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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

LUMINENCE, LLC  
  
Plaintiff,  
  
vs.  
  
TOP LIGHTING CORPORATION;  
JULIUS, INC.,  
  
Defendants.

CASE NO. 17cv1110-WQH-BLM  
  
**ORDER**

HAYES, Judge:

The matters before the Court are the Motion for Default Judgment filed by Plaintiff Luminence, LLC and the Request for Court to Consider Additional Evidence for Attorneys Fees and Costs After Default Judgment. (ECF Nos. 6, 9).

On May 31, 2017, Plaintiff initiated this action by filing a Complaint against Defendants Top Lighting Corporation and Julius, Inc. (ECF No. 1). Plaintiff brings a cause of action for direct copyright infringement pursuant to 17 U.S.C. § 101 *et seq.* against Defendants. The Complaint alleges that Plaintiff is a limited liability company that “creates and sells fun and unique fiber optic light-up accessories, including but not limited to, its Glowbys® brand hair attachments.” *Id.* ¶ 2,7. The Complaint alleges, “On February 26, 2013, Plaintiff obtained a registration with the United States Copyright Office, Registration Number VA 1-897-465, for the photographic work entitled Girl Wearing Glowbys 1 (the ‘Copyrighted Work’).” *Id.* ¶ 9. The Complaint alleges that Defendants “create[] and sell[] novelty items . . . including fiber optic light-

1 up accessories” and “directly compete[] with Plaintiff with regard to the sale of fiber  
2 optic light-up accessories.” *Id.* ¶ 12. The Complaint alleges that Defendants’  
3 packaging for hair clip products available from online listings on Amazon and eBay  
4 “display[s] an infringing copy of the Copyrighted Work.” *Id.* ¶¶ 13-17. The Complaint  
5 alleges, “Plaintiff has never licensed, authorized, or otherwise permitted the  
6 Defendant[s] to reproduce, distribute, display or otherwise use the Copyrighted Work”  
7 and that “[d]espite multiple notices and demands, Defendant[s] willfully and  
8 intentionally continued to infringe on Plaintiff’s exclusive copyright in the Copyrighted  
9 Work.” *Id.* ¶¶ 11, 18.

10 On June 3, 2017, Plaintiff filed Proof of Service with respect to both Defendants.  
11 (ECF No. 3).

12 On August 18, 2017, Plaintiff filed a Request for Entry of Clerk Default as to  
13 both Defendants. (ECF No. 4). On August 22, 2017, the Clerk entered default as to  
14 both Defendants. (ECF No. 5).

15 On August 23, 2017, Plaintiff filed the Motion for Default Judgment. (ECF No.  
16 6). Defendants have not filed any response to the Motion for Default Judgment. In the  
17 motion, Plaintiff requested \$4,667.04 in attorney’s fees; however, Plaintiff provided  
18 insufficient evidence to establish that the attorney’s fees were warranted. *See TeleVideo*  
19 *Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987) (internal quotation  
20 omitted) (quoting *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977)) (“The  
21 general rule of law is that upon default the factual allegations of the complaint, except  
22 those relating to the amount of damages, will be taken as true.”).

23 On December 20, 2017, the Court issued an Order stating,

24 IT IS HEREBY ORDERED Plaintiff is entitled to \$4,500 in statutory  
25 damages and to a permanent injunction. Plaintiff may submit any  
26 evidence in support of the request for attorney’s fees on or before January  
27 9, 2018. The Motion for Default Judgment shall remain pending in order  
28 to allow Plaintiff time to submit any additional evidence related to  
attorney’s fees.

(ECF No. 8).

On January 3, 2018, Plaintiff filed a Request for Court to Consider Additional

1 Evidence For Attorneys Fees and Costs After Default Judgment. (ECF No. 9). Plaintiff  
2 requests “an award of \$4,667.04 for attorney’s fees and costs.” *Id.* at 1. Plaintiff asserts  
3 that it has incurred \$4,200 in attorney’s fees and \$467.04 in costs through January 3,  
4 2018. *Id.* Plaintiff also states that it “reserves the right to submit a supplemental  
5 motion for any later fees and costs.” *Id.* Plaintiff contends that attorney’s fees are  
6 warranted because Defendants “continuously sold products utilizing the copyright  
7 protected images of Plaintiff, even after receiving notice to cease and desist.” *Id.* at 2.  
8 Plaintiff filed a declaration from Plaintiff’s counsel, Matthew Capron, which includes  
9 an itemized list of the fees and costs incurred by Plaintiff and states that the total costs  
10 and attorney’s fees incurred in this case are \$4,667.04. (ECF No. 9-1).

11 The Copyright Act provides that the Court may award recovery of attorney’s fees  
12 and costs to the prevailing party as a matter of the Court’s discretion. 17 U.S.C. § 505.  
13 Plaintiff provides sufficient evidence to establish that Plaintiff is entitled to \$4,667.04  
14 in attorney’s fees and costs.

15 IT IS HEREBY ORDERED that the Motion for Default Judgment and the  
16 Request for Court to Consider Additional Evidence for Attorneys Fees and Costs After  
17 Default Judgment are GRANTED. (ECF Nos. 6, 9). Plaintiff is entitled to \$4,500 in  
18 statutory damages, a permanent injunction, and \$4,667.04 in attorney’s fees and costs.  
19 The Court orders Plaintiff to submit a proposed judgment in accordance with this Order  
20 within fourteen days of the date of this Order.

21 DATED: January 9, 2018

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23 **WILLIAM Q. HAYES**  
24 United States District Judge  
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