



more than \$10,000. *Id.* at § 605(e)(3)(C)(i)(II). Where the violation was committed willfully and for the purpose of commercial gain the statutory damages may be increased in an amount of not more than \$100,000. *Id.* at § 605(e)(3)(C)(ii). Attorney's fees and costs may also be recovered under this statute. *Id.* at § 605(e)(3)(B)(iii).

Plaintiff's second count alleges a violation of 47 U.S.C. § 553, which prohibits the unauthorized reception of cable services. It provides for statutory damages of not less than \$250 but not more than \$10,000. *Id.* at § 553(c)(3)(A)(ii). Where the violation was committed willfully and for the purpose of commercial gain the statutory damages may be increased in an amount of not more than \$50,000. *Id.* at § 553(c)(3)(B). Attorney's fees and costs may also be recovered under this statute. *Id.* at § 553(c)(2)(C).

The defendants in this matter have been served. On March 3, 2016, the Clerk of the Court entered a default against the defendants because they failed to file an answer or other responsive pleading. Plaintiff prays for the maximum amount of statutory damages under both statutes, for a total of \$170,000, plus attorney's fees and costs. Plaintiff also seeks \$2,200 in damages for the tort of conversion as alleged in Count III of the complaint. Plaintiff can recover under §605 if defendants intercepted the broadcast from a satellite or under §553 if defendants intercepted the broadcast from a cable service. Plaintiff cannot,

however, recover damages under both statutes.


Neither the complaint nor any other filings in this case indicate which method defendants used to intercept the broadcast. I will therefore grant plaintiff a default judgment under §605. Damages awarded under §605 have varied tremendously in this district. *See Joe Hand Promotions, Inc. v. Thompson*, No. 4:11CV1740 CAS, 2013 WL 466278, at \*3 (E.D. Mo. Feb. 7, 2013) (collecting cases of awards between \$3,000 and \$150,000). In fashioning a statutory award in the *Thompson* case, the Honorable Charles A. Shaw considered, among other things, the amount of the financial gain by the defendant, whether the defendant is alleged to be a repeat violator, and the need to deter future violations. *Id.* Based on the affidavits provided by plaintiff, I will exercise my discretion to award statutory damages in the amount of \$10,000.00 under §605 (e)(3)(C)(i)(II), \$5,000.00 in enhanced statutory damages under §605 (e)(3)(B)(ii), and costs in the amount of \$480.00 under §605 (e)(3)(B)(iii). In support of its request for attorney's fees in the amount of \$2,500.00, plaintiff submits the affidavit of attorney Vincent Vogler. Mr. Vogler avers that plaintiff incurred approximately 10 hours of legal service at a cost of \$250.00 per hour in connection with this case. I find plaintiff's request for attorney's fees to be reasonable and will award the requested amount. Finally, as plaintiff provided no evidence supporting its request for an award of \$2,200 for the tort of conversion as alleged in Count III of the

complaint, no additional damages will be awarded on Count III. Thus I will award plaintiff default judgment in a total amount of \$17,980.00. Plaintiff has not, however, shown that it is entitled to post-judgment interest at the requested rate of nine percent per annum. In federal court post-judgment interest accrues at the rate set by federal law.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion for default judgment [14] is granted in part only to the extent set out above and is denied in all other respects.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of May, 2016.