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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 COBBLER NEVADA, LLC,

9 Plaintiff,

10 v.

11 SPENCER BUCKMAN,

12 Defendant.

C15-1432 TSZ

ORDER

13 THIS MATTER comes before the Court on plaintiff's Motion for
14 Reconsideration, docket no. 106. Having reviewed the motion and all relevant filings,
15 the Court enters the following Order.

16 Plaintiff seeks reconsideration of the Court's June 9, 2017, Order Granting Default
17 Judgment and Permanent Injunction against defendant Spencer Buckman, docket no. 104.
18 Specifically, plaintiff challenges the Court's \$1,500 award of attorney's fees. Plaintiff
19 argues that the Court "misapprehended certain important matters" in reaching its
20 conclusion that "[p]laintiff's attorney's hourly billing rate of \$450 for this case is not
21 reasonable" and awarding \$1,500.00 in fees instead of the \$3,382.00 plaintiff requested.
22 There was no such misapprehension. Although the court previously approved a \$450
23 hourly rate for plaintiff's counsel in this case and granted an award of fees based on

1 roughly the same number of hours requested here, since that time, the Court has become
2 increasingly familiar with counsel’s work on copyright infringement cases related to the
3 BitTorrent protocol. The Court’s \$1,500 award of attorney’s fees in this case is based on
4 five (5) hours of attorney time at \$300 an hour, and for the reasons discussed below, such
5 an award is reasonable and sufficient to compensate counsel for his work in obtaining
6 default judgment against defendant Buckman.

7 **Discussion**

8 Courts determine fee award amounts based on a “lodestar figure” calculated by
9 multiplying the number of hours reasonably expended on a matter by the reasonable
10 hourly rate. *Intel Corp. v. Terabyte Int’l, Inc.*, 6 F.3d 614, 622 (9th Cir. 1993). The
11 Court may then adjust the lodestar figure in light of the factors set forth in *Kerr v. Screen*
12 *Extras Guild Inc.*, 526 F.2d 67, 69-70 (9th Cir. 1975). The relevant *Kerr* factors here are:
13 (1) the time and labor required; (2) the novelty and difficulty of the questions; and (3) the
14 skill requisite to perform the legal services properly. *See LHF Productions, Inc. v. Doe 1*,
15 2017 WL 615888, at *4 (W.D. Wash. Feb. 15, 2017).

16 **A. Reasonable Hourly Rate**

17 In the Ninth Circuit, the determination of a reasonable hourly rate “is not made by
18 reference to rates actually charged the prevailing party.” *Chalmers v. City of Los*
19 *Angeles*, 796 F.2d 1205, 1210 (9th Cir. 1986). Instead the reasonable hourly rate is
20 determined with reference to the prevailing rates charged by attorneys of comparable skill
21 and experience in the relevant community. *See Blum v. Stenson*, 465 U.S. 886, 895
22 (1984). “Generally, when determining a reasonable hourly rate, the relevant community
23

1 is the forum in which the district court sits.” *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d
2 973, 979 (9th Cir. 2008). Courts may also consider “rate determinations in other cases,
3 particularly those setting a rate for the plaintiff’s attorney” as “satisfactory evidence of
4 the prevailing market rate.” *United Steelworkers of Am. v. Phelps Dodge Corp.*, 896 F.2d
5 403, 407 (9th Cir. 1990).

6 Plaintiff’s counsel submits that \$450 is the prevailing rate charged by attorneys of
7 comparable skill and experience in the relevant community. The evidence upon which
8 counsel relies, however, does not account for the generic nature of the work involved in
9 BitTorrent related copyright infringement cases similar to this one. Counsel’s work in
10 this case amounts to little more than form pleading, which “necessitat[es] little, if any
11 legal skill or attention.” *Qotd Film Investment Ltd. v. Starr*, 2016 WL 5817027, at *4
12 (W.D. Wash. Oct. 5, 2016). In cases involving practically identical allegations and legal
13 issues, courts in this District have reduced counsel’s hourly rate to \$300. *See Criminal*
14 *Productions, Inc. v. Gunderman*, 2017 WL 664047, at *5 (W.D. Wash. Feb. 17, 2017);
15 *LHF Productions*, 2017 WL 615888, at *4; *Dallas Buyers Club, LLC v. Nydam*, 2016
16 WL 7719874, at *5-6 (W.D. Wash. August 8, 2016). These decisions appropriately
17 recognize that BitTorrent cases do not require extensive skill or experience and that
18 counsel’s submissions in these actions are predominantly pleadings and motions recycled
19 from prior BitTorrent lawsuits. The Court adopts the reasoning of these decisions in
20 concluding that counsel’s billing rate of \$450 is unreasonable and in finding that a
21 reduction of counsel’s hourly rate to \$300 is appropriate.

1 **B. The Number of Hours Requested by Plaintiff’s Counsel is**
2 **Unreasonable**

3 The party seeking fees “bears the burden of establishing entitlement to an award
4 and documenting the appropriate hours expended and hourly rates.” *Hensley v.*
5 *Eckerhart*, 461 U.S. 424, 437 (1983). Courts are to exclude hours that are not
6 “reasonably expended” because they are “excessive, redundant, or otherwise
7 unnecessary.” *Id.* at 434.

8 Counsel indicates that the 7.2 hours requested reflect the *pro rata* share of the total
9 amount of time spent for the named defendants in the case, plus the time spent solely on
10 work related to defendant Buckman. Declaration of David Lowe, docket no. 100, ¶ 10.
11 This request is excessive, however, given that the vast majority of the hours claimed
12 involved work on pleadings and motions which met little or no opposition and were
13 nearly identical to filings submitted in the plethora of BitTorrent cases litigated by
14 plaintiff’s counsel in this District. For example, plaintiff’s counsel requests 1.5 hours of
15 time for work related to the motion for default judgment filed against Spencer Buckman,
16 Lowe Decl. at 6, yet the motion, declaration, and proposed order are practically identical
17 to the six others counsel submitted in connection with default judgments obtained against
18 other named defendants in this case. Similarly, counsel claims 42 minutes (.7 hours) for
19 preparation of a motion for default and proposed order which together comprise a total of
20 five lines of text. *See Motion for Default Against Spencer Buckman*, docket no. 97.
21 Judge Martinez has aptly described how counsel’s activity in this District underscores the
22 unreasonableness of the hours for which counsel requests compensation. *See LHF*
23

1 *Productions*, 2017 WL 615888, at *5-6. Indeed, “at this point, form filings and
2 standardized procedures are the norm.” *Qotd Film*, 2016 WL 5817027, at *4.

3 The Court is satisfied that an award of \$1,500 in attorney’s fees based on five (5)
4 hours of attorney time at an hourly rate of \$300 is both reasonable and sufficient to
5 compensate counsel for the work performed in obtaining default judgment against
6 defendant Buckman.¹

7 **Conclusion**

8 For the foregoing reasons, plaintiff’s Motion for Reconsideration, docket no. 106,
9 is DENIED.

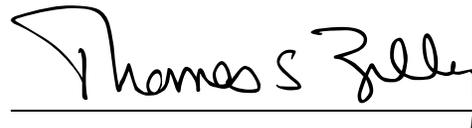
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11 IT IS SO ORDERED.

12 Dated this 27th day of July, 2017.

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Thomas S. Zilly
United States District Judge

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21 ¹ The Court declines to award any of the time attributed to counsel’s legal assistant, who performed
22 purely administrative tasks in this matter, Lowe Decl. at 6. *See LHF Productions*, 2017 WL 615888, at
23 *6. *See LHF Productions*, 2017 WL 615888, at *6 (declining to award “time attributed to Mr. Lowe’s
legal assistant” because he or she performed “purely administrative tasks”).

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