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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PETER YATES,  
Plaintiff,  
v.  
DAVID B. ADAMS, et al.,  
Defendants.

Case No. 15-cv-04912-JD

**ORDER RE ATTORNEY’S FEES AND COSTS**

Re: Dkt. No. 76

In this copyright infringement action, defendants have requested an award of attorney’s fees and costs in the amount of \$148,235.25 under the Copyright Act, 17 U.S.C § 505. Dkt. Nos. 76, 78. Plaintiff has not opposed the motion or objected to any of the requested fees or costs. The motion is granted.

The Copyright Act provides for the discretionary award of “a reasonable attorney’s fee to the prevailing party as part of the costs” in any civil action brought under it. 17 U.S.C. § 505. Under this section, courts are granted “wide latitude to award attorney’s fees [to the prevailing party] based on the totality of circumstances in a case.” *Kirtsaeng v. John Wiley & Sons, Inc.*, 136 S.Ct. 1979, 1985 (2016). There is no precise rule or formula for making fee determinations under § 505. *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 518 (1994).

“Fees are proper under this statute when either successful prosecution or successful defense of the action furthers the purposes of the Copyright Act.” *Perfect 10, Inc. v. CCBill LLC*, 488 F.3d 1102, 1120 (9th Cir. 2007). The awarding of fees is a matter of discretion for the district court, and in exercising that discretion, the Court is to consult a non-exclusive list of factors. *Id.* These include “frivolousness, motivation, objective unreasonableness (both in the factual and in the legal components of the case) and the need in particular circumstances to advance considerations of compensation and deterrence.” *Id.*

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Consideration of these factors amply supports the awarding of fees and costs to defendants in this case. *See, e.g.*, Dkt. No. 74 (order granting defendants’ summary judgment motion). Defendants in their fee motion have also provided sufficient material to evidence and support the hours billed and costs charged, as well as to show the reasonableness of the attorneys’ rates. *See* Dkt. No. 76-3 through Dkt. No. 76-14.

The Court consequently grants defendants’ motion and awards them **\$148,235.25** of attorney’s fees and costs under 17 U.S.C § 505. Plaintiff is ordered to pay the fees and costs as soon as practicable, but no later than **120 days** from the date of this order.

**IT IS SO ORDERED.**

Dated: October 7, 2017



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JAMES DONATO  
United States District Judge