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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MANWIN LICENSING INTERNATIONAL SARL, a Luxembourg Limited Liability Company,

Plaintiff,

v.

NICHOLAS BULGIN, a/k/a "Gill Manwinder," "Yi Weng," "Chris Hill," "contact@Manwinsucks.com," "Jim Jagen," and "Radishdreams", an individual, JAMES MARTIN, an individual, and Does 1-10, inclusive,

Defendants.

CASE NO. CV12-02484 GW (SHx)

The Honorable George H. Wu

PLAINTIFF'S NOTICE AND MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANT NICHOLAS BULGIN

[Declaration of Antoine Gignac; Declaration of Marc E. Mayer; and [Proposed] Order and Judgment filed concurrently herewith]

Date: February 21, 2013
Time: 8:30 a.m.
Ctrm.: 10

TO DEFENDANT NICHOLAS BULGIN:

PLEASE TAKE NOTICE THAT on February 21, 2013, at 8:30 a.m., or as soon thereafter as this matter may be heard by the above-entitled Court, located at 312 North Spring Street Los Angeles, Los Angeles, California 90012, Plaintiff Manwin Licensing International S.à.r.l. ("Manwin") will and hereby does, move for an order entering default judgment pursuant to Federal Rule of Civil Procedure 55(b)(2) against Defendant Nicholas Bulgin, a/k/a "Gill Manwinder," "Yi Weng," "Chris Hill," "contact@Manwinsucks.com," "Jim Jagen," and "Radishdreams" ("Bulgin").

Manwin requests the following relief:

1. A permanent injunction, ordering that Bulgin and all persons acting under his direction or control (including but not limited to their agents, representatives and employees), shall immediately and permanently cease and desist from:

(a) registering any domain names containing the word "Manwin" or any of Manwin's trademarks, including but not limited to "Manwin" and "Brazzers" or any domain names that are confusingly similar to Manwin's trademarks;

(b) creating any Twitter accounts, Blogspot pages, or other blogs or websites using any of Manwin's trademarks, including but not limited to "Manwin" and "Brazzers," or that are confusingly similar to Manwin's trademarks;

(c) further disseminating, publishing, or re-publishing any statements falsely accusing Manwin or its employees, owners, agents, or

representatives, including Manwin's owner, Fabian Thylmann, of criminal conduct, including, trafficking in child pornography, sexual misconduct, pedophilia, or child abduction;

2. A monetary award to Manwin in the sum of $400,000, constituting maximum statutory damages for Bulgin's acts of unlawful cybersquatting in connection with the domain names www.manwin.net, www.manwin.co, www.manwinsucks.com, and www.manwin.us;

3. Attorneys' fees in the amount of $11,600, pursuant to Local Rule 55-3;

4. An order requiring Google, Blogspot, Twitter, and any other service provider to immediately remove the Twitter account "ManwinExposed," and the Blogspot pages located at http://manwinsucks.blogspot.com; http://manwinexposed.blogspot.com; http://manwinexposed.blogspot.de; http://manwinexposed.blogspot.ca; http://manwinexposed.blogspot.se; as well as all Blogspot pages beginning with the URL http://manwinexposed.blogspot that are located at any other top-level domain;

5. An order requiring GoDaddy or any other appropriate domain name registrar to transfer to Manwin or confirm the prior transfer to Manwin of the following domain names: www.manwin.net, www.manwin.co, www.manwinsucks.com, brazzer.us, and www.manwin.us.

This Motion is brought on the grounds that entry of default judgment is appropriate in this case because: (1) Manwin has satisfied the procedural requirements of Federal Rule of Civil Procedure 55(b)(2) and Local Rule 55-1, (2) Manwin would suffer prejudice if default judgment is not entered because it would

be denied the right to judicial resolution of its claims, (3) the Amended Complaint sets forth *prima facie* claims showing that Bulgin is liable for violation of the Anti-Cybersquatting Consumer Protection Act ("ACPA"), for defamation, and for unfair competition, (4) the monetary award sought by Bulgin is factually and legally supported and is reasonable, (5) there is no possibility of dispute regarding the material facts of the case, and (6) Bulgin's default did not result from excusable neglect.

Notice of this Motion was served on Bulgin by mailing a copy of this Motion to his home address: 575 Gonzaga Circle, Hampton, GA 30228.

Bulgin is not a minor or incompetent person or in military service or otherwise exempted under the Servicemembers Civil Relief Act (50 U.S.C. App. § 521).

This Motion is based on this Notice of Motion and Motion for Default Judgment, the attached memorandum of points and authorities, the declarations of Antoine Gignac and Marc E. Mayer in support and exhibits thereto, and the pleadings, files and other materials that are on file with the Court or may be presented at the hearing.

Dated: January 11, 2013

MARC E. MAYER
EMILY F. EVITT
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Marc E. Mayer
Marc E. Mayer
Attorneys for Plaintiff
Manwin Licensing International S.à.r.l.

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I. INTRODUCTION

Since 2011, Defendant Nicholas Bulgin ("Bulgin") has mounted an escalating campaign of harassment and defamation against Plaintiff Manwin Licensing International S.à.r.l. ("Manwin"). Bulgin began by cybersquatting: he registered domain names that infringed Manwin's trademarks and tried to extort Manwin to purchase them back at a premium. When Manwin refused to pay, Bulgin invented multiple fictitious personas who claimed to be the owners of the infringing domain names and wrote disparaging e-mails among them, copying Manwin's business partners. Bulgin's harassment escalated again when he posted defamatory statements about Manwin, including accusations that Manwin was involved in child pornography, on one of his infringing websites.

Bulgin did not stop his harassment after Manwin filed the instant lawsuit. Instead, Bulgin switched platforms and began defaming Manwin and its owner on Twitter and multiple BlogSpot pages. Furthermore, Bulgin has refused to participate in this litigation, although he has been in communication with Manwin and its counsel. Indeed, he has made direct threats against Manwin throughout the course of this litigation, including threatening to hack Manwin's computer servers and expose personal information about Manwin's customers.

Manwin has suffered and continues to suffer harm, and Bulgin will not stop unless the Court orders him to do so. By this motion, Manwin therefore requests that the Court enter default judgment against Bulgin, issue a permanent injunction prohibiting Bulgin from further trademark infringement and from repeating his defamatory statements, and award Manwin statutory damages and attorneys' fees.

II. STATEMENT OF FACTS

Manwin, its Business, and its Trademarks. Plaintiff Manwin Licensing International S.à.r.l. ("Manwin"), is a Luxembourg company that is part of a group

of companies collectively known by that name (the "Manwin Companies"). First Amended Complaint ("FAC"), ¶ 9. Manwin is in the business of owning, acquiring, and licensing its portfolio of trademarks and website domain names, which is one of the largest portfolios of premium adult-oriented domain names and trademarks in the world. Id. ¶ 14. Manwin's trademarks and domain names are used by Manwin Companies located throughout the world, including in Luxembourg, Montreal, Los Angeles, and Cyprus. Declaration of Antoine Gignac ("Gignac Decl."), ¶ 2. Manwin's affiliates and licensees include Manwin USA, Inc., Manwin D.P. Corp., and Playboy Plus Entertainment, Inc., all of which have principal places of business in Los Angeles, California. Id.

Manwin's portfolio of domain names and trademarks includes some of the most valuable domain names and trademarks in the world, including the domain names pornhub.com, youporn.com, brazzers.com, tube8.com, and webcams.com, and the related trademarks MANWIN, YOUPORN, BRAZZERS, PORNHUB, TUBE8, and others. FAC, ¶¶ 14-15; Gignac Decl., ¶ 3. Manwin's affiliated websites are among the most visited websites on the Internet, and millions of people throughout the world visit these websites each day. FAC, ¶ 14. Manwin has invested millions of dollars and countless employee hours to develop its reputation in the adult content industry. Id. ¶ 15. As a result of that effort and expense, the Manwin name and those of its brands, including its brand "BRAZZERS," have come to be associated in the minds of the public with high-quality adult-oriented content. Gignac Decl., ¶ 3. Accordingly, Manwin owns valid and enforceable trademarks in the names "MANWIN" and "BRAZZERS," among others (the "Manwin Marks"). FAC, ¶ 15; Gignac Decl., ¶ 3.

Bulgin and His Unlawful Conduct. Bulgin is an individual residing in Hampton, Georgia. FAC, ¶ 10. Bulgin apparently is in the business of acquiring and selling domain names containing trademarks belonging to others (i.e.

"cybersquatting"). Bulgin's cybersquatting targets have included Manwin, Imperial Tobacco, and others. Id.; Declaration of Marc E. Mayer ("Mayer Decl."), ¶ 4.

In or about the second half of 2011, Bulgin commenced a campaign of unlawful and harassing conduct against Manwin and its trademarks, apparently for the purpose of coercing Manwin to pay substantial sums to acquire various Manwin-related domain names registered by Bulgin. FAC, ¶ 16. Specifically, Bulgin (or those working in concert with him), registered or acquired (or caused to be registered or acquired) numerous domain names containing Manwin's trademarks, including but not limited to the domain names www.manwin.net, www.manwin.co, www.manwinsucks.com, and www.manwin.us (the "Manwin Domains").[1] FAC, ¶ 17; Mayer Decl., ¶ 2. Each of these domain names was registered by in bad faith, with the intent to trade off or profit from the Manwin Marks. Id.

Shortly after acquiring the Manwin Domains, Bulgin and his cohorts, using the alias "Chris Hill" (chrisH@manwin.net), offered to sell the domain name www.manwin.net to Manwin for $100,000. FAC, ¶ 18. When Manwin rejected that offer, "Chris Hill" advised Manwin that it can "kiss [my] rear" and threatened to sell the domain name to another cybersquatter to "get massive traffic and blow you off the #1 spot in search engines." Id. For the following three months, Bulgin, acting individually or in concert with the other defendants, undertook a coordinated campaign intended to force Manwin into purchasing the Manwin Domains. Id.

First, Bulgin registered, transferred, and operated the infringing Manwin Domains using various aliases and fake personas. Id. ¶ 19. For example, Bulgin and his accomplices re-registered the domain name www.manwin.net using the fake name "Gill Manwinder," a purported businessman from the United Kingdom who

[1] The infringing Manwin Domains listed in the in the original Complaint were www.manwin.net, www.manwin.co, www.manwinsucks.com, and www.brazzer.us. Upon further investigation and obtaining written discovery, the list of Infringing Manwin Domains in the First Amended Complaint was amended to www.manwin.net, www.manwin.co, www.manwinsucks.com, and www.manwin.us. Mayer Decl., ¶ 2.

was in the process of setting up various businesses using his family name ("Manwinder"). Id. Similarly, Bulgin and his cohorts registered the domain name www.manwin.co using the fake name "Yi Weng," who purported to be a Chinese woman who maintains a weblog ("blog") to discuss issues of spirituality and charity. Id. In an attempt to justify use of the Manwin trademark, Bulgin titled this website "ManWin – the huMAN WINdow to the Soul." Id.

Second, in order to cause Manwin to believe that harm would befall Manwin and its trademarks if it failed to immediately purchase the Manwin Domains, Bulgin and the other defendants sent fabricated e-mails among their fake personas, or to each other, with a copy to Manwin. Id. ¶ 20. In those e-mails, Bulgin and his accomplices pretended these various "individuals" were communicating about collective action against Manwin. Id. For example, on September 13, 2011, "Chris Hill" wrote an e-mail to "contact@manwinsucks.com," purporting to suggest that Hill and the administrator of manwinsucks.com "compare notes" and take action to "dilute" the Manwin name. Id.

Third, Bulgin created a website (www.manwinsucks.com) which he used to disseminate false, misleading, and defamatory statements about Manwin's purported business practices. Id. ¶ 21. Among the false and defamatory statements published on this website were the following purported "facts" about Manwin:

- Manwin "create[s] user accounts at their free porn websites and upload[s] illegal content found all over the net that they didnt [sic] pay for." Id.
- Manwin "use[s] illegal content to make money." Id.
- Manwin "own[s] a shitload or[sic] websites that are Adult oriented and they push traffic to these sites using Pirate Bay…." Id.
- Manwin's websites are "a messed up scam but they like it and are completely fine in using illegal tube sites that use peoples private adult videos to sell their own products. If that is not a illegal scam i don't[sic] know what is." Id.

- "Manwin…recently had assets seized by the US government since they were said to be doing illegal financial schemes through the state of Georgia." Id.

Fourth, Bulgin engaged in a variety of activities that were designed to interfere with Manwin's business relationships and other activities. Id. ¶ 22. For example:

- On or about October 18, 2011, Bulgin (again using the "Gill Manwinder" name), filed a fraudulent "letter of protest," in connection with Manwin's trademark application pending before the United States Patent and Trademark Office ("USPTO"). In this "letter of protest," "Gill Manwinder" claimed that Manwin's trademark registration would harm his purported "family name" and "family started company." Additionally, the letter advised the USPTO to evaluate Manwin's "actions as depicted on website [sic] such as ManwinSucks.com. This site shows their [sic] is someone or a group who opposes their company so much they created an entire website." Id.
- On or about August 18, 2011, Bulgin, using the alias "Radishdreams" began posting on a variety of popular websites frequented by those working in the adult industry that Manwin was attempting to strongarm "Yi Weng" (the purported owner of www.manwin.co) into relinquishing her domain name. Id.
- In or about the end of 2011, after learning that Manwin was engaged in litigation against ICM (the entity that controls the registry for the .xxx top-level domain), Bulgin exhorted members of the public to register infringing Manwin-related domain names and then re-direct those domains to ICM. Id.
- On or about August 22, 2011, using the fake name "Jim Jagen," Bulgin and his cohorts contacted Manwin's business partners at Playboy and accused Manwin of using "stolen property" and not "car[ing] much for the law or about how things should be done." Id.
- On or about October 23, 2011, using the anonymous e-mail address contact@manwinsucks.com, Bulgin and his accomplices threatened to obtain and

publish Manwin's confidential and proprietary documents and financial information. Id.

Bulgin Continues To Harass Manwin After The Lawsuit Is Filed. In January 2012, after an extensive investigation, Manwin discovered that "Gill Manwinder," "Yi Weng," "Chris Hill," "contact@Manwinsucks.com," and "Jim Jagen" were all aliases of Defendant Bulgin, and that all e-mail correspondence from these individuals originated from Bulgin. Id. ¶ 23. Accordingly, on or about January 12, 2012, Manwin served Bulgin with a formal demand to cease his activity and immediately transfer the Manwin Domains. Id. Bulgin acknowledged his activities, claimed that he had purchased the names in order to "secure" them for Manwin, and agreed to transfer the Manwin Domains. However, a few days later, Bulgin reneged on his agreement and claimed that his "associates" would not transfer the domain names. And, on January 31, 2012, "Gill Manwinder" contacted Manwin, demanding that Manwin pay him $4,300 to transfer the domain name www.manwin.net. Id.

Manwin filed the original complaint in this action on March 22, 2012. Mayer Decl., ¶ 7. On April 18, 2012, Manwin filed its *ex parte* application for leave to take immediate discovery. Id. ¶ 8. On or about May 15, 2012, Manwin discovered that Bulgin and his cohorts had apparently shifted their infringing and defamatory activities to Twitter and BlogSpot. Id. ¶ 11. Specifically, an individual using the handle @ManwinSucks made defamatory postings on Twitter (hereinafter the "Twitter Account"). Id. Many of these Twitter postings, in turn, linked to one or more BlogSpot pages featuring defamatory posts about Manwin, including serious, unfounded accusations that Manwin and its owner Fabian Thylmann were involved in child pornography (hereinafter the "BlogSpot Page"). Id.; Gignac Decl.,¶ 9. The Blogspot Page was initially located at http://manwinsucks.blogspot.com, but in June

2012, Bulgin moved the BlogSpot Page to http://manwinexposed.blogspot.com/.[2] Mayer Decl., ¶ 11. Among the statements Bulgin posted on the BlogSpot Page are:

- "Mr Thylman is way past his prime age yet he regularly courts teenagers who still attend high school in his country we hear. Some people would call those girls fresh and in perfect condition for sexual intercourse. We call those people pedophiles! Whether its legal in his country or not, its fucking gross mate, that a grown man does this, its bloody fucking sick." (July 5, 2012) Id.
- "Anonymous will take down any company who host child pornography and its high time companies who makes money off nothing but porn, is looked at really hard. I honestly wouldn't doubt if they offered child pornography because they have everything else." (June 16, 2012) Id.
- "There is talk about Manwin owning child pornography websites. Here is why it makes sense. Manwin operates many porn websites through many people around the world and they have been known for shady operations in the past and currently. Half of their staffs own domains with fake aliases and half the accounts on their tube site are created in house." (May 10, 2012) Id.

As of the date of this Motion, the above defamatory statements and others remain posted on the BlogSpot Page. Id. ¶ 12.

III. MANWIN IS ENTITLED TO ITS REQUESTED RELIEF

In addition to the applicable procedural requirements, see Local Rule 55-1 and Fed. R. Civ. P. 55(b)(2), a court's decision to grant default judgment is guided by the following factors (known as the Eitel factors):

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[2] The BlogSpot page is also available at international domains, including http://manwinexposed.blogspot.de; http://manwinexposed.blogspot.ca, and http://manwinexposed.blogspot.se . Manwin is informed and believes that the BlogSpot page is also located at other international "top-level domains," beginning with the URL http://manwinexposed.blogspot, but ending with different suffixes. Mayer Decl. ¶ 11.

> (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff's substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at stake in the action, (5) the possibility of a dispute concerning material facts, (6) whether the default was due to excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986); see also Warner Bros. Entm't Inc. v. Caridi, 346 F. Supp. 2d 1068, 1071-73 (C.D. Cal. 2004) (granting default judgment based on Eitel factors). While the decision to grant a default judgment is left to the sound discretion of the Court, "default judgments are more often granted than denied." PepsiCo v. Triunfo-Mex, Inc., 189 F.R.D. 431, 432 (C.D. Cal. 1999).

In determining whether to grant a default judgment, "[t]he general rule of law [is] that upon default the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true." TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987). See also Visoneering Constr. v. U.S. Fidelity & Guar., 661 F.2d 119, 124 (6th Cir. 1981) ("Well pleaded allegations of the petition . . . are taken as admitted on a default judgment."). While a plaintiff must "prove up" damages when seeking a default judgment, this evidentiary burden is "relatively lenient." Elektra Entm't Group Inc. v. Bryant, No. CV 03-6381GAF (JTLX), 2004 WL 783123, at *2 (C.D. Cal. Feb. 13, 2004). In determining damages, the Court may rely on declarations submitted by the plaintiff. See Fed. R. Civ. P. 55(b)(2).

Manwin has satisfied the procedural requirements of the Federal and Local Rules, the Eitel factors weigh in favor of entering default judgment against Defendant Bulgin, and Manwin's requested relief is reasonable and supported.

A. Manwin Has Satisfied The Procedural Requirements For Entry Of Default Judgment Against Defendant Bulgin.

The requirements of Federal Rule of Civil Procedure 55(b)(2) and Local Rule 55-1 plainly have been met. On July 11, 2012, Manwin served the summons and

First Amended Complaint on Defendant Bulgin. Mayer Decl. ¶ 14. On October 2, 2012, the Clerk entered Defendant Bulgin's default on the First Amended Complaint. Id. ¶ 15. Defendant Bulgin is not an infant or incompetent. Id. ¶ 16; See L.R. 55-1(c). The Servicemembers Civil Relief Act (50 App. U.S.C. § 521) does not apply. Mayer Decl., ¶ 16; See L.R. 55-1(d). Manwin timely notified Defendant Bulgin of this Motion for Default Judgment. Mayer Decl., ¶ 17. See L.R. 55-1(e); Fed. R. Civ. P. 55(b)(2).

B. The Allegations Of The Amended Complaint, Taken As True, Establish Liability On Each Of Manwin's Claims.

As noted, after the entry of default, the factual allegations of the complaint are taken as true. Heidenthal, 826 F.2d at 917-18. Manwin's First Amended Complaint pleads facts sufficient, as a matter of law, to establish that Defendant Buglin is liable for violation of the Anti-Cybersquatting Consumer Protection Act ("ACPA"), defamation, and unfair competition.

ACPA Violation. Manwin owns all rights in and to the Manwin Marks. FAC, ¶ 28; Gignac Decl., ¶ 3. "The ACPA authorizes a trademark owner to bring a civil suit against any person who: '(i) has a bad faith intent to profit from that mark ...; and (ii) registers, traffics in, or uses a domain name that ... is identical or confusingly similar to or [in certain cases] dilutive of that mark....'" Verizon California Inc. v. Navigation Catalyst Sys., Inc., 568 F. Supp. 2d 1088, 1094 (C.D. Cal. 2008) quoting 15 U.S.C. § 1125(d)(1)(A). Here, Bulgin violated the ACPA because he:

- Registered, trafficked in, and used the infringing Manwin Domains and BlogSpot page, which incorporated the Manwin Marks, in a manner that was identical or confusingly similar to the Manwin Marks. 15 U.S.C. 1125(d)(1)(A)(ii). See, e.g., Louis Vuitton Malletier and Oakley, Inc. v. Veit, 211 F. Supp. 2d 567, 582 (E.D. Pa. 2002) (domain name "louisvuitton-replicas.com" violated the ACPA).

- Used the infringing Manwin Domains and BlogSpot Page in a bad faith attempt to profit from the Manwin Marks. FAC, ¶ 30. Among other things, Bulgin's bad faith was evidenced by the following:
  - Bulgin has no trademark or other intellectual property rights in the Manwin Marks or the infringing Manwin Domains, nor do the Manwin Domains consist of Defendant Bulgin's legal name;
  - Bulgin has not made any *bona fide* noncommerical or fair use of the Manwin Marks;
  - Bulgin intended to divert traffic from the official Manwin websites, or otherwise attract users looking for information concerning Manwin;
  - Bulgin attempted to extort payment from Manwin for sale of the Manwin Domains;
  - Bulgin registered the Manwin Domains using the privacy service Domains By Proxy, and operated the domains pseudonymously;
  - Bulgin registered multiple domain names that infringed the Manwin Marks; and
  - The Manwin Marks are distinctive and famous.

Id. ¶¶ 28, 30; Gignac Decl., ¶ 3. See Verizon California, 568 F. Supp. 2d at 1096 (C.D. Cal. 2008) (discussing the non-exclusive factors that courts consider when analyzing bad faith under 15 U.S.C. § 1125(d)(1)(B)(i)).

Defamation. Bulgin used the Manwin Domains and continues to use the Twitter Account and BlogSpot Page to defame Manwin and its owner Fabian Thylmann. FAC, ¶ 35; Mayer Decl. ¶ 12. Ninth Circuit courts apply state law to determine whether the speech at issue is defamatory. Lee Myles Assocs. Corp., V. Paul Rubke Enters., Inc., 557 F. Supp. 2d 1134, 1139 (S.D. Cal. 2008). Under California law, the elements of defamation are: "(a) a publication that is (b) false, (c) defamatory, and (d) unprivileged, and that (e) has a natural tendency to injure or that

causes special damage." Id. quoting 5 B.E. Witkin, Summary of Cal. Law § 529 (10th ed. 2005). Manwin has satisfied each of these elements:

- Defendant Bulgin's defamatory statements were published on websites available worldwide, including in this judicial district;
- Defendant Bulgin made false statements about Manwin and its owner Fabian Thylmann via the Manwin Domains, and continues to make false postings using the Twitter Account and the BlogSpot Page, including serious, unfounded allegations of involvement in child pornography;
- These statements have created false and defamatory impressions and, therefore, have damaged Manwin's reputation and caused economic harm;
- Defendant Bulgin has made no claim of privilege;
- By reason of the false and defamatory statements published by Bulgin, Manwin has been injured in its good name, reputation and business, portrayed in a false light and has been brought into disgrace and disrepute.

FAC; ¶¶ 35-41, Gignac Decl., ¶ 12. Bulgin's acts have caused, and will continue to cause, irreparable injury to Manwin. FAC, ¶ 41; Gignac Decl. ¶¶ 10,12-13.

Unfair Competition. Likewise, Manwin has established a claim for unfair competition against Bulgin based on Bulgin's violation of the ACPA:

- California law defines unfair competition to "include any unlawful, unfair or fraudulent business act or practice…." Cal. Bus. & Prof. Code § 17200. California courts broadly construe the application of unfair competition. As the California Supreme Court explained, "By proscribing any unlawful business practice, section 17200 borrows violations of other laws and treats them as unlawful practices that the unfair competition law makes independently actionable." Cel-Tech Communications, Inc., v. Los Angeles Cellular Telephone Company, 20 Cal.4th 163, 180 (1999).
- Therefore, Defendant Bulgin's violation of the ACPA (discussed above) also constitutes a violation of California's unfair competition law. See Solid

Host, NL v. Namecheap, Inc., 652 F. Supp. 2d 1092, 1120 (C.D. Cal. 2009) ("Because [plaintiff] has sufficiently alleged that [defendant] engaged in a business practice that violated a law other than the UCL, i.e., the ACPA, it has stated an unfair competition claim.").

C. The Eitel Factors Warrant Entry Of Default Judgment.

(1) Possibility of Prejudice: The first Eitel factor considers whether Manwin will suffer prejudice if default judgment is not entered. Eitel, 782 F.2d at 1471-72. Prejudice exists where, absent entry of a default judgment, the plaintiff would lose the right to a judicial resolution of its claims and would be without other recourse of recovery. See Elektra Entm't Group Inc. v. Crawford, 226 F.R.D. 388, 392 (C.D. Cal. 2005); Bryant, 2004 WL 783123, at *3. Without a default judgment, Manwin will have no recourse against Bulgin's ongoing campaign of defamation and harassment. Gignac Decl., ¶ 13. Bulgin continues to publish outrageous false statements about Manwin and its owner, Fabian Thylmann, including accusations of criminal conduct, such as trafficking in child pornography, sexual misconduct, pedophilia, or child abduction. Mayer Decl., ¶¶ 11-12. Such statements are causing ongoing harm to Manwin and to Mr. Thylmann, and a default judgment is necessary to stop them. Gignac Decl., ¶ 13. Additionally, without a default judgment, Manwin will be deprived of the right to judicial resolution of its claims for violation of the ACPA, defamation, and unfair competition because Bulgin has refused to appear in these proceedings.

(2) Merits of Claim and (3) Sufficiency of Complaint: The second and third Eitel factors "require that a plaintiff state a claim on which the [plaintiff] may recover." PepsiCo, Inc. v. Cal. Sec. Cans, 238 F. Supp. 2d 1172, 1175 (C.D. Cal. 2002) (internal citations omitted). As set forth above, Manwin has stated numerous claims for relief.

(4) Amount at Stake: Under the fourth Eitel factor, "the court must consider the amount of money at stake in relation to the seriousness of [Defendants']

conduct." PepsiCo, 238 F. Supp. 2d at 1176. For each domain name that violates the ACPA, the trademark owner is entitled to recover statutory damages in an amount between $1,000 and $100,000. 15 U.S.C. 1117(d). Manwin alleges that Bulgin and his accomplices registered four infringing domain names. FAC, ¶ 17; Mayer Decl., ¶¶ 2,10. In light of Bulgin's outrageous conduct, Manwin seeks maximum statutory damages for each infringing domain name, for a total of $400,000. Manwin also seeks $11,600 in attorneys' fees, pursuant to Local Rule 55-3.

(5) Possibility of Dispute Regarding Material Facts: The fifth Eitel factor requires the Court to consider the possibility of a dispute as to a material fact. Eitel, 782 F.2d at 1471-72. As a threshold matter, there is no possible dispute concerning the material facts because the factual allegations of Manwin's First Amended Complaint are taken as true. Marcelos v. Dominguez, No. C 08-00056 WHA, 2009 WL 230033, at *4 (N.D. Cal. Jan. 29, 2009). In any event, the facts alleged in the First Amended Complaint are confirmed by Manwin's investigation as well as the evidence produced by third parties.

(6) Possibility of Excusable Neglect: Under the sixth Eitel factor, the Court considers whether Bulgin's default resulted from excusable neglect. Eitel, 782 F.2d at 1471-72. Bulgin failed to answer or file a responsive pleading despite *repeated* notice of this action and his infringing conduct. Bulgin's conduct is not excusable, including because he was served with both the original complaint and First Amended Complaint, yet never made any attempt to file a responsive pleading to either. Mayer Decl., ¶ 14. Furthermore, Defendant Bulgin communicated with Manwin and its counsel multiple times during the course of this litigation, which revealed that he was aware of the case, yet he defiantly refused to participate. Mayer Decl., ¶¶ 5-6. See Meadows v. Dom. Rep., 817 F.2d 517, 521 (9th Cir. 1987) ("A defendant's conduct is culpable if he has received actual or constructive notice of the filing of the action and failed to answer."). Additionally, Manwin

served on Bulgin copies of its applications seeking discovery from Bulgin's online service providers. Mayer Decl., ¶¶ 8. Bulgin should have received further notice from those third parties that subpoenas had been issued seeking information about Bulgin and the identity of his accomplices. Further, Bulgin did not seek to lift the default or in any way defend against this lawsuit, though he had ample notice and opportunity to do so. There is no excusable neglect. Shanghai Automation Instrument Co., Ltd. v. Kuei, 194 F. Supp. 2d 995, 1005 (N.D. Cal. 2001) (defendant's default when properly served with complaint and notice of entry of default not attributable to excusable neglect).

(7) Policy for Deciding Case on the Merits: The final Eitel factor considers the preference for deciding cases on the merits. Eitel, 782 F.2d at 1471-72. "However, this factor, standing alone, cannot suffice to prevent entry of default judgment for otherwise default judgment could never be entered." Caridi, 346 F. Supp. 2d at 1073. Indeed, Rule 55 specifically authorizes the termination of a case before a hearing on the merits in these precise circumstances. See Bryant, 2004 WL 783123, at *5. Here, the only reason this lawsuit cannot proceed to the merits is because Bulgin, ***after notice***, failed to appear and defend this action.

In sum, the balance of Eitel factors weigh in Manwin's favor, and the Court should grant this motion and enter default judgment against Defendant Bulgin.

IV. THE REQUESTED RELIEF IS APPROPRIATE

A. Manwin Is Entitled To $400,000 In Statutory Damages For Bulgin's Violations Of The ACPA.

At its election, a trademark owner may recover either statutory or actual damages for violation of the ACPA. 15 U.S.C. § 1117(d). Here, Manwin elects to recover statutory damages. For each infringing domain name, the trademark owner may recover statutory damages in an amount between $1,000 and $100,000. 15 U.S.C. § 1117(d). The award may be any amount within this range that "the court

considers just." Courts consider the following factors in determining the amount of the award:

> [1] egregiousness or willfulness of the defendant's cybersquatting, [2] the defendant's use of false contact information to conceal its infringing activities, [3] the defendant's status as a "serial" cybersquatter -- i.e., one who has engaged in a pattern of registering and using a multitude of domain names that infringe the rights of other parties -- and [4] other behavior by the defendant evidencing an attitude of contempt towards the court or the proceedings.

Verizon California Inc. v. OnlineNIC, Inc., No. C 08-2832 JF (RS), 2009 WL 2706393, at *3 (N.D. Cal. Aug. 25, 2009). Here, each of these factors weighs in favor of awarding maximum statutory damages of $100,000 per infringement against Defendant Nicholas Bulgin.

(1) Egregiousness or Willfulness of Cybersquatting. From the start, Bulgin's conduct was willful, and it became progressively more egregious. Bulgin registered the Manwin Domains knowing that they infringed Manwin's trademarks. FAC, ¶ 17. Indeed, he selected these domain names despite – and because – of their infringing nature. Id. Next, Bulgin attempted to extort payment from Manwin for the Manwin Domains. Id. ¶ 18. When Manwin refused to pay, Bulgin became increasingly belligerent. He created a series of false personas who sent e-mails to each other and to Manwin's business partners disparaging Manwin. Id. ¶¶ 20, 45. Then he used the alias "Gill Manwinder," and attempted to interfere with Manwin's trademark registration. Id. ¶ 22. Perhaps most egregiously, Bulgin used the manwinsucks.com domain name as a platform to make false and defamatory statements about Manwin, and he has continued this defamation via Twitter and the BlogSpot Page. Id. ¶¶ 21, 26; Mayer Decl., ¶¶ 11-12.

(2) Use of False Contact Information. Bulgin has gone to great lengths to conceal ownership of the Manwin Domains. First, the Manwin Domains were registered using the "privacy service" Domains by Proxy. Mayer Decl., ¶ 8. A privacy service such as Domains by Proxy registers domains in its own name, on behalf of clients. Id. ¶ 10. The purpose of this service is to shield the domain name owner from being identified through publicly available searches (sometimes referred to as "WhoIs" searches), which otherwise allow members of the public to look up the name and contact information of the domain name registrant. Id. Second, after this lawsuit was filed, Bulgin orchestrated a shell game to conceal ownership of the Manwin Domains: three of the domains were transferred, first to "Josh Green," and then to Defendant James Martin. Id. ¶ 7. Third, Bulgin has attempted to conceal ownership of the Manwin Domains through his use of multiple false personas. FAC, ¶ 23; Mayer Decl., ¶ 6.

(3) Pattern of Serial Cybersquatting. Bulgin is a professional cybersquatter. He has registered hundreds of infringing domains, including http://www.netflix.me/; http://www.smart-cloud.net/; and http://www.verizonwirelesssucks.co. Mayer Decl., ¶ 3, Ex. 1. And this is not the first time Bulgin has been caught. He recently tried to extort payments from the company Imperial Tobacco by purchasing the domain name "imperialtobacco.co" and then creating a false persona, "Victor Verdugo," in an attempt to defraud the World Intellectual Property Organization ("WIPO") Arbitration Panel. See Mayer Decl., ¶ 4, Ex. 2. The WIPO Panel found that Defendant Bulgin's conduct was a "calculated scam, designed to extract from the Complainant as much money for the transfer of the Domain Name as possible." *See* Imperial Tobacco Canada Limited v. N.B., WIPO Case No. DCO2010-0020.

(4) Attitude of Contempt Toward the Court and Proceedings. Finally, Bulgin has refused to participate in these proceedings. Mayer Decl., ¶ 14. He made no attempt to answer or otherwise respond to the original and First Amended

Complaint, despite having been personally served with each of them. Id. ¶ 14. Bulgin's contempt and disregard for the Court and these proceedings is particularly evident given that Bulgin has acknowledged to Manwin's counsel that he is aware of this lawsuit, yet he refuses to engage in the judicial process. Mayer Decl., ¶¶ 5-6, 14. Additionally, Bulgin's use of the false persona "Gill Manwinder" and attempt to interfere with Manwin's trademark registration proceedings reflect contempt for the U.S. Patent and Trademark Office. See FAC, ¶ 22.

In sum, each of these factors weighs in favor of maximum statutory damages. Bulgin is a serial infringer, who engaged in a campaign of anonymous, egregious cybersquatting designed to harass and defame Manwin and harm its business. He has no respect for this Court (nor for the USPTO nor WIPO), and he will only be deterred by an award of maximum statutory damages. An award of maximum statutory damages is consistent with courts' awards in similarly egregious cases of cybersquatting. See, e.g., Electronics Boutiques Holdings Corp. v. Zuccarini, No. Civ.A. 00-4055, 2000 WL 1622760, at *8 (E.D. Pa. 2000) (court held that repeat cybersquatter "boldly thumbs his nose at the rulings of this court and the laws of our country. Therefore, I find that justice in this case requires damages … in the amount of $100,000 per infringing domain name, for a total of $500,000."); Lahoti v. Vericheck, Inc., 708 F. Supp. 2d 1150, 1170-71 (W.D. Wash. 2010) (awarding maximum statutory damages of $100,000 based on factors including defendant's "bad faith and his deliberate and knowing acts, his pattern and practice of registering domain names that incorporate the trademarks of others, his efforts to extort thousands of dollars in exchange for transfer of the Domain Name…."); Louis Vuitton Malletier & Oakley, Inc. v. Veit, 211 F. Supp. 2d 567, 585 (E.D. Pa. 2002) (awarding $100,000 for infringing domain name on motion for default judgment "in light of the Defendants' egregious acts in blatantly using Plaintiff Louis Vuitton's registered trademark to sell counterfeit Louis Vuitton products"). See also Verizon,

2009 WL 2706393, at *1 (awarding $50,000 for each violation of the ACPA for a total default judgment award of $33.15 million).

B. Manwin Is Entitled To A Permanent Injunction.

Manwin seeks a permanent injunction against Bulgin's cybersquatting and defamation. Manwin asks the Court to enjoin Bulgin from: (1) creating domain names, Twitter accounts, or Blogspot Pages that use Manwin's trademarks or are confusingly similar to Manwin's trademarks; and (2) further disseminating, publishing, or re-publishing Bulgin's previous defamatory statements about Manwin and its owner Fabian Thylmann. Entry of permanent injunctive relief is warranted where: (1) the plaintiff has suffered an irreparable injury; (2) the remedies available at law are inadequate to compensate for that injury; (3) a remedy in equity is warranted considering the balance of hardships; and (4) the public interest will not be disserved by a permanent injunction. eBay Inc. v. MercExchange, LLC, 547 U.S. 388, 391 (2006). All of these factors favor granting a permanent injunction here.

(1) Irreparable Injury. First, irreparable harm exists here because Bulgin is causing injury to Manwin's goodwill and reputation. Gignac Decl., ¶¶ 10-13; see Wecosign, Inc. v. IFG Holdings, Inc., 845 F. Supp. 2d 1072, 1084 (C.D. Cal. 2012) (granting default judgment on trademark, false designation of origin, cybersquatting and unfair competition claims and issuing permanent injunction: "Plaintiff would suffer irreparable injury from the ongoing damages to its goodwill and diversion of customers to counterfeit services.") Where a defendant engages in cybersquatting in violation of the ACPA, "[i]t is impossible to determine the number of potential and existing customers diverted from [plaintiff's] website by [defendant's] domain misspellings," and "it is impossible to calculate the loss of reputation and goodwill…." Electronics Boutique, 2000 WL 1622760, at * 9 (granting permanent injunction and finding irreparable harm). As in these cases, Bulgin's cybersquatting

causes Manwin severe reputational harm and damages Manwin's goodwill. According, Bulgin's conduct is causing irreparable injury to Manwin.

Irreparable injury can also exist in the context of defamation. For example, in Martin v. Reynolds Metals Co., where cross-defendants had posted a defamatory billboard-type sign containing false statements about cross-plaintiff's business, the court granted a preliminary injunction and reasoned that "[t]he sign is a continuing tort causing irreparable injury to a property interest…." 224 F. Supp. 978, 984 (D. Or. 1963) aff'd, 337 F.2d 780 (9th Cir. 1964). Here, Bulgin's Twitter account and BlogSpot Page, which remain posted, are the modern electronic equivalents of the billboard in Martin and are causing Manwin irreparable injury.

(2) Inadequate Legal Remedy. Second, monetary damages are inadequate to deter Bulgin's campaign of cybersquatting and defamation. Gignac Decl., ¶ 13. Bulgin's infringement of the Manwin Marks has been willful and egregious. FAC, ¶ 30. Bulgin did not cease his infringing and defamatory activities after Manwin filed suit, and has refused to appear in this litigation; there is no reason to believe Bulgin will stop. See Belks Media v. OnlineNIC, C09-00198 HRL, 2010 WL 7786122, at *4 (N.D. Cal. Aug. 23, 2010) report and recommendation adopted, C 09-00198 SBA, 2011 WL 5038576 (N.D. Cal. Oct. 24, 2011) (granting permanent injunction after entering default judgment in ACPA case: "monetary damages are also inadequate on their own; [defendant's] conduct can be considered willful and it has given no indication that it will not infringe in the future as it has chosen not to participate in this litigation."). See also City of Carlsbad v. Shah, 08CV1211 AJB WMC, 2012 WL 424418, at*20 (S.D. Cal. Feb. 9, 2012) (granting permanent injunction in copyright, trademark, and ACPA case where defendant continued to use infringing domains after plaintiff initiated the lawsuit: "Given [defendant's] behavior to date, there is a continued threat that [defendant] will continue to engage in such unlawful conduct. [Plaintiff's] injury cannot be remedied by monetary

compensation alone. As such, an injunction is the only remedy available to limit the potential of future injury.").

Additionally, damages are an inadequate remedy against Bulgin's ongoing campaign of defamation. Gignac Decl.,¶ 13. The California Supreme Court has held that "a judgment for money damages will not always give the plaintiff effective relief from a continuing pattern of defamation." Balboa Island Village Inn, Inc. v. Lemen, 40 Cal. 4th 1141, 1158 (2007) (allowing injunction prohibiting defendant from repeating statements that had been adjudicated to be defamatory).

(3) Balance of Hardships. Likewise, the third factor favors granting Manwin's request for a permanent injunction. Manwin's trademarks and reputation will continued to be harmed by Bulgin's cybersquatting and defamation. Gignac Decl., ¶¶11, 13. By contrast, Bulgin will not be harmed by the proposed injunction because he is merely being prohibited from violating the law. See City of Carlsbad, 2012 WL 424418 ("There is no harm to [defendant] since an injunction would merely require [defendant] to comply with the law.") Defamation is not protected by the First Amendment. Ashcroft v. Free Speech Coal., 535 U.S. 234, 245-46 (2002) ("The freedom of speech has its limits; it does not embrace certain categories of speech, including defamation"). Furthermore, the injunction sought by Manwin will be limited to preventing Bulgin from repeating statements that have already been determined defamatory, and thus it is not an invalid prior restraint on speech, as discussed in greater detail below. See Balboa Island, 40 Cal. 4th at 1156.

(4) Public Interest. The fourth and final factor also supports granting the permanent injunction, which is necessary not just to protect Manwin's rights, but to protect the public interest as well. In trademark cases, "[t]he public has an interest in avoiding confusion between two companies' products." Internet Specialties W., Inc. v. Milon-DiGiorgio Enterprises, Inc., 559 F.3d 985, 993 n.5 (9th Cir. 2009) (affirming permanent injunction). The court granted a permanent injunction after entering default judgment on Plaintiff's ACPA claim in Belks Media, reasoning,

"the public interest is served when trademark holders' rights are protected against infringement." No. C09–00198 HRL., 2010 WL 7786122, at * 4. Additionally, although there is a public interest in free speech, Bulgin's defamatory statements about Manwin are not protected by the First Amendment. Ashcroft, 535 U.S. at 245-46. Moreover, because Manwin's requested injunction is limited to statements that have already been determined defamatory, it is not an invalid prior restraint, and will not have a chilling effect on speech. See Balboa Island, 40 Cal. 4th at 1156 (no prior restraint) and at 1152-53 (surveying U.S. Supreme Court decisions on injunctive relief against speech). See also, Kingsley Books, Inc. v. Brown, 354 U.S. 436, 445 (1957) (upholding statute that enjoined written material already determined to be obscene, reasoning "it studiously withholds restraint upon matters not already published and not yet found to be offensive.").

Courts have approved of injunctions like the one sought here by Manwin. In Balboa Island, the California Supreme Court held that injunctive relief was proper where defendant mounted a defamatory campaign against plaintiff Village Inn, which included telling neighbors that "there was child pornography and prostitution going on in the Inn, and the Village Inn was selling drugs and was selling alcohol to minors." 40 Cal. 4th at 1145. The court held that "following a trial at which it is determined that the defendant defamed the plaintiff, the court may issue an injunction prohibiting the defendant from repeating the statements determined to be defamatory." Id. at 1155-56.

Similarly, in Aguilar v. Avis Rent A Car Sys., Inc., the California Supreme Court held that an injunction prohibiting defendant from repeating racial epithets that had been determined to violate the Fair Employment and Housing Act was not contrary to the First Amendment. 21 Cal. 4th 121, 141-42 (1999). After surveying U.S. Supreme Court decisions, the Aguilar court concluded, "once a court has found that a specific pattern of speech is unlawful, an injunctive order prohibiting the repetition, perpetuation, or continuation of that practice is not a prohibited 'prior

restraint' of speech." Id. at 140. Thus, in both Balboa Island and Aguilar, the court approved of injunctions against the continuation of speech that had been determined to be defamatory or unlawful. This is consistent with Kingsley Books, Inc. v. Brown, where the U.S. Supreme Court upheld a statute that provided injunctive relief against the further distribution of written material once it had been judicially determined to be obscene. 354 U.S. at 438, 445.

Additionally, a Northern District of California court recently issued an injunction against defamation in an ACPA case (where Plaintiff had not even asserted a cause of action for defamation) that went beyond the scope of the injunctions approved by the California Supreme Court in Balboa Island and Aguilar.[3] In iYogi Holding Pvt. Ltd. v. Secure Remote Support, Inc., plaintiff sued defendants for making false, misleading, and defamatory statements about plaintiff's business both on defendants' website and on an apparently neutral reviews website, which was actually operated by defendants. No. C-11-05-92, 2011 WL 6291793, at *1 (N.D. Cal. Oct. 25, 2011) report and recommendation adopted sub nom. Iyogi Holding PVT Ltd. v. Secure Remote Support Inc., No. C 11-0592 CW, 2011 WL 6260364 (N.D. Cal. Dec. 15, 2011). Plaintiff alleged claims for: 1) intentional interference with prospective economic advantage; 2) unlawful business practices and unfair competition, Cal. Bus. Prof.Code § 17200, *et. seq.;* 3) common law unfair competition; 4) false or misleading advertising -- Cal. Bus. & Prof.Code § 17500 *et.*

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[3] Counsel for Manwin are also aware of the district court's recent decision in Oakley, Inc. v. McWilliams, No. CV 09-07666 DDP (RNBx), 2012 WL 2970534 (C.D. Cal. July 20, 2012), and respectively disagree with that decision. Notably, the Oakley court acknowledged the decision in Martin v. Reynolds Metals Co., 224 F. Supp. 978 (D. Or. 1963), where the district court issued a preliminary injunction ordering removal of a defamatory billboard. The Oakley court pointed to the Martin court's reasoning that "the court's injunction in this case would be both easy to carry out and easy to enforce – take down the sign, cease and desist until the claim is appropriately adjudicated[,]"implying that the ease of enforcement was the critical factor in that decision. If ease of enforcement is the issue, then Manwin, at the very least, should be entitled to an order directing the removal of the existing Twitter and BlogSpot pages, which are the modern day equivalent of billboards. Additionally, Manwin notes that the Oakley court did not address the issue of past defamation.

seq.; 5) trade libel; 6) false advertising in violation of § 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125; and 7) violation of Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d). Id. at *2. Plaintiff filed a motion for entry of default judgment, and sought a permanent injunction. Id. at *1. The court entered default judgment on all claims, except intentional interference with prospective advantage and trade libel, and entered a permanent injunction that enjoined Defendants, among other things, from "otherwise defaming, slandering, or libeling iYogi or its employees, directors, principals, or officers…." Id. at *20-21. Thus, the court granted an injunction that not only prohibited defendants from making statements about plaintiff's business or posting false reviews (defendants' previous conduct), but also more broadly prohibited defendants from "otherwise defaming, slandering, or libeling iYogi or its employees, directors, principals, or officers…." Id. This blanket injunctive relief was broader than the injunction against repeating defamatory statements approved by the Balboa Island court.

Injunctive relief is appropriate here for several reasons. As in iYogi, this Court should grant an injunction against defamation following entry of default judgment. 2011 WL 6291793, at *20. Additionally, the injunctive relief sought by Manwin is limited to enjoining Bulgin from repeating his previous defamatory statements. Thus it is analogous to the relief approved in Balboa Island and Aguilar and narrower than the injunction granted in iYogi. It therefore meets the requirement that an injunction restraining speech be "no broader than necessary to achieve its desired goals." Balboa Island, 40 Cal. 4th at 1159, quoting Madsen v. Women's Health Center, Inc., 512 U.S. 753, 765 (1994).

C. Manwin Is Entitled To Its Reasonable Attorneys' Fees.

The Lanham Act provides that "[t]he court in exceptional cases may award reasonable attorney fees to the prevailing party." 15 U.S.C. 1117(a)(3).

While the term "exceptional" is not defined in the Act, in this Circuit "a case is exceptional . . . where the infringement is willful, deliberate, knowing or

malicious." Earthquake Sound Corp. v. Bumper Indus., 352 F.3d 1210, 1216 (9th Cir. 2003) (affirming award of attorneys' fees). Courts have held that violations of the ACPA qualify as "exceptional" conduct meriting attorneys' fees. For example, in Lahoti v. Vericheck, Inc. the court awarded attorneys' fees based on violation of the ACPA in light of the cybersquatter's "willful registration and use of the Domain Name; attempts to extort thousands of dollars from [trademark owner] in exchange for the Domain Name; disregard of [trademark owner's] trademark rights notwithstanding his clear knowledge and actual notice of them; a pattern and practice of cybersquatting, including a pattern and practice of abusive litigation practices as a means to convince trademark owners to drop their domain name claims or to pay for domain names; and his disregard for the submission of inaccurate answers to interrogatories." 708 F. Supp. 2d at 1171. See also Electronics Boutiques, 2000 WL 1622760, at *8 (awarding attorneys' fees where cybersquatter violated the ACPA and "acted in complete bad faith by knowingly and intentionally trading on the goodwill and reputation of [plaintiff] in an attempt to mislead the public."); Verizon California Inc. v. OnlineNIC, Inc., No. C 08–2832 JF (RS), 2009 WL 2706393, at *10 (awarding attorneys' fees where, based on registration of 663 infringing domains, "it is clear that [defendant's] intent was to divert customers searching for [plaintiff's] websites.").

As in Lahoti, Bulgin willfully registered the Manwin Domain names in bad faith, attempted to extort Manwin for payment, knowingly disregarded Manwin's trademark rights, and repeatedly engaged in cybersquatting. FAC, ¶ 17. Furthermore, Bulgin's conduct was malicious because he used the Manwin Domains as a platform for his campaign of defamation and harassment of Manwin. Id.¶¶ 35-36. Thus, this is an exceptional case, and Manwin is entitled to reasonable attorneys' fees. Pursuant to Local Rule 55-3, Manwin seeks attorneys' fees of $11,600. See L.R. 55-3 (for a default judgment award in excess of $100,000, attorneys' fees are $5,600 plus 2% of the amount over $100,000).

V. CONCLUSION

For the foregoing reasons, Manwin respectfully requests that the Court enter default judgment, and grant Manwin the requested relief.

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