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3 UNITED STATES DISTRICT COURT  
4 NORTHERN DISTRICT OF CALIFORNIA  
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7 INTEGRATED SPORTS MEDIA, INC.,

8 Plaintiff,

No. C 10-3516 PJH

9 v.

**ORDER DENYING MOTION TO  
ALTER OR AMEND JUDGMENT**

10 ERLINDA MARGARITA MENDEZ,

11 Defendant.  
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13 On August 25, 2014, plaintiff Integrated Sports Media, Inc. (“plaintiff”) filed the  
14 present motion to alter or amend this court’s judgment, awarding a total of \$3,000 in  
15 statutory and enhanced damages.

16 Plaintiff’s motion is unclear as to whether it challenges only the \$1,000 award of  
17 statutory damages, or whether it also challenges the \$2,000 award of enhanced damages.  
18 In either case, the court finds that plaintiff has already raised the arguments presented in its  
19 motion, both in its original motion for default judgment (before Magistrate Judge Beeler)  
20 and in its objections to Judge Beeler’s report and recommendation (before this court).

21 Specifically, in the order adopting the report and recommendation, this court noted  
22 that Judge Beeler found that there was “‘no indication’ that defendant was a repeat  
23 offender, and no allegations or evidence that defendant increased food/beverage prices or  
24 had an increased number of patrons on the day of the offense,” and thus “recommended a  
25 statutory damages award that represented plaintiff’s actual losses.” See Dkt. 67. In its  
26 objections, plaintiff “recognize[d] that certain Northern District court have utilized the  
27 commercial licensing fee to calculate statutory damages,” but “request[ed] that this court  
28 decline to accept that approach.” See Dkt. 66-1 at 4. The court overruled that objection,

1 and adopted the report and recommendation.

2 Plaintiff now similarly argues that “the general approach the Northern District has  
3 taken to piracy is out of sync with the suggestions of the Ninth Circuit.” The court  
4 disagrees, and declines to take the approach urged by plaintiff.

5 Plaintiff also argues that an award in the amount of an unpaid license fee  
6 “underestimates plaintiff’s actual loss.” However, plaintiff does not explain how it incurred  
7 losses beyond the amount of the license fee. Instead, plaintiff appears to be arguing that  
8 the damages award should exceed the amount of the license fee so that it will deter would-  
9 be infringers. And, indeed, in the report and recommendation, Judge Beeler found  
10 evidence to support the inference that defendant “willfully intercepted and exhibited the  
11 program,” and, in light of that “willful misconduct and the goal of deterring future violations,”  
12 the court recommended “an enhanced damages award of \$2,000 – twice [plaintiff’s] actual  
13 losses.” See Dkt. 63 at 10.

14 In short, plaintiff has provided no new arguments in this motion, and instead simply  
15 requests a larger damages award. Additionally, plaintiff has failed to establish that the  
16 court committed clear error or that there has been an intervening change in the controlling  
17 law, nor has plaintiff presented any newly-discovered evidence to justify a Rule 59 remedy.  
18 Given that plaintiff’s arguments have already been considered and rejected, plaintiff’s  
19 motion to alter or amend judgment is DENIED, and the October 29, 2014 hearing date is  
20 VACATED.

21 **IT IS SO ORDERED.**

22 Dated: September 18, 2014

  
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PHYLLIS J. HAMILTON  
United States District Judge

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