

On October 28, 2020, a Memorandum Decision and Order Granting in Part and Denying in Part Motion for Default Judgment was entered in *Gonzales* (“*Gonzales* Memorandum Decision and Order”).⁶ Because this case and *Gonzales* are substantively identical, the *Gonzales* Memorandum Decisions and Order’s analysis, findings of fact, and conclusions of law⁷ are adopted in total and apply to Plaintiff’s Motion in this case.

Defendant was served⁸ with Plaintiff’s Complaint; failed to timely appear and respond; and the Clerk has entered the default of Defendant.⁹ Additionally, the factual allegations of Plaintiff’s Complaint, which are deemed admitted,¹⁰ demonstrate that Defendant is liable for willfully infringing¹¹ Plaintiff’s copyright in the motion picture *Mechanic: Resurrection* through use of BitTorrent protocols over the Internet.

Therefore, Plaintiff is entitled to entry of a default judgment against Defendant, which includes an award of statutory damages¹² against Defendant and a permanent injunction¹³ enjoining Defendant from directly or indirectly infringing Plaintiff’s copyright. Plaintiff is also entitled to an award of its costs and reasonable attorney’s fees.¹⁴ But because an award of \$750 in statutory damages against Defendant is just under the circumstances,¹⁵ rather than the \$10,000 requested, Plaintiff’s Motion¹⁶ is GRANTED in part and DENIED in part.

⁶ ECF No. 101 in *Gonzales*, filed Oct. 28, 2020 (“*Gonzales* Memorandum Decision and Order”).

⁷ *Id.* at 2-25.

⁸ Proof of Service Declaration of Todd E. Zenger, [docket no. 69](#), filed June 11, 2020.

⁹ Entry of Default Pursuant to FRCP 55(a) as to a Certain Defendant, [docket no. 73](#), filed June 25, 2020.

¹⁰ *Tripodi v. Welch*, 810 F.3d 761, 764-65 (10th Cir. 2016).

¹¹ 17 U.S.C. §§ 411(a), 501; *La Resolana Architects, PA v. Reno, Inc.*, 555 F.3d 1171, 1177-1180 (10th Cir. 2009).

¹² 17 U.S.C. § 504(c).

¹³ *Id.* § 502(a).

¹⁴ *Id.* § 505.

¹⁵ *Gonzales* Memorandum Decision and Order at 4-25.

¹⁶ [Docket no. 75](#), filed July 7, 2020.

ORDER

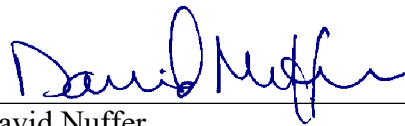
IT IS HEREBY ORDERED that Plaintiff's Motion¹⁷ is GRANTED in part and DENIED in part. Default judgment shall enter in favor of Plaintiff and against Defendant. The default judgment shall include an award to Plaintiff of \$750 in statutory damages against Defendant and a permanent injunction enjoining Defendant from directly or indirectly infringing Plaintiff's copyright in the motion picture *Mechanic: Resurrection*. Plaintiff is also entitled to an award of its costs and reasonable attorney's fees, the amount of which shall be determined by subsequent motion.

IT IS FURTHER ORDERED that any motion for attorney's fees must be filed within 14 days after the default judgement's entry.

The Clerk is directed to close the case.

Signed November 5, 2020.

BY THE COURT



David Nuffer
United States District Judge

¹⁷ [Docket no. 75](#), filed July 7, 2020.