

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-62255-CIV-ZLOCH

DISH NETWORK, LLC, et al.,

Plaintiffs,

DEFAULT FINAL JUDGMENT

vs.

MICHAEL SMITH,

Defendant.

_____/

THIS MATTER is before the Court upon Plaintiffs' Motion For Default Judgment (DE 12). The Court has carefully reviewed said Motion, the entire court file and is otherwise fully advised in the premises.

By prior Order (DE 13), the Court entered Default against Defendant Michael Smith (hereinafter "Defendant"). By the instant Motion (DE 12) Plaintiffs Dish Network, LLC, EchoStar Technologies, LLC, and NagraStar, LLC (hereinafter "Plaintiffs"), now move for Default Final Judgment against Defendant with respect to Counts I and II of the Complaint (DE 1), which alleged violations of the Digital Millennium Copyright Act, 17 U.S.C. § 1201(a)(2) (hereinafter "DMCA") and Federal Communications Act, 47 U.S.C. § 605(e)(4) (hereinafter "FCA").

The well-pleaded allegations made in Plaintiffs' Complaint (DE 1) are deemed admitted by Defendant, by virtue of the Default entered against him. Cotton v. Mass. Mut. Life Ins. Co., 402 F.3d 1267, 1277-78 (11th Cir. 2005) (citations omitted). Thus, the

Court finds that Plaintiff Dish Network, LLC, delivers video, audio, and data services to subscribers in the United States through a direct broadcast satellite system using high-powered satellites to broadcast content to consumers who have been authorized to receive such services by paying subscription fees, or purchasing content through pay-per-view. The works broadcast are copyrighted, and Plaintiff Dish Network, LLC, has authority from the copyright holders to protect these works. Defendant violated both the DMCA and FCA by trafficking subscriptions to Nfusion Private Server (hereinafter "NFPS"), which is an Internet key sharing service that provides end-users the control words that descramble Plaintiffs' programming without the payment of subscription fees to Plaintiffs. Thus, Defendant enabled customers to access the NFPS service and view Plaintiffs' content without purchasing legitimate subscriptions from Plaintiffs.

Plaintiffs provide affidavits and accompanying documentation that establishes that Defendant purchased at least 45 passcodes to the NFPS service. In accordance with Section 605(e)(3)(C)(i)(II), Plaintiffs request statutory damages of \$10,000 per violation for Defendant's trafficking and distribution of the NFPS passcodes.

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED as follows:

1. The Court has personal jurisdiction over the Parties hereto and the subject matter herein;

2. Plaintiffs' Motion For Default Judgment (DE 12) be and the same is hereby **GRANTED**;

3. Pursuant to Federal Rules of Civil Procedure 55 and 58, Default Final Judgment be and the same is hereby **ENTERED** in favor of Plaintiffs Dish Network, LLC, EchoStar Technologies, LLC, and NagraStar, LLC and against Defendant Michael Smith upon Counts I and II of the Complaint (DE 1) filed herein;

4. Defendant Michael Smith and anyone in active concert or participation with Defendant, be and the same are hereby **PERMANENTLY ENJOINED** from:

a. manufacturing, importing, offering to the public, providing, or otherwise trafficking in IKS server passcodes or any code, password, or serial number used in accessing an IKS server and any other device or software used in circumventing Plaintiffs' security system or intercepting Plaintiffs' programming;

b. circumventing or assisting others to circumvent Plaintiffs' security system, or otherwise intercepting or assisting others to intercept Plaintiffs' satellite signal;

c. testing, analyzing, reverse engineering, manipulating, or otherwise extracting codes, data, or information from Plaintiffs' satellite receivers, smart cards, satellite stream, or any other part or component of Plaintiffs' security system;

5. Statutory damages in the amount of \$450,000 are awarded to Plaintiffs pursuant to 47 U.S.C. § 605(e)(3)(C)(i)(II).

6. The Court will retain jurisdiction over the above-styled cause solely for the purpose of enforcing this Judgment.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 30th day of June, 2016.



WILLIAM J. STOCH
United States District Judge

Copies Furnished:

All Counsel and Parties of Record

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