

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 12-11604
Non-Argument Calendar

D.C. Docket No. 1:10-cv-03882-CAP

J&J SPORTS PRODUCTIONS, INC.,

Plaintiff - Counter
Defendant - Appellee,

versus

TAQUERIA JALISCO, INC.,
d.b.a. Taqueria Jalisco,
JUAN CARLOS LOPEZ,

Defendants - Counter
Claimants - Appellants,

JOHN DOES 1-5,

Defendants - Counter
Defendants.

Appeal from the United States District Court
for the Northern District of Georgia

(October 16, 2012)

Before TJOFLAT, JORDAN and ANDERSON, Circuit Judges.

PER CURIAM:

This is an action for the violation of 47 U.S.C. § 605. J & J Sports Productions, Inc. (“J & J”) sued Taqueria Jalisco, Inc. (“Taqueria”) and its manager, Juan Carlos Lopez, for unlawfully exhibiting a boxing program to which J & J owns the exclusive nationwide distribution rights. The material facts are not in dispute. *See* Order dated December 30, 2011 at 2. J & J had exclusive rights to the *Oscar de la Hoya v, Manny Pacquiao–Welterweight Championship Fight Program* which took place on December 6, 2008; Taqueria displayed the program at its restaurant that day; Taqueria and Lopez did not pay a commercial licensing fee to show the program (but Lopez paid the residential fee for the program); Taqueria and Lopez received the program via satellite signal; and the program was shown on two screens to patrons at the restaurant. Since the material facts were not in dispute, the District Court ruled that J & J were entitled to summary judgment. *Id.* at 6.¹ The court’s order directed J & J to submit proof of its damages and gave the defendants an opportunity to respond. After reviewing the parties’ submissions, the court, in an order dated February 24, 2012, awarded J & J

¹ The court also granted J&J summary judgment on Taqueria’s counterclaim for state and federal RICO violations and fraud in an order dated February 29, 2012. This decision is not before us in this appeal.

\$7,500 in statutory damages, *see* 47 U.S.C. § 605(e)(3)(C)(i)(II),² \$50,000 in enhanced statutory damages,³ and \$13,255 in attorney's fees. The court thereafter entered judgment for J & J against the defendants in the foregoing amounts, \$70,755.

Taqueria and Lopez appeal the court's judgment, arguing that (1) they were entitled to a jury trial with respect to the statutory damages, Appellants' Br. at 12; (2) because J & J failed to prove "actual damages" (J&J represented to the court that it could not quantify its actual loss), J & J could not "demonstrate an 'injury in fact'", as required by Article III of the Constitution. and therefore "lacked standing to pursue [its] claims", *id.* at 13; (3) J & J failed to prove its entitlement to the enhanced statutory damages, *id.* at 18; and (4) the court "abused its discretion when it allowed [J & J] to amend the complaint to include a known party," i.e., Lopez, *id.* at 20. For the reasons stated in the District Court's orders of December 30, 2011, and February 24, 2012, these arguments lack merit. The District Court's judgment is accordingly

² J & J elected to receive statutory rather than actual damages. *See* Order, February 24, 2012. Section 605(e)(3)(C)(i)(II) authorizes damages for each violation of not less than \$1,000 nor more than \$10,000.

³ If the court finds that the violation was committed "willfully and for purposes of direct or indirect commercial advantage or private financial gain," it may award enhanced damages not to exceed \$100,000 for each violation. *See* 47 U.S.C. § 605(e)(3)(C)(ii).

AFFIRMED.