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 7
 8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

10
 11 TED ENTERTAINMENT, INC., a
 12 California Corporation,

13 Plaintiff,

14 v.

15 MORGAN KAMAL MAJED p/k/a
 16 FROGAN, an individual, and DOES
 1-10

17 Defendants.
 18
 19

Case No.: 2:25-cv-5565-JFW-MAA

[Assigned for all purposes to the Hon.
 John F. Walter]

**MEMORANDUM OF POINTS AND
 AUTHORITIES IN SUPPORT OF
 PLAINTIFF TED
 ENTERTAINMENT, INC.’S
 APPLICATION FOR DEFAULT
 JUDGMENT AGAINST
 DEFENDANT MORGAN KAMAL
 MAJED**

Action Filed: June 19, 2025

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MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to Federal Rule of Civil Procedure (“FRCP”) 55(b)(2), Plaintiff Ted Entertainment, Inc. (“TEI”) respectfully requests this Court to grant its Application for Default Judgment against Defendant Morgan Kamal Majed p/k/a Frogan (“Frogan”) for the reasons set forth below.

I. INTRODUCTION

Defendant Frogan successfully raised nearly \$40,000 to “defend” herself from TEI’s copyright infringement claim. Instead of using these funds to defend herself, Frogan evaded service and refused to respond to TEI’s complaint. Even after default was entered, she continued to solicit and accept donations by claiming the present action was not over.

Frogan’s hope is that this Court issues a lenient default judgment that slaps her on the wrist, while she quietly pockets the money she raised. This Court must send a message: there are serious consequences to engaging in willful and malicious copyright infringement and default judgment is not a “get out of jail free” card. As such, TEI respectfully requests this Court to enter default judgment and grant TEI: (1) \$150,000 in statutory damages or, alternatively, \$39,179 in actual damages (whichever is greater); (2) \$30,404 in attorneys’ fees; and (3) authorize TEI to submit a bill of costs.

II. STATEMENT OF FACTS

Frogan abandoned a career in public health to become an online extremist political streamer and provocateur. Dkt. No. 1 (“Cmpt.”), ¶¶ 16-17. Some notable examples of her online career include: (1) wishing veterans receive PTSD; (2) offering to make a cake recreating September 11th if she received a certain amount of contributions; (3) hosting a panel involving a racial tier list with “Arab” at the top and “Loves Sabra” (*i.e.*, Loves Israelis) at the bottom; and (4) fabricating multiple claims that she is being persecuted by Jews and Zionists. *Id.*, pp. 9:9-

1 10:23, 36:11-37:21.¹

2 Prior to the massacre of October 7th, Frogan was an effusive fan of TEI’s
3 content, including its owners Ethan and Hila Klein. Cmpt., pp. 7:11-17, 10:23-11:2.
4 After October 7th, this completely changed. Beginning on October 7th, Frogan
5 made several social media posts that expressed her support for Hamas and
6 outlandish conspiracy theories – including the false claim that Israelis harvested the
7 skin and organs of dead Palestinians. *Id.*, pp. 11:2-12:28. When Ethan Klein quietly
8 unfollowed her on Twitter, Frogan, made a public spectacle of the situation to
9 solicit sympathy and attack Ethan. *Id.*, p. 12:1-5.

10 Frogan continued to target the owners of TEI. In the racial tier list discussed
11 above (which was hosted by Frogan’s streaming platform, Twitch), Ethan was the
12 first person placed in the “Loves Sabra” category – with one participant even
13 stating a new category for “Zionist” should be created for Ethan. Cmpt., pp. 36:26-
14 37:21. Frogan placed Ethan in the “Loves Sabra” category as an attack on Ethan
15 and his wife Hila (who is a sabra). *Id.*

16 Beginning in late 2024, Ethan and Hila (through TEI) began working on the
17 audiovisual work *Content Nuke: Hasan Piker* (“*The Nuke*”). Cmpt., ¶¶ 36-38. *The*
18 *Nuke* is a tragi-comic documentary that chronicles how the prominent leftist online
19 personality, Hasan Piker, radicalizes his audience to support communism and
20 terrorism against Jews and Israelis. Cmpt., pp. 30:1-39:18 (summarizing *The Nuke*);
21 *see also* Ex. D (deposit copy of *The Nuke*); Ex. E (broadcast copy of *The Nuke*).²
22 On January 28, 2025, TEI registered *The Nuke* with the Copyright Office and it was
23 given the registration number of PAu 4-256-429. Cmpt., ¶ 38; Declaration of Rom
24 Bar-Nissim (“RBN Decl.”), ¶ 2; Ex. 1.

25 ¹ Citations to page numbers of the Complaint are to the ECF page numbers.

26 ² As explained in the Complaint, the deposit copy of *The Nuke* varied slightly from
27 the broadcast version, namely (1) the deposit copy did not contain the conclusion
28 that was contained in the broadcast version; (2) the deposit copy did not black out
footage of Hamas releasing hostages in November 2023; (3) the deposit copy did
not blur footage of the Houthis entering the bridge of the *Galaxy Leader*; and (4)
minor visual edits. Cmpt., ¶ 39.

1 Ethan began promoting *The Nuke* heavily in January 2025 and public interest
2 was high. Cmpt., ¶ 41. The Doe defendants (collectively, the “H3Snark Mods”)
3 promoted various watch parties of *The Nuke* to the users of the H3Snark subreddit –
4 *i.e.*, a message board of “fallen fans” of the Kleins and TEI’s content. Cmpt., ¶¶ 21-
5 25, 41-43, Exs. F-G. The H3Snark Mods had a history of engaging in piracy of
6 TEI’s copyrighted works. Cmpt., pp. 17:14-28:13. As the Honorable Sallie Kim
7 explained in her April 29, 2026 Order denying the H3Snark Mods motion to quash:

8 Although it may seem counterintuitive that opponents of the Kleins
9 would want to watch the Kleins’ programs, they were engaging in a
cultural phenomenon known as “hatewatching.”

10 The Urban Dictionary defines the term “hatewatch” as follows:

11 A hatewatched show is one the viewer genuinely despises
12 but cannot stop watching, This could be because it is so
13 “important: they feel they have to, because it has enough
14 promise that they hope it gets better, because it’s so well-
crafted in it’s [sic] terribleness that the badness itself is
15 noteworthy, or because they enjoy the adrenaline that
pure revulsion can bring. Whatever the reason, the
16 hatewatcher can’t look away from the trainwreck.

17 RBN Decl., ¶ 3, Ex. 2 at 9:26-10:6 (original emphasis); *In re Subpoenas to Reddit,*
18 *Inc. and Discord, Inc.* (N.D. Cal. Case No. 3:25-mc-80296-SK), Dkt. No. 45.

19 The H3Snark Mods made two highly visible community posts that directed
20 H3Snark users to watch Frogan’s watch party of *The Nuke* instead of the original.
21 Cmpt., ¶ 42, Exs. F-G. The first was made on January 30, 2025 (*i.e.*, the day before
22 *The Nuke* was publicly released) and featured Frogan (with a link to her stream on
23 Twitch) as a place “to watch the nuke without showing support for H3” (*i.e.*, TEI).
24 Cmpt., p. 40:2-13, Ex. F. The second was made shortly after *The Nuke* was released
25 on January 31, 2025 and featured Frogan as a place “to watch reactions to” *The*
Nuke with a link to her stream on Twtich. *Id.*, p. 40:14-22; Ex. G.

26 Frogan also promoted her watch party of *The Nuke*. The day before *The Nuke*
27 was released, Frogan encouraged her audience to deprive TEI of views by viewing
28 the watch parties of *The Nuke* by other Twitch streamers, including her own. Cmpt.,
pp. 46:22-47:6; Ex. I. In the hour leading up to *The Nuke*’s release, Frogan

1 promoted her watch party and acknowledged that she was receiving first time
2 viewers from H3Snark. Cmpt., p. 47:7-26, Ex. H at 19:53. 34:04, 38:54, 52:16,
3 54:09, 1:09:38. These statements included:

- 4 • “We have a bingo card. Uh, the *Snark Reddit* made it. *Shout out to them.*”
- 5 • “That you guys so much! I do appreciate everyone’s support. And *thank you*
6 *for watching it with me.*”
- 7 • [Reading chatter] “First time viewer. Time to *watch the nuke ethically.*”
8 [Frogan’s response] “Hell yeah!”
- 9 • [Reading chatter] “I found my way from *Reddit!*” [Frogan’s response] “Hi
10 guys! *Welcome Reddit people! Reddit people! Reddit people!*”
- 11 • [Reading chatter] “I came from the *H3Snark reddit*. Ethan is so pathetic,
12 while Hasan is unbothered and having a great time.” [Frogan’s response].
13 “Exactly!”
- 14 • [Reading chatter] “We’re going to watch live. Right?” [Frogan’s response].
15 “*We’re going to watch it live. Yes.*”

16 Frogan began her watch party of *The Nuke* one minute after its release when
17 public interest was at its apex. Cmpt., pp. 47:27-48:7; Ex. H at 10:10:34. Her
18 objective was to siphon views away from the original to herself and she succeeded
19 in this goal. *Id.* During her watch party, she let long portions of *The Nuke* play
20 without any interruption. Cmpt., pp. 48:8-50:9 (compiling timestamps). At one
21 point, Frogan even let *The Nuke* play for several minutes while she went off-screen
22 to go to the bathroom and remained silent when she returned. *Id.*, p. 50:11-19; Ex.
23 H 2:15:00-2:18:06. When she did pause *The Nuke*, she was frequently silent,
24 infringed on other copyrighted works and consistently failed to provide
25 commentary or criticism on the style or substance of *The Nuke*. Cmpt., pp. 50:20-
26 52:22 (collecting timestamps). Her poverty of commentary was so egregious that
27 she got into arguments with her audience about it. *Id.*, pp. 52:23-53:14 (collecting
28 timestamps). Frogan also used her watch party of *The Nuke* to solicit money and

1 she received numerous paid subscriptions and one-time payments, along with
2 revenue from placing advertisements on her watch party. *Id.*, pp. 60:13-61:12.

3 On June 19, 2025, TEI sued Frogan for copyrighted infringement and the
4 H3Snark Mods for contributory infringement. Dkt. No. 1. Shortly after Ethan
5 publicly announced the lawsuit, Frogan set up a GoFundMe page entitled “Frogan’s
6 Lawsuit Defense Fund.”³ RBN Decl., ¶ 4, Ex. 3. In the description, she stated that
7 the “fundraiser is to cover any and all legal fees associated with [TEI’s] complaint”
8 and “any counterclaims I may have”. *Id.*

9 Despite her fundraiser, Frogan had no intention of defending this lawsuit.
10 Initially, she evaded service and TEI was forced to conduct surveillance of her
11 apartment to serve her. RBN Decl., ¶ 5; Dkt. No. 12. When Frogan’s counsel
12 contacted TEI’s counsel contesting substituted service, TEI accommodated Frogan
13 by giving her an additional 60 days to respond. *Id.*; Dkt. Nos. 13-14. During the
14 extended time to respond, TEI and Frogan conducted settlement negotiations. RBN
15 Decl., ¶ 5. After the deadline to respond had passed, TEI refrained from seeking
16 default to further facilitate settlement negotiations. *Id.*

17 By mid-April 2026, it was apparent that settlement discussions were at an
18 impasse. RBN Decl., ¶ 6. On April 20, 2026, TEI’s counsel informed Frogan’s
19 counsel that TEI wished to proceed with litigation and that it would seek default
20 and default judgment if Frogan refused to respond in three weeks (*i.e.*, May 11,
21 2026). *Id.*, Ex. 4. In other words, TEI gave Frogan the same amount of time to
22 respond to the Complaint under FRCP Rule 12 if she had been served with it that
23 day. *Id.*, Ex. 4.

24 Frogan chose default. On May 11, 2026, Frogan did not file a response. RBN
25 Decl., ¶ 6. On May 19, 2026, TEI filed its request for the Clerk of this Court to
26 enter default against Frogan – which was served on Frogan’s counsel by mail. Dkt.
27 No. 15. On May 20, 2026, the Clerk of this Court entered default against Frogan.

28 ³ As of this filing, Frogan’s GoFundMe is still publicly available at:
<https://www.gofundme.com/f/frogans-lawsuit-defense-fund>

1 Dkt. No. 16.

2 A major public controversy erupted after default was entered against Frogan.
3 RBN Decl., ¶ 8. Donators to her legal defense fund began confronting her about not
4 defending the lawsuit. *Id.* Frogan’s response was to mislead the public by claiming
5 the action was not over, she did not lose and continued to solicit donations. *Id.*
6 Indeed, after default was entered on May 20, 2026, Frogan continued to receive
7 donations and her FoFundMe – which remains live as of this filing. *Id.*

8 **III. LEGAL STANDARD**

9 Default judgement is authorized under FRCP Rule 55(b)(2) after entry of
10 default pursuant to FRCP Rule 55(a). While discretionary in nature, “default
11 judgments are more often granted than denied.” *Parisienne v. OTDIHH LLC*, 2023
12 WL 11195910, *1 (C.D. Cal. Oct. 4, 2023) (quoting *PepsiCo v. Triunfo-Mex, Inc.*,
13 189 F.R.D. 431, 432 (C.D. Cal. 1999)). In determining whether to enter default
14 judgment, courts consider the following factors:

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

19 *Parisienne*, 2023 WL 11195910, *1 (citing *Eitel v. McCool*, 782 F.2d 1470,
20 1471-72 (9th Cir. 1986)).

21 Since “default has been entered against [the] defendant, the well-pleaded
22 factual allegations of the complaint are taken as true, except those relating to
23 damages.” *Parisienne*, 2023 WL 11195910, *1 (citing *TeleVideo Systems, Inc. v.*
24 *Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987); *Geddes v. United Fin. Grp.*, 559
25 F.2d 557, 560 (9th Cir. 1977)).

26 **IV. ARGUMENT**

27 **A. TEI has Complied With Local Rule 55-1**

28 As a preliminary matter, Local Rule 55-1 requires that the following matters

1 be accompanied by a declaration:

2 (a) When and against what party the default was entered; (b) The
3 identification of the pleading to which default was entered; (c)
4 Whether the defaulting party is an infant or incompetent person, and if
5 so, whether that person is represented by a general guardian,
6 committee, conservator or other representative; (d) That the
7 Servicemembers Civil Relief Act (50 U.S.C. App. § 521) does not
8 apply; and (e) That notice has been served on the defaulting party, if
9 required by F.R.Civ.P. 55(b)(2)

7 L.R. 55-1.

8 Here, TEI satisfied all the requirements of Local Rule 55-1. RBN Decl., ¶ 7.

9 **B. TEI will be Prejudiced Without a Default Judgment**

10 “Prejudice can be shown if denying default judgment would leave a plaintiff
11 without a remedy.” *Wareka v. Queen B. Makeup Corp.*, 2024 WL 4867233, *2
12 (C.D. Cal. Sept. 20, 2024) (citing *Landstar Ranger, Inc. v. Parth Enters., Inc.* 725
13 F.Supp.2d 916, 920 (C.D. Cal. 2010)). When, as here, Frogan has “elected not to
14 respond to the complaint,” it “den[ies]” TEI its “right to have” its “claim heard and
15 to seek relief.” *Wareka*, 2024 WL 4867233, *2 (quoting *Custer v. Cristo Armstrong*
16 *Powers, Inc.*, 2020 WL 6224559, *1 (C.D. Cal. July 7, 2020); citing *Evans v.*
17 *Creditor’s Specialty Serv., Inc.*, 2016 WL 730277, *2 (N.D. Cal. Feb. 24, 2016)).

18 The first *Eitel* factor weighs in favor of granting default judgment. TEI has
19 established prejudice absent default judgment because Frogan has elected not to
20 respond to TEI’s Complaint. *See* Dkt. No. 16. This denies TEI’s right to have its
21 claim for copyright infringement heard and obtain relief.

22 **C. TEI’s Claim of Copyright Infringement Against Frogan has Merit**

23 The second *Eitel* factor asks whether the plaintiff has “state[d] a claim on
24 which they may recover.” *Wareka*, 2024 WL 4867233, *3 (internal brackets
25 omitted) (quoting *PepsiCo., Inc. v. Cal. Sec. Cans*, 238 F.Supp.2d 1172, 1175 (C.D.
26 Cal. 2002)). “In considering the sufficiency of the complaint and the merits of the
27 plaintiff’s substantive claims, facts alleged in the complaint not relating to damages
28 are deemed to be true upon default.” *Wareka*, 2024 WL 4867233, *3 (quoting *Bd.*

1 of *Trs. Of Sheet Metal Workers v. Moak*, 2012 WL 5379565, *2 (N.D. Cal. Oct 31,
2 2012); citing *Geddes*, 559 F.2d at 560; FRCP 8(d)).

3 TEI has alleged a claim of copyright infringement against Frogan. As such,
4 TEI “must establish: (1) ownership of a valid copyright; and (2) copying of
5 ‘protected aspects of the work’ by the defendant.” *Wareka*, 2024 WL 4867233, *3
6 (quoting *Skidmore v. Led Zeppelin*, 952 F.3d 1051, 1064 (9th Cir. 2020)).

7 As to the first element, TEI has pled that *The Nuke* was registered with the
8 Copyright Office on January 28, 2025. Cmpt., ¶ 38. The registration number for
9 *The Nuke* is PAU 4-256-429. *Id.* Further, TEI is providing the registration
10 certificate for *The Nuke*. RBN Decl., ¶ 2, Ex. 1. “A copyright registration is ‘prima
11 facie evidence of the validity of the copyright and the facts stated in the
12 certificate.’” *Wareka*, 2024 WL 4867233, *3 (quoting *United Fabrics*
13 *International, Inc. v. C&J Wear, Inc.*, 630 F.3d 1255, 1257 (9th Cir. 2011); 17
14 U.S.C. § 410(c)).

15 As to the second element, TEI has pled and proven Frogan’s watch party
16 violated TEI’s exclusive rights in *The Nuke* by reproducing, publicly performing
17 and creating a derivative of the entire work without authorization.⁴ 17 U.S.C. §§
18 106(1-2)(4); Cmpt., pp 46:17-63:9; compare Ex. E with Ex. H.

19 Therefore, the second *Eitel* factors favors default judgment because TEI has
20 alleged and proven that Frogan committed copyright infringement of *The Nuke*.

21 **D. The Amount of Money at Issue Favors Default Judgment**

22 The fourth factor requires considering “the amount of money at stake in
23 relation to the seriousness of Defendant’s conduct.” *PepsiCo*, 238 F.Supp.2d at
24 1176. Here, TEI seeks: (1) \$150,000 in statutory damages for willful infringement
25 or, alternatively, \$39,179 in disgorgement of profits (whichever is greater); (2)
26 \$30,404 in attorneys’ fees; and (3) leave to file a bill of costs. In light of the

27 ⁴ TEI even set forth in exacting detail why Frogan failed to make a fair use of *The*
28 *Nuke*. Cmpt., pp 41:5-46:15 (setting forth relevant law), pp. 46:16-62:15 (setting
forth facts why Frogan’s watch party fails each of the four fair use factors).

1 egregiousness of Frogan’s conduct, this amount is reasonable as explained below.

2 **1. TEI Should be Awarded \$150,000 in Statutory Damages**

3 Under the Copyright Act, a copyright owner is entitled to statutory damages
4 if the infringement occurred after registration. 17 U.S.C. §§ 504(a), 504(c)(1). Here,
5 TEI registered *The Nuke* with the Copyright Office on January 28, 2025 and
6 Frogan’s acts of infringement occurred on January 31, 2025. Cmpt., ¶¶ 38; *Id.*, pp.
7 40:14-22, p. 45 fn. 41, pp. 47:27-48:7; Ex. H at 1:10:34; RBN Decl., ¶ 2, Ex. 1.
8 Therefore, TEI is entitled to statutory damages.

9 Statutory damages range from \$750 to \$30,000 – but can be increased by up
10 to \$150,000 when the infringement is willful. 17 U.S.C. §§ 504(c)(1-2). To
11 demonstrate willfulness, the plaintiff must show: “(1) that the infringing party was
12 actually aware of the infringing activity, or (2) that the infringing party’s actions
13 were the result of reckless disregard for, or willful blindness to, the copyright
14 holder’s rights.” *VHT, Inc. v. Zillow Grp., Inc.*, 918 F.3d 723, 748 (9th Cir. 2019)
15 (internal brackets omitted). “When the defendant has defaulted, willful copyright
16 infringement is proven.” *Globe Entertainment and Media Corp. v. Global Images*
17 *USA*, 2022 WL 2703845, *6 (C.D. Cal. July 11, 2022) (quoting *Microsoft Corp. v.*
18 *McGee*, 490 F.Supp.2d 874, 880 (S.D. Ohio 2007)).

19 Here, the evidence that Frogan willfully and maliciously infringed of *The*
20 *Nuke* is overwhelming as summarized below:

- 21 • The day before *The Nuke* was released she encouraged viewers to view her
22 watch party and the watch parties of others instead of the original. Cmpt., pp.
23 46:22-47:6; Ex. I.
- 24 • Prior to her watch party, Frogan repeatedly: (1) stated she was going to
25 “watch” *The Nuke* live; (2) stated that viewing *The Nuke* with her was a way
26 to “ethically” watch it; and (3) acknowledged that she was receiving viewers
27 from Reddit who wanted to see pirated versions *The Nuke*. Cmpt., p. 47:7-26;
28 Ex. H at 19:53, 34:04, 38:54, 52:16, 54:09.

- 1 • Beginning her watch party of *The Nuke* immediately upon its release when
2 public interest was at its apex. Cmpt., pp. 47:27-48:7; Ex. H at 1:10:34.
- 3 • Letting significant portions *The Nuke* play without any interruption – even
4 for minutes at a time. Cmpt., pp. 48:8-50:9 (collecting timestamps).
- 5 • Letting *The Nuke* play uninterrupted as she went to the bathroom off-camera
6 and remained silent when she returned. Cmpt., p. 50:11-19; Ex. at 2:15:00-
7 2:18:06.
- 8 • Playing other copyrighted works during her watch party without
9 authorization. Cmpt., p. 51:6-12; Ex. H at 0:00:00-0:13:19, 1:50:23-52.
- 10 • Failing to comment on the vast majority of *The Nuke* to such an extent that
11 her audience criticized her multiple times for not providing any criticism or
12 commentary. Cmpt., pp. 51:13-53:14.
- 13 • On the rare occasions Frogan did speak during her watch party, her
14 statements frequently had nothing to do with *The Nuke* whatsoever. Cmpt.,
15 pp. 53:28-54:20 (collecting examples and timestamps).
- 16 • Commercially exploiting *The Nuke*, including soliciting paid subscriptions,
17 thanking new subscribers, promoting her podcast, displaying subscription
18 goals and running ads on her watch party. Cmpt., pp. 60:13-61:12.

19 Under the Copyright Act, “statutory damages may serve completely different
20 purposes than actual damages.” *Nintendo of America, Inc. v. Dragon Pacific*
21 *Intern.*, 40 F.3d 1007, 1011 (9th Cir. 1994). In general, statutory damages serve
22 “compensatory and punitive purposes” and are intended to “sanction and vindicate
23 the statutory policy of discouraging infringement.” *Dream Games of Arizona, Inc.*
24 *v. PC Onsite*, 561 F.3d 983, 992 (9th Cir. 2009). Further, “when infringement is
25 willful, the statutory damages award may be designed to penalize the infringer and
26 to deter future violations.” *Nintendo of America*, 40 F.3d at 1011.

27 Here, there is great need for statutory damages to serve – not just
28 compensatory purposes – but punitive and deterrence purposes as well. First, as

1 discussed above, the proof of Frogan’s intentional and malicious infringement of
2 *The Nuke* is overwhelming. Second, Frogan was not alone in conducting infringing
3 watch parties of *The Nuke* immediately or shortly after its release. Dkt. No. 1, pp.
4 62:12-15; RBN Decl., ¶ 3-4. A strong message must be sent that hosting a watch
5 party that commercially exploits a copyrighted work in its entirety immediately
6 upon release will not be tolerated.

7 Therefore, in light of the severity of Frogan’s conduct and that her conduct
8 was emulated by others, an award of statutory damages of \$150,000 (or close to
9 that amount) is warranted and reasonable under the circumstances. *See Amazon*
10 *Content Services LLC v. DeBarr*, 793 F.Supp.3d 1242, 1254 (C.D. Cal. 2025)
11 (finding a statutory damages award of \$150,000 per work to be reasonable for
12 default judgment); *Columbia Pictures Industries, Inc. v. Galindo*, 2022 WL
13 17094713, *11 (C.D. Cal. Nov. 18, 2022) (same).

14 **2. Alternatively, TEI should be Awarded the Amount in**
15 **Frogan’s GoFundMe**

16 Alternatively, the Copyright Act authorizes TEI to receive actual damages
17 and disgorge Frogan’s profits that are “attributable to the infringement.” 17 U.S.C.
18 §§ 504(a), 504(c)(1). Since Frogan refuses to participate in this lawsuit and
19 discovery, TEI is unable to obtain any information on: (1) the number of viewers of
20 Frogan’s watch party; (2) the amount of advertising revenue she received; or (3) the
21 amount of paid subscriptions she received.

22 TEI is able to identify the amount that is currently in Frogan’s GoFundMe –
23 which as of this filing is \$39,179. RBN Decl., ¶ 4, Ex. 3. TEI is entitled to these
24 funds under the Copyright Act as profits attributable to Frogan’s infringement of
25 *The Nuke* as explained below.

26 Under the Copyright Act, the “copyright owner is entitled to recover ... any
27 profits of the infringer that are attributable to the infringement.” 17 U.S.C. § 504(b).
28 “In establishing the infringer’s profits, the copyright owner is required to present

1 proof only of the infringer’s gross revenue, and the infringer is required to prove his
2 or her deductible expenses and the elements of profit attributable to factors other
3 than the copyrighted work.” *Id.* As Congress explained, the broadness of the rule is
4 “to prevent the infringer from unfairly benefiting from a wrongful act.” H.R. Rep.
5 No. 94-1476, § 504, at 161 (1976).

6 The Ninth Circuit has held that, under the statute, (1) “the copyright claimant
7 must first show a causal nexus between the infringement and the gross revenue;”
8 and (2) “once the causal nexus is shown, the infringer bears the burden of
9 apportioning the profits that were not the result of infringement.” *Polar Bear*
10 *Productions, Inc. v. Timex Corp.*, 384 F.3d 700, 711 (9th Cir. 2004). This rule
11 applies to claims of both direct and indirect profits. *Id.* at fn. 7. So long as the
12 plaintiff “establish[es] a non-speculative link between the infringement and the
13 actual profits,” the profits are recoverable. *Id.* at 714 fn. 11 (citing *Frank Music*
14 *Corp. v. Metro-Goldwyn-Mayer, Inc.*, 772 F.2d 505, 517 (9th Cir. 1985)).

15 “Profits indirectly gained from infringements used in promotional efforts, as
16 is the case here, fall squarely within the rubric of wrongful profits.” *Polar Bear*,
17 384 F.3d at 708. If the “infringement at least partially caused the profits that the
18 infringer generated as a result of the infringement,” they are considered to be profits
19 “that arise from the infringement.” *Id.* at 711. “Any doubt as to the computation of
20 costs or profits is to be resolved in favor of the plaintiff. If the infringing defendant
21 does not meet its burden of proving costs, the gross figure stands as the defendant’s
22 profits.” *Frank Music*, 772 F.2d at 514).

23 Here, the funds in Frogan’s GoFundMe are profits attributable to her
24 infringement. Frogan obtained those funds as a direct result of her infringement of
25 *The Nuke* and TEI’s attempt to hold her accountable for that infringement. Had
26 Frogan not infringed, there would be no GoFundMe in the first instance.

27 Therefore, as an alternative, TEI should be awarded \$39,179 if it is greater
28 than the amount this Court decides to grant in statutory damages.

1 **3. TEI is Entitled to its Attorneys’ Fees**

2 “Section 505 of the Copyright Act permits district courts to award ‘a
3 reasonable attorney’s fee to the prevailing party.’” *Amazon Content Services*, 793
4 F.Supp.3d at 1256 (quoting 17 U.S.C. § 505).⁵ In determining whether to grant fees
5 under the Copyright Act, courts may consider the following factors: “(1) the degree
6 of success obtained, (2) frivolousness, (3) motivation, (4) objective reasonableness
7 of the losing party’s legal and factual arguments, and (5) the need to advance
8 considerations of compensation and deterrence.” *Tresona Multimedia, LLC v.*
9 *Burbank High School Vocal Music Association*, 953 F.3d 638, 653 (9th Cir. 2020).

10 *Amazon Content Services* succinctly explains why all the factors weigh in
11 favor of granting attorneys’ fees to TEI:

12 In a default judgment case such as this one, these factors are readily
13 met. Plaintiffs have achieved complete success on the merits, their
14 complaint has not been shown to be frivolous, they were motivated to
15 recover legally cognizable damages, no party has presented any
16 objections to Plaintiffs’ arguments, and attorneys’ fees are warranted
17 to deter both Defendants’ substantive copyright infringement and their
18 unresponsiveness to Plaintiffs’ filings.

19 *Amazon Content Services*, 793 F.Supp.3d at 1257.

20 “Courts generally employ the ‘lodestar’ method to determine the
21 reasonableness of the attorneys’ fees requested.” *Amazon Content Services*, 793
22 F.Supp.3d at 1257. This is determined by “multiplying the number of hours
23 reasonably expended on the litigation by a reasonable hourly rate.” *Id.*

24 Here, TEI seeks to recover \$30,404 in its fees. RBN Decl., ¶¶ 9-12. Ex. 5. As
25 set forth in greater detail in the Declaration of Rom Bar-Nissim, his hourly rate of
26 \$375 to \$400 is extremely reasonable – particularly for a highly experienced
27 copyright litigator in Los Angeles. RBN Decl., ¶ 8. As further set forth in the
28 Declaration of Rom Bar-Nissim, the total amount of hours he spent on analyzing
and outlining Frogan’s watch party, drafting the complaint, communicating with
opposing counsel and researching and drafting this Application are also reasonable.

⁵ While Local Rule 55-3 provides a schedule for attorneys’ fees, the same rule authorizes an attorney to request fees in excess of that schedule.

1 *Id.*, ¶ 9. Further, Mr. Bar-Nissim retained a researcher at an hourly rate of \$30 in
2 order to delegate tasks in a more cost-effective manner. *Id.*, ¶ 10.

3 Therefore, this Court should award TEI \$30,404 in fees.

4 **4. TEI is Entitled to Costs**

5 “As the prevailing party, [TEI] is entitled to costs as set forth in 28 U.S.C. §
6 1920, Federal Rule of Civil Procedure 54(d)(1), and Local Rule 54-3.” *Wareka*,
7 2024 WL 4867233, *6. TEI requests that this Court authorize it to submit a Bill of
8 Costs and Application to the Clerk to Tax Costs pursuant to Local Rule 54-2.

9 **E. There is No Dispute of Material Fact**

10 “The fifth *Eitel* factor examines the likelihood of dispute between the parties
11 regarding the material facts surrounding the case.” *Wareka*, 2024 WL 4867233, *4
12 (quoting *Craigslist, Inc. v. Naturemarket, Inc.*, 694 F.Supp.2d 1039, 1060 (N.D.
13 Cal. 2010)). “Where a plaintiff has filed a well-pleaded complaint, the possibility of
14 dispute concerning material facts is remote.” *Wareka*, 2024 WL 4867233, *4
15 (quoting *Wecosign, Inc. v. IFG Holdings, Inc.*, 845 F.Supp.2d 1072, 1082 (C.D.
16 Cal. 2012); *see also Landstar Ranger*, 725 F.Supp.2d at 921-22 (“Since [plaintiff]
17 has supported its claims with ample evidence, and defendant has made no attempt
18 to challenge the accuracy of the allegations in the complaint, no factual disputes
19 exists that preclude the entry of default judgment.”)).

20 Here, the Complaint contains extensive factual allegations regarding
21 Frogan’s infringement and how the H3Snark Mods facilitated that infringement.
22 *See* Cmpt., pp. 17:14-28:13 (H3Snark Mods history of copyright infringement); pp.
23 38:19-41:4 (H3Snark Mods promotion of Frogan’s watch party of *The Nuke*); pp.
24 46:16-62:15 (detailing why Frogan failed to make a fair use of *The Nuke*).

25 Equally important, the Complaint was accompanied by video exhibits of *The*
26 *Nuke*, Frogan’s watch party and the posts by the H3Snark Mods directing viewers
27 to her stream. *See* Exs. D-E (deposit and broadcast copy of *The Nuke*); Exs. F-G
28 (the H3Snark Mods posts); Exs. H-I (Frogan’s watch party and clip of Frogan

1 promoting her watch party the day prior).

2 Therefore, this factor weighs in favor of default judgment because there is no
3 possibility of a dispute concerning material facts, since the most important and
4 material evidence to this case is already before the Court.

5 **F. There is No Possibility of Excusable Neglect**

6 “The sixth *Eitel* factor considers the possibility that the default resulted from
7 excusable neglect.” *Wareka*, 2024 WL 4867233, *4 (quoting *PepsiCo*, 238
8 F.Supp.2d at 1177). “This factor favors default judgment when the defendant has
9 been properly served or the plaintiff demonstrates that the defendant is aware of the
10 lawsuit.” *Wareka*, 2024 WL 4867233, *4 (citing *PepsiCo*, 238 F.Supp.2d at 1177).

11 Here, Frogan was properly served and even agreed not to challenge service
12 under FRCP Rules 12(b)(4-5). Dkt. Nos. 13-14. Further, as demonstrated in the
13 August 5, 2025 joint stipulation, Frogan was represented by counsel. Dkt. No. 13.
14 Further, TEI informed Frogan’s counsel on April 20, 2026 that, if she did not file a
15 responsive pleading in three weeks (*i.e.*, by May 11, 2026), TEI would seek default
16 and default judgment. RBN Decl., ¶ 6, Ex. 4. Moreover, TEI served Frogan’s
17 counsel with its request for entry of default and this application. *Id.*

18 Therefore, this factor weighs in favor of default judgment because there is no
19 possibility of excusable neglect.

20 **G. The Policy Favoring Decisions on the Merits is Inapplicable**

21 “The final *Eitel* factor examines whether the strong policy favoring deciding
22 cases on the merits prevents the court from entering default judgment.” *Wareka*,
23 2024 WL 4867233, *4 (quoting *Craigslist*, 694 F.Supp.2d at 1061. While cases
24 “should be decided upon their merits whenever reasonably possible,” the
25 “termination of a case before hearing the merits is allowed whenever a defendant
26 fails to defend an action.” *Wareka*, 2024 WL 4867233, *4 (quoting *Eitel*, 782 F.2d
27 at 1472; *PepsiCo*, 238; F.Supp.2d at 1177; citing FRCP 55(a)). When “a
28 defendant’s failure to appear and respond ‘makes a decision on the merits

1 impractical, if not impossible’ default judgment is appropriate.” *Wareka*, 2024 WL
2 4867233, *4 (quoting *PepsiCo*, 238 F.Supp.2d at 1177).

3 Here, Frogan had over ten months to respond to the complaint but failed to
4 appear, respond or otherwise participate in this action. Therefore, this factor weighs
5 in favor of default judgment because the policy for favoring decisions on the merits
6 is inapplicable in this case.

7 **V. CONCLUSION**

8 For the reasons set forth above, TEI respectfully requests that this Court
9 award it: (1) \$150,000 in statutory damages or, alternatively, \$39,179 in disgorged
10 profits – whichever is greater; (2) \$30,404 in attorneys’ fees’ and (3) grant TEI
11 leave to submit its Bill of Costs.

12 Dated: June 29, 2026

HEAH BAR-NISSIM LLP

13
14 By /s/ Rom Bar-Nissim
15 **ROM BAR-NISSIM**
16 Attorneys for Plaintiff Ted
17 Entertainment, Inc.
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, the undersigned, declare that I am, and was at the time of service of the papers herein referred to, over the age of eighteen years and not a party to the within action or proceeding. My business address is the law firm of Heah Bar-Nissim LLP, 1801 Century Park East, Suite 2400, Los Angeles, CA 90067.

On June 29, 2026, I served the following document(s) **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF TED ENTERTAINMENT, INC.’S APPLICATION FOR DEFAULT JUDGMENT AGAINST DEFENDANT MORGAN KAMAL MAJED**

Bahram Niknia NIKZIA LAW FIRM, INC. 1875 Century Park East Suite 1240 Los Angeles, CA 90067	Attorney for Defendant Morgan Kamal Majed p/k/a Frogan
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[X] BY MAIL: I enclosed the document(s) identified above in a sealed envelope or package addressed to the persons addressed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully paid. attached the document(s) to an email sent to the email addresses set forth above

I declare under penalty of perjury that the foregoing is true and correct and a member of the bar of this Court.

Executed this June 29, 2026, at Los Angeles, CA.

/s/ Rom Bar-Nissim

Rom Bar-Nissim