant plans to file a motion to withdraw as counsel this week, and any
5 hearing should be set after this motion is heard. Moreover, this appears to be further
6 delay to an already prolonged case where nothing new is being learned and defaults
7 abound.

8
9 Dated: March 1, 2022

JENNER & BLOCK LLP

10
11 By:


12 Julie A. Shepard

13 *Attorneys for Plaintiffs*

14
15 Dated: March 1, 2022

By: /s/ Steven Vondran

16 Steven C. Vondran, Esq.

17 *Attorney for Defendant Alejandro Galindo*

18 *Pursuant to C.D. Cal. L.R. 5-4.3.4(a)(2)(i), the filer hereby attests that all
19 signatories listed, and on whose behalf the filing is submitted, concur in the filing’s
20 content and have authorized the filing.