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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Pima Community College District,
Plaintiff,
v.
Edip Yuksel,
Defendant.

No. CV-23-00361-TUC-RCC
ORDER

Before the Court is Plaintiff Pima Community College's ("PCC") Motion for Default Judgment and Permanent Injunction, filed May 3, 2024. (Doc. 17.) Defendant Edip Yuksel did not respond to the motion nor the Complaint, but appeared and argued at the June 12, 2024 motion hearing. (*See* Docs. 10, 13, 15.) The Clerk of Court entered default on January 30, 2024. (Doc. 16.)

After the entry of default, the court may issue a default judgment against a non-appearing party. Fed. R. Civ. P. 55(b)(2). The decision to issue judgment is a matter left to the court's discretion. *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980).

Factors which may be considered by courts in exercising discretion as to the entry of a default judgment include: (1) the possibility of prejudice to the plaintiff, (2) the merits of [the] 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.

1 *Eitel v. McCool*, 782 F.2d 1470, 1471–1472 (9th Cir. 1986). The court assumes the
2 factual allegations in the complaint are true, except those related to damages. *TeleVideo*
3 *Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917–918 (9th Cir. 1987).

4 The Court reviewed the motion, the Complaint, and other documents of record as
5 well as heard oral argument. For the reasons stated in the hearing, the Court finds the
6 relevant factors weigh in favor of granting default judgment. Good cause appearing, the
7 Court finds that:

8 1. Plaintiff filed a two-count Complaint on July 31, 2023, seeking damages for
9 Defendant’s breach of his Employment Agreements and injunctive relief for Defendant’s
10 infringement of Plaintiff’s intellectual property;

11 2. The intellectual property that is the subject of the Complaint is all audio visual
12 recordings of Defendant’s lectures or class sessions while he was an employee of PCC
13 (the “Recordings”);

14 3. Defendant was served with process as required by law;

15 4. Defendant failed to appropriately answer or otherwise respond within the time
16 allowed by law or at all;

17 5. The Clerk has entered default against Defendant;

18 6. Notice of the request for default and default judgment was proper;

19 7. Plaintiff breached his Employment Agreements and infringed Plaintiff’s rights
20 in the Recording;

21 8. Plaintiff is entitled to a permanent injunction under 17 U.S.C. §§ 106 and 1322;

22 9. Plaintiff is entitled to statutory damages under 17 U.S.C. § 504;

23 10. Plaintiff is entitled to recover from Defendant; and

24 11. There is no just reason for Defendant’s delay, and accordingly this judgment is
25 entered under Rule 55(b) of the Federal Rules of Civil Procedure.

26 Accordingly, IT IS ORDERED:

27 (1) The Motion for Default Judgment and Permanent Injunction is GRANTED. (Doc.
28 17.)

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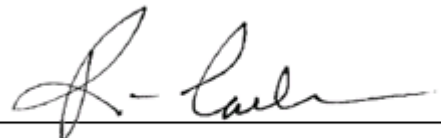
(2) A permanent injunction is entered against Defendant, his officers, agents, servants, employees, owners and representatives, and all other persons, firms, or corporations in active concert or participation with them, from publishing, reproducing, or publicly performing the Recordings;

(3) Defendant, his officers, agents, servants, employees, owners and representatives, and all other persons, firms, or corporations in active concert or participation with them must destroy and deliver up for destruction all originals and copies of the Recordings;

(4) Defendant must pay Plaintiff statutory damages in the amount of \$2,000.00; and

(5) Upon compliance with Fed. R. Civ. P. 54(d), Plaintiff shall be entitled to an award of its costs and attorneys' fees against Defendant.

Dated this 17th day of June, 2024.



Honorable Raner C. Collins
Senior United States District Judge