

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

J & J SPORTS PRODUCTIONS, INC., )  
Plaintiff, )  
vs. )  
EL CINCO DE MAYO, INC., et al., )  
Defendants. )  
Case No. 4:12-CV-2228 (CEJ)

## **MEMORANDUM AND ORDER**

This matter is before the Court upon plaintiff's motion for default judgment against defendant El Cinco De Mayo, Inc. (Cinco).

The Court's record reveals that this action was filed on November 30, 2012, naming Lisa Gonzales and Cinco as defendants. Service was obtained on both defendants on December 20, 2012. Defendant Cinco, however, did not plead or otherwise defend. Consequently, default was entered by the Clerk of the Court on January 22, 2013. The plaintiff filed the instant motion for entry of default judgment on January 28, 2013. Cinco has not filed a response to the motion and the time for doing so has expired.

The plaintiff brings this action asserting violations of 47 U.S.C. § 605 and 47 U.S.C. § 553 as a result of Cinco's unauthorized interception, receipt, and exhibition of the television broadcast entitled "Technical Ware," which was aired on November 13, 2010. The Court has jurisdiction pursuant to 28 U.S.C. § 1331.

Pursuant to 47 U.S.C. 605(e)(2), plaintiff is entitled to statutory damages of not more than \$50,000. However, 47 U.S.C. 605(e)(3)(C)(ii) allows a court to increase the award of damages, whether actual or statutory, by an amount of not more than

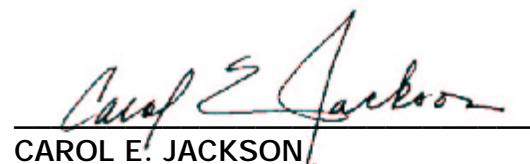
\$100,000 for each violation if the court finds that the violation was committed wilfully and for purposes of direct or indirect commercial advantage or private gain. The plaintiff is also entitled to the recovery of full costs, including reasonable attorneys fees. 47 U.S.C. 605(e)(3)(C)(iii).

Cinco's default constitutes as an admission of the allegations in plaintiff's complaint. Despite plaintiff's request for an increase in damages pursuant to 47 U.S.C. 605(e)(3)(C)(ii), the Court finds that an award of statutory damages in the amount of \$50,000 is appropriate in this case, plus \$520.00 for court costs and attorney fees, and post-Judgment interest at the legal rate.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion for default judgment as to defendant El Cinco De Mayo, Inc. [Doc. # 12] is granted.

A separate judgment in accordance with this memorandum and order is entered this same date.



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CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE

Dated this 14th day of February, 2013.