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8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**
 10 **San Jose Division**

11 -----X

12 JOE HAND PROMOTIONS, INC.,
 13 Plaintiff,

Case No.: CDC-01333-LHK

14 vs.

15 PETE BE, Individually, and as an officer,
 16 director, shareholder, and/or principal of
 17 DA KINE CAFÉ, INC. d/b/a
 18 DA KINE CAFÉ
 19 153 E. Fremont Avenue
 20 Sunnyvale, CA 94087,

(PROPOSED) ORDER

21 Defendants.

22 -----X

23 Upon consideration of Plaintiff’s Motion for Final Default Judgment (“Motion”), the
 24 accompanying Memorandum of Points and Authorities in Support thereof and evidence, the
 25 pleadings on file and the relevant authorities, the Court concludes that Plaintiff has established
 26 that it is an aggrieved party under the Federal Communications Act, 47 U.S.C. §§ 553 and 605
 27 and recognizes Plaintiff’s election to seek statutory damages. The Court also concludes that it
 28 has jurisdiction over the subject matter and parties to this action; that Defendants, Pete Be and
 29 Da Kine Cafe, Inc. d/b/a Da Kine Café, (“Defendants”), failed to answer or otherwise defend as
 30 provided by the Federal Rule s of Civil Procedure following proper service; that the allegations
 31 in Plaintiff’s Original Complaint are deemed admitted against Defendants; that Defendants
 32 exhibited the closed circuit “UFC 119: Mir v. Cro Cop” Broadcast, including all undercard bouts

1 and the entire television broadcast, scheduled for September 25, 2010, (hereinafter referred to as
2 the "Broadcast") without authorization from Plaintiff; and that Defendants' actions were willful
3 and for purposes of direct or indirect commercial advantage or private financial gain. Therefore,
4 additional damages are warranted in this action.
5

6 **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**
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- 8 1. That Judgment by default be entered in favor of Plaintiff and against Defendant.
- 9 2. That Plaintiff recover statutory damages pursuant to 47 U.S.C. §
10 605(e)(3)(C)(i)(II) from Defendant in the amount of \$10,000.00.
- 11 3. That Plaintiff recover additional damages pursuant to 47 U.S.C. § 605(e)(3)(C)(ii)
12 from Defendant in the amount of \$100,000.00.
- 13 4. That Plaintiff recover attorneys' fees from Defendant in the amount of Three
14 Thousand Nine Hundred Sixty Two Dollars and Fifty Cents (\$3,962.50); along
15 with attorney's fees for post-trial and appellate services.
- 16 5. Costs in the amount of \$1,038.98 relating to the prosecution of this matter.
- 17 6. That Plaintiff recover the following conditional awards of attorney's fees from
18 Defendant in the following circumstances:
 - 19 a. Ten Thousand Dollars (\$10,000.00) in the event Defendant files a motion
20 to vacate, Rule 60 motion, motion for new trial, motion for reconsideration
21 or other post-judgment, pre-appeal motion that does not result in a reversal
22 of the Judgment obtained in this action;
 - 23 b. Fifteen Thousand Dollars (\$15,000.00) in the event Defendant files an
24 appeal to the Fifth Circuit Court of Appeals that does not result in a
25 reversal of the Judgment obtained in this action;
 - 26 c. Five Thousand Dollars (\$5,000.00) for making and/or responding to a
27 petition for certiorari to the U.S. Supreme Court that does not result in a
28 reversal of the Judgment obtained in this action;
 - 29 d. Ten Thousand Dollars (\$10,000.00) for an appeal to the United States
30 Supreme Court in the event a petition for certiorari review is granted and
31 does not result in a reversal of the Judgment obtained in this action; and
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1 e. Two Thousand Five Hundred Dollars (\$2,500.00) for collection of the
2 Judgment rendered in this case, should Plaintiff obtain a writ of execution,
3 writ of garnishment, writ of attachment or other process.

4 7. The Court also enjoins Defendant from ever intercepting or exhibiting an
5 unauthorized program in violation of the Federal Communications Act.

6 8. The Court also awards Plaintiff court costs and post-judgment interest on the
7 amounts awarded herein at an annual rate of _____ from the date of this
8 Judgment until paid.

9 9. All writs and process for the enforcement and collection of this judgment may
10 issue as necessary. In connection with any Writ of Execution in this case, the
11 Court directs the United States Marshals Service to use any means or force
12 reasonably necessary to satisfy this Judgment.

13 10. This judgment is a final judgment.

14 SO ORDERED.

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Lucy H. Koh
United States District Judge
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