

Federal Court



Cour fédérale

Date: 20180326

Docket: T-2141-15

Citation: 2018 FC 337

BETWEEN:

**ODYSSEY TELEVISION NETWORK INC and
2371349 ONTARIO INC**

Plaintiffs

and

**ELLAS TV BROADCASTING INC, ELLAS TV
CANADA INC, ELLAS TV INC and 1606911
ONTARIO INC (a.k.a. GREEK WORLD
MUSIC & ENCORE PRODUCTIONS)**

Defendants

REASONS FOR JUDGMENT

PHELAN J.

I. Introduction/Nature of Matter

[1] The two motions at issue were originally Rule 369 proceedings but were ordered to be argued orally.

[2] The overriding dispute relates to the rights to distribute Greek language programming in Canada. The Plaintiffs had commenced an action to prevent the Defendants from distributing this programming. The grounds asserted were that the Plaintiffs were the exclusive legal distributors and the Defendants' conduct in distributing Greek language programs was a breach of the Plaintiffs' rights under the *Copyright Act*, RSC 1985, c C-42, and the *Radiocommunication Act*, RSC 1985, c R-2.

[3] The first motion, filed by the Plaintiffs, is for default judgment in light of the Defendants' failure to file a Statement of Defence.

The second motion, filed by the Defendants on the same day they filed their response to the Plaintiffs' default judgment motion, is for an extension of time to serve and file a Statement of Defence.

[4] Both motions were fully argued orally. It should be noted that Greek World Music & Encore Productions was later added as a Defendant on the Plaintiffs' motion but has not participated in this action.

II. Background

[5] The Plaintiffs are related companies that assert that they are the exclusive holders of the right to receive, encode, offer, exhibit, disseminate, distribute, broadcast, and to authorize others to broadcast in Canada via television (cable and satellite) and over the internet various programming from Greece.

[6] The Plaintiff Odyssey Television Network Inc [Odyssey] holds these rights pursuant to three agreements:

1. an April 4, 2013 agreement with KB Impuls Hellas AE, a Greek company, who transferred its exclusive rights to Alpha Satellite Television SA [Alpha] programming in Canada to Odyssey;
2. an agreement dated December 27, 2012 and May 2014 with Titan Television Network LLC, a New Jersey company, that Odyssey has exclusive right and licence to Teletypos SA [Mega] programming in Canada; and
3. an agreement since 2005 with Antenna Pay TV USA, Inc, a Delaware corporation, that granted Odyssey the distribution rights to Antenna TV SA [Antenna] programming in Canada, an authorization that no other entity has been given in Canada.

[7] The Plaintiff 2371349 Ontario Inc holds these rights pursuant to an agreement with Alpha dated January 1, 2015, which grants 2371349 Ontario Inc an exclusive license to transmit and distribute the Alpha Channel in Canada, and to authorize third parties to do so.

[8] The Plaintiffs hold the necessary licenses and authorizations from the Canadian Radio-television and Telecommunications Commission in furtherance of the above agreements.

[9] The Alpha, Mega, and Antenna programming are encrypted outside Greece. The programming consists of Greek-language television channels, programming, and signals from Greece.

[10] The Defendants are comprised of Ellas TV Broadcasting Inc, Ellas TV Canada Inc, and Ellas TV Inc [the Ellas Defendants] and 1606911 Ontario Inc, aka Greek World Music & Encore Productions [Greek World Music]. The Ellas Defendants are corporations incorporated in Illinois, and Greek World Music is an Ontario corporation that serves as its Canadian distributor.

[11] The Defendants provide an online service and IPTV service made available to the public through the internet at the following sites: <http://ellastv.us>, <http://ellastvcanada.com>, <http://ellastvshop.net>, and <http://ellastv2go.com/> [Infringing Sites]. The Infringing Sites offer some limited free content, but provide unlimited access to the programming for paying subscribers.

[12] The Plaintiffs allege that since November 2014, the Defendants have installed, configured, sold, offered, exhibited, disseminated, distributed, and broadcast the Alpha, Mega, and Antenna programming in Canada through online subscription service and broadcasting equipment such as set-top boxes. The Plaintiffs submit that this is a breach of their rights under the *Copyright Act* and *Radiocommunication Act*.

[13] Since November 2014, the Plaintiffs allege that the Defendants have broadcast 39,435 individual works consisting of news, movies, series, and other programming. The Defendants are alleged to have been continuously unlawfully decoding the encrypted programming signals during this time, providing it to visitors to the Infringing Sites and their subscribers.

[14] The Defendants have ignored demands by the Plaintiffs and the Greek owners of that programming to cease and desist. At paras 88-100 of John Maniatakos' affidavit, there is evidence from the Plaintiffs that their subscribers and resulting revenue has significantly declined since 2014, when they discovered that the Defendants were operating in the market.

[15] The Plaintiffs filed a Statement of Claim against the Ellas Defendants on December 22, 2015, seeking statutory damages under the *Copyright Act*, or, alternatively, damages for the Defendant's breach of the *Radiocommunication Act*. Greek World Music was added as a Defendant when the Plaintiffs filed an Amended Statement of Claim on November 21, 2016. The Plaintiffs seek not only damages but injunctive and ancillary relief.

[16] In summary, the Plaintiffs claim \$5,000,000 as statutory damages for infringement under the *Copyright Act*, or, alternatively, damages under the *Radiocommunication Act*, and injunctive relief preventing, *inter alia*, retransmission of the works or their encrypted signals.

[17] The Defendants did not file a Statement of Defence despite the Plaintiffs' repeated requests, attempts by the learned Prothonotary to move this file along, and oblique indications that the Defendants would be taking some action.

[18] The procedural history is important and it is set forth below.

[19] Despite all these procedural steps, no Statement of Defence was filed until October 23, 2017 in response to the Plaintiffs' motion of September 28, 2017 for default judgment. The Plaintiffs' Statement of Claim had been filed December 22, 2015.

[20] The Ellas Defendants claim that they have always intended to defend the Plaintiffs' claim against them, and further claim that they were unaware until October 13, 2017 that the Statement of Defence had not been served and filed. They claim that the fault is that of then counsel and their general lack of understanding of the Canadian legal process.

A. *Procedural History*

[21] As noted above, the Plaintiffs filed a Statement of Claim on December 22, 2015. It was served on the Ellas Defendants on February 4, 2016.

The Ellas Defendants had 30 days to file a Statement of Defence. They did not.

[22] On March 9, 2016, the parties consented to an extension of time to file a Statement of Defence no later than April 4, 2016. That deadline was not met.

[23] On March 29, 2016, the Ellas Defendants filed a notice of motion for an Order striking out the Statement of Claim, seeking in the alternative to halt the proceedings until the alleged copyright owners were added to the claim as parties. No motion record was filed.

[24] On June 24, 2016, the Ellas Defendants filed a notice of change of solicitor and appointed Jim Koumarelas as solicitor of record, and the hearing set for June 28, 2016 was removed from the motions list.

[25] On September 27, 2016, Prothonotary Ayles (who was later assigned as Case Management Judge) ordered that the action would continue as specially managed, and the Ellas Defendants' motion to strike would be heard on November 8, 2016. The parties were to provide a proposed timetable for filing of materials and availability for a case management conference by October 11, 2016. They did not.

[26] Prothonotary Ayles issued a Direction that recognized that the Court had received no communications whatsoever from the parties as required by the September 27, 2016 Order. The parties were given until October 19, 2016 to provide availability for a case management conference and a proposed timetable for the perfection of the motion.

[27] On October 24, 2016, Prothonotary Ayles issued a Direction that stated that the Ellas Defendants had failed to comply with the Court's Order and Directions in relation to the provision of a timetable for the perfection of the Ellas Defendants' motion to strike, the Ellas Defendants had not met the deadline for providing availability for a case management conference, and it appeared that the Ellas Defendants had failed to respond to any communications from the Plaintiffs. The hearing date set for November 8, 2016 to hear the motion to strike was vacated.

[28] On November 2, 2016, Prothonotary Aylen issued an Order resulting from a case management conference that set an operative timetable. This Order recognized that the Ellas Defendants no longer intended to bring a motion to strike the Statement of Claim, and the Plaintiffs were given until November 21, 2016 to serve and file an Amended Statement of Claim. The Ellas Defendants had 21 days from the date of service to file a Statement of Defence.

[29] On November 21, 2016, the Plaintiffs filed an Amended Statement of Claim, in which Greek World Music was added as a Defendant. The Defendants did not file a Statement of Defence. Again, Greek World Music has taken no steps to participate in this action.

[30] A case management conference was held on March 1, 2017, and the parties were directed to speak to each other and provide the Court with a status report by March 31, 2017. Nothing was provided. There being no further movement on the file, on September 19, 2017, Prothonotary Aylen issued a Direction that the parties were to provide the Court with a status update and availability for a case management conference by September 29, 2017.

[31] On September 28, 2017, the Plaintiffs filed this motion for default judgment against the Defendants. This is one of the two motions that were heard by this Court. On September 29, 2017, counsel for the Plaintiffs provided availability for a case management conference.

[32] On October 4, 2017, Prothonotary Aylen issued a Direction that recognized that no availability for a case management conference had been provided by the Ellas Defendants

contrary to the Direction of September 19, 2017. The Court scheduled a case management conference for October 16, 2017.

[33] As a result of that case management conference, Prothonotary Aylen issued a Direction as follows:

The date for the delivery of the Defendants' Statement of Defence has long since passed, with no request for an extension of time having been made by the Defendants. As a result, the Plaintiffs have brought a motion for default judgment to be determined in writing pursuant to Rule 369 of the Federal Courts Rules. The date for the delivery of any responding motion materials has also passed, with no request for an extension of time having been made by the Defendants. At today's case management conference (which was convened at the Court's insistence), counsel for the Defendants advised that his clients are seeking to appoint new counsel and as a result, seek an extension of time to respond to the motion of approximately five weeks (two weeks to appoint counsel and three weeks to prepare responding materials).

The Court is mindful of the numerous delays in this matter occasioned by the Defendants' failure to respect the deadlines established by the Court. However, the Court is prepared to grant one further extension of time to the Defendants to serve and file responding motion materials by no later than October 23, 2017. This extension of time is peremptory. Should the Defendants fail to file responding materials by October 23, 2017, the motion will be placed before the Court on October 24, 2017 for determination.

[34] The Ellas Defendants then filed a second notice of change of solicitor, and appointed Heer Law as solicitor of record.

[35] On October 23, 2017, the Ellas Defendants filed a responding motion record in response to the Plaintiff's motion for default judgment and a notice of motion for an extension of time to file and serve a Statement of Defence. This was the second motion heard by this Court.

[36] On November 1, 2017, Prothonotary Aylen issued a Direction that the Plaintiffs were permitted to refer to and rely on their material filed on October 27, 2017, in reply to the Ellas Defendants' position in the default judgment motion as part of their responding material on the Ellas Defendants' motion for an extension of time to serve and file their Statement of Defence.

On November 9, 2017, the Plaintiffs wrote to the Court objecting that the Ellas Defendants' reply in the motion for an extension of time to serve and file their Statement of Defence was improper, as it was a "full blown re/fresh-argument" of the Ellas Defendants' motion that sought new relief. The Plaintiffs sought for the reply to be disallowed, that the Ellas Defendants be required to file a proper reply, or that the Plaintiffs be allowed to file a sur-reply.

On November 10, 2017, the Ellas Defendants wrote to the Court and stated that their reply was not improper, and suggested an oral hearing rather than further written submissions.

[37] Following an exchange between the parties as to the propriety of the Ellas Defendants' reply on its motion for an extension of time, on November 14, 2017, Prothonotary Aylen issued a Direction that stated that "[h]aving reviewed the written submissions of the parties on the two motions and the recent correspondence regarding the propriety of the Ellas Group's reply written representations on their motion, I am satisfied that these motions warrant a hearing. Any additional submissions that the Plaintiffs seek to make in relation to the Ellas Group's motion may be made at the hearing."

[38] Prothonotary Aylen's comments described in paragraph 33 encapsulated the Ellas Defendants' dealings with the Court and with the Plaintiffs.

III. Analysis

[39] While the two motions and their pleadings overlap, they raise different issues and legal tests. The Ellas Defendants' motion to extend time to file a Statement of Defence was an effort to have its motion heard and granted before the Plaintiffs' motion for default judgment – despite being filed after the default judgment motion.

[40] The issues for the Court are:

- a) Should default judgment be granted?
- b) If not, should an extension of time to serve and file a Statement of Defence be granted?

A. *Default Judgement*

[41] The motion is governed by Rule 210(1). While this motion and that of the extension of time are separate, they were heard together and one impacts the other. Since the default judgment motion was filed first, the extension of time motion was only brought to challenge the default judgment. The default judgment motion is more encompassing than the extension of time and is final in nature. In the circumstances of this case, the default judgment motion should be considered first. The Court will also deal with the extension of time motion later.

[42] In *Kornblum v Canada (Human Resources and Skills Development)*, 2010 FC 656, 192 ACWS (3d) 52, this Court endorsed the principle articulated in *Bruce v John Northway & Son*

Ltd., [1962] OWN 150 (H Ct J Master), that as a general rule, once a notice of motion is filed, the rights of the moving applicant cannot be prejudiced by anything done after.

[43] A motion for default judgment is a matter of the exercise of the Court's discretion. In this case the factors at issue in setting aside a default judgment are relevant. The procedural history establishes that but for the delaying and non-responsive acts of the Defendants, the Plaintiffs' motion would have been dealt with *ex parte* and in writing. Given the facts established, particularly by John Maniatakos in his affidavit, that motion would have been granted since the Defendants were clearly in default of filing a Statement of Defence.

[44] As held in *Louis Vuitton Malletier SA v Lin*, 2008 FC 45 at para 4, 164 ACWS (3d) 594, the test is well established:

- a) Is there a reasonable explanation for failure to file a Statement of Defence?
- b) Is there a *prima facie* defence on the merits of the claim?
- c) Did the party move promptly?

[45] To these factors must be added whether the Plaintiffs have made out their claim for relief.

- (1) Reasonable Explanation

[46] The Ellas Defendants attribute much of the blame for their lateness on their former counsel, Mr. Koumarelas (who was in fact their second counsel on this litigation). They also raise, as if relevant, that they were engaged in litigation in the United States.

[47] As part of this attribution of responsibility upon former counsel, the Ellas Defendants say that they forwarded funds for the defence of the action to the Canadian Defendant Greek World Music. The relationship between these two groups has now broken down.

[48] The evidence, particularly of e-mails involving Mr. Koumarelas, points away from any reasonable explanation for delay. Mr. Koumarelas informed the Defendants that there was jeopardy in not filing a defence and that he could not file a defence until they had executed a retainer for his services. In late December 2016, Mr. Koumarelas' communications with his clients were peppered with phrases like "imperative that the Defence be served and filed", "[y]ou are out of time to file your Defence", and "there is no way of 'buying more time'". They never did file a defence.

[49] Mr. Koumarelas further advised his clients that it was unlikely that a further extension to file a Statement of Defence would be granted. *Prima facie*, this was reasonable advice and the Defendants failed to act upon it.

[50] Despite Mr. Koumarelas' advice of the dire consequences of failing to act, the Ellas Defendants continued to delay with no reasonable justification. In a case of infringement of intellectual property rights, delay generally works to the advantage of the alleged infringer and to the detriment of the rights owner/licensee.

[51] The alleged transfer of funds to Greek World Music for purposes of the defence of this action is not proven. If it was done, the responsibility of failing to follow up and ensure that counsel was retained rests with the Ellas Defendants.

There is no evidence that the Ellas Defendants have claimed against Greek World Music for their failure to engage counsel nor is there evidence that former counsel has been put on notice of a claim against him for breach of his professional responsibilities in failing to file a Statement of Defence.

[52] The claim by the Ellas Defendants that they were surprised by the motion for default judgment is difficult to accept. This specially managed file was the subject of numerous communications, updates, and directions by Prothonotary Aylen. Former counsel twice advised the Ellas Defendants before the deadline that it was necessary to file a Statement of Defence and that failure to do so would be to their prejudice.

[53] I have concluded that there is no reasonable explanation for delay. The strategic advantage to the Ellas Defendants of delay is not lost on the Court but even that aside, the evidence does not support their explanation.

(2) *Prima Facie* Defence

[54] The next factor to consider is whether there is at least a *prima facie* defence. In this case, the defence is largely a series of denials that the Plaintiffs do not have the rights alleged, and if they do, the agreements giving those rights are invalid. The Ellas Defendants deny that the

Plaintiffs are owners of the Alpha, Mega, and Antenna programming and deny breach of the *Copyright Act* and the *Radiocommunication Act*.

[55] There then follows a series of cascading denials and partial denials. The Ellas Defendants do assert that they have the same exclusive rights as the Plaintiffs and that they do not retransmit the Plaintiffs' signals but merely redistribute the programs and operate an IPTV through public and unencrypted sources in Greece.

[56] An examination of the defence in the context of the material the Ellas Defendants submitted shows that the defence is largely made up of blanket or general denials and vague, unsubstantiated allegations which lack an air of reality.

[57] Even if there had been a reasonable explanation for delay, the Ellas Defendants have not established a *prima facie* defence.

(3) Prompt Action

[58] As noted by Prothonotary Aylen in her October 16, 2017 Direction, the date for delivery of responding material to the default judgment motion had passed and no request for an extension had been sought. An extension was granted to allow for the retention of new counsel and to file responding material.

[59] I find no fault with new counsel's actions (nor with previous counsel), but appropriate action at this stage does not cure the default of delay as discussed under the Reasonable Explanation heading.

[60] Given what the Ellas Defendants knew, were told, or what they ought to have known about being in default of filing a defence, they failed to act in anything approaching promptness – indeed the opposite.

(4) Plaintiffs' Claim

[61] I am satisfied that the Plaintiffs have established the test on default judgment of establishing the basis of their claim and they have established their entitlement to the relief sought.

[62] The \$5 million in statutory damages, while a large amount, is conservatively measured at the lower end of the \$500 – \$20,000 per work scale. Based on the calculation pursuant to *Telewizja Polsat SA v Radiopol Inc*, 2006 FC 584, [2007] 1 FCR 444, the amount is proper.

Based on the factors in s 38.1(5) of the *Copyright Act*, including bad faith which is established through the Ellas Defendants' delaying tactics, the need to deter others, particularly those infringers who benefit by delay, and the lack of response by Greek World Music, the calculation is reasonable.

[63] The Ellas Defendants' conduct since the start of this action has significantly delayed the Plaintiff's attempts to litigate it. It should not be forgotten that, based on the nature of the claim,

any delay is to the financial advantage of the Ellas Defendants. The following are procedural steps impacted by the Ellas Defendants' conduct:

- No Statement of Defence was filed to the Statement of Claim filed December 22, 2015, despite an extension of time to file on consent on March 9, 2016 (although a notice of motion to strike was filed March 29, 2016, it was never perfected, and counsel in November 2016 indicated that the Ellas Defendants no longer intended to bring that motion).
- No proposed timetable for filing of materials and availability for a case management conference were provided, contrary to an Order of Prothonotary Aylen on September 27, 2016 (although the Plaintiffs had also not provided this information).
- The Ellas Defendants' counsel provided their availability for a case management conference on October 21, 2016 when Prothonotary Aylen's Direction had required it by October 19, 2016, but failed to provide a timetable for perfection of the motion to strike. The hearing date for the motion was vacated.
- The Ellas Defendants' counsel failed to respond to any communications from the Plaintiffs in September and October 2016.
- No Statement of Defence was filed to the Amended Statement of Claim filed November 21, 2016.
- Neither party provided a status report by March 31, 2017 as directed by Prothonotary Aylen.
- No availability for a case management conference was provided by the Ellas Defendants' counsel, contrary to the September 19, 2017 Direction.

- The Ellas Defendants failed to file a response or a request for an extension of time within the statutory deadline for responding motion materials for the Plaintiffs' motion for default judgment, filed September 28, 2017.
- Prothonotary Ayles on October 16, 2017 granted “one further extension of time” for the Ellas Defendants to file and serve responding materials to the motion for default judgment, recognizing that the Ellas Defendants were seeking new counsel.

[64] Solicitor-client costs – even a partial indemnity, lump sum award – are warranted in light of this egregious conduct and considering the factors in Rule 400(3), particularly the amount of money involved, the complexity, the amount of works affected, and the delay occasioned by the Ellas Defendants. The amount of \$50,000 sought is also in line with *Microsoft Corporation v PC Village Co Ltd*, 2009 FC 401, 345 FTR 57.

[65] It would not be just in these circumstances to further draw out this litigation by permitting a proposed defence. It would not be fair to the Plaintiffs, nor to others who face infringement, to permit the continuance of proceedings in light of the Plaintiffs' strong claim which entitled them to default judgment, the weakness of the defence proposed, the history of the Ellas Defendants' delay tactics, the Ellas Defendants' disregard of the Court's process, Directions and instructions, and the benefit to the Ellas Defendants of further delay.

[66] In keeping with the more modern approach to litigation as fostered by the Supreme Court of Canada in *Hryniak v Mauldin*, 2014 SCC 7, [2014] 1 SCR 87, and exhibited by this Court in

its case management process, the Defendants' actions, or, more accurately, their lack thereof, are deserving of condemnation.

[67] The Plaintiffs are further entitled to injunctive relief. As time has passed from the commencement of its action, the Court will permit the Plaintiffs to file the proposed terms of the injunctive relief and serve the same on the Defendants, who shall have fifteen (15) days to respond and the Plaintiffs a further five (5) days to reply.

B. *Motion to Extend Time*

[68] Given the above findings, the Ellas Defendants' motion will not be granted. For completeness, the Court summarizes below its conclusions on the motion.

[69] As indicated earlier, the Court does not accept, particularly in this case management situation, that the filing of a motion for extension of time to file a defence acts to cure the default and preclude or prevent a motion for default judgment.

[70] In *Canada (Attorney General) v Hennelly* (1999), 167 FTR 158 at para 3, 89 ACWS (3d) 376 (FCA), the Court set out the proper test for an extension of time, which is that the applicant must demonstrate as follows:

1. a continuing intention to pursue his or her application;
2. that the application has some merit;
3. that no prejudice to the respondent arises from the delay; and
4. that a reasonable explanation for the delay exists.

[71] The underlying consideration is whether an extension, in the circumstances, would do justice between the parties: *Grewal v Minister of Employment and Immigration*, [1985] 2 FC 263, 1985 CarswellNat 43 (WL Can) at para 14 (CA). This means that “an extension of time can still be granted even if one of the criteria is not satisfied”: *Canada (Minister of Human Resources Development) v Hogervorst*, 2007 FCA 41 at para 33, 154 ACWS (3d) 1238.

[72] As indicated in the discussion above under the heading Reasonable Explanation, the Ellas Defendants did not exhibit a continuing intention to proceed. They exhibited an intention to delay which is not the same thing.

[73] Despite numerous warnings from counsel, they never instructed the filing of a defence. The Ellas Defendants admit to delaying the proceeding for their strategic benefit due to litigation in the United States.

[74] The Ellas Defendants exhibited a disregard for the Court’s Rules, and the Court’s Order and directions. Compliance with case management orders and directions are not optional. They cannot now say that they had a *bona fide* intention to defend when they actively avoided compliance with the Court’s process.

[75] Justice Shore in *Louis Vuitton Malletier SA v Singga Enterprises (Canada) Inc*, 2011 FC 247 at para 1, 198 ACWS (3d) 926, summarized the Court’s approach to this type of conduct:

Requirements, including those on timing, laid down by the Court, both pursuant to the Rules and by Order, are not merely targets to be attempted, but are to be observed, both because delay may cause prejudice and because litigation must come to a timely

conclusion. To ignore orders of a case management judge or prothonotary is an abuse of process, an abuse which can be dealt with by dismissing the pleadings by which a party seeks to obtain the aid of the Court.

[76] While the test of “meritorious claim” is lower than the *prima facie* threshold applicable to motions for default judgment, as discussed earlier, it is difficult to see much merit in the vague and unsubstantiated defence. The Ellas Defendants have failed to have even “some” merit in its defence. A showing of merit is not simply having a pleading to file, but there must be real and concrete evidence of some merit. The Ellas Defendants have not shown that merit.

[77] Even if the Ellas Defendants had some merit to their defence, there is clear prejudice to the Plaintiffs by virtue of continuing to delay the outcome of this matter.

[78] Lastly, the matter of a reasonable explanation for the delay has been fully canvassed above in respect to the motion for default judgment. The Court’s findings apply with equal force to the Ellas Defendants’ motion for extension of time.

[79] Therefore, the Ellas Defendants’ motion for an extension of time cannot succeed. To the extent that it is necessary to say – the motion will be dismissed. The costs are subsumed in the lump sum award made.

IV. Conclusion

[80] The Court will grant the Plaintiffs’ motion for default judgment, award damages of \$5,000,000 with pre-judgment interest as claimed, and allow for a \$50,000 lump sum for the

costs of both motions, all of which is to be paid jointly and severally as proposed by the Plaintiffs. The terms of the injunction and ancillary relief are to be settled as directed in these Reasons.

[81] A final Judgment will issue upon completion of submissions as to injunctive and ancillary relief.

"Michael L. Phelan"

Judge

Ottawa, Ontario
March 26, 2018

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-2141-15

STYLE OF CAUSE: ODYSSEY TELEVISION NETWORK INC and 2371349
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ELLAS TV CANADA INC, ELLAS TV INC and 1606911
ONTARIO INC (a.k.a. GREEK WORLD MUSIC &
ENCORE PRODUCTIONS)

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: DECEMBER 7, 2017

REASONS FOR JUDGMENT: PHELAN J.

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