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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MITCHELL REPAIR INFORMATION  
COMPANY, LLC,

Plaintiff,

v.

C.J. RUTCHEY a/k/a CHRISTOPHER  
MARK RUTCHEY d/b/a AUTOMOTIVE  
HOBBYISTS DIGITAL ONLINE  
LIBRARY

Defendant.

CASE NO. C08-500 RSM

ORDER GRANTING PLAINTIFF'S MOTION  
FOR CONTEMPT

This matter comes before the Court on Plaintiff's "Motion for Contempt." (Dkt. #26). In this copyright infringement action, Defendant C.J. Rutchey<sup>1</sup> never responded to the pleadings. In early August 2008, Plaintiff Mitchell Repair Information Company, LLC ("MRIC") was in the process of serving Defendant by publication when Defendant e-mailed MRIC requesting an extension of time to respond. Because Defendant now had actual notice of the pleadings, MRIC decided to give Defendant more time on condition that Defendant provide his permanent address, and that he agree to receive court documents at that address. Defendant provided an address in British Columbia, Canada.

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<sup>1</sup> C.J. Rutchey is also known as Christopher Mark Rutchey as explained in this Court's Order Granting Plaintiff's Motion for Relief from Judgment and Correction of Clerical Mistakes (Dkt. #31).

1           However, Defendant never did respond to the pleadings. This Court granted Plaintiff's  
2 Motion for Default Judgment and permanently enjoined Defendant from infringing upon  
3 MRIC's copyrighted works. (Dkt. #19). The Court also awarded MRIC \$30,000 in statutory  
4 damages, plus an additional \$13,109.60 in attorneys' fees and \$975.40 in costs, for a total of  
5 \$44,085. (*Id.*).

6           MRIC subsequently provided Defendant with notice of the Court's Order. Nevertheless,  
7 Rutchey ignored the terms of the Court's Order. MRIC indicated in its Motion for Order to  
8 Show Cause (Dkt. #20) that Defendant registered his site with another company located  
9 overseas, and continues to sell infringing products through a different website. The Court  
10 granted the Motion to Show Cause on April 27, 2009 giving Defendant 20 days, until May 17,  
11 2009, to respond. (Dkt. #21).

12           A process server attempted to deliver the Court's Order Granting Plaintiff's Motion to  
13 Show Cause to the address Defendant provided in British Columbia, Canada. However, when  
14 the process server arrived at the address, he found that it was not a residence, but a hotel. The  
15 proprietor of the hotel informed him that the hotel did not typically rent space to long term  
16 residents and Defendant was not currently a registered guest. She stated that she had received  
17 mail addressed to Defendant but had returned the correspondence to the sender.

18           MRIC attempted to obtain Defendant's address by contacting the domain name registrar  
19 for Defendant's new web site, which is located in France. The registrar did not provide the  
20 contact information, but instead deferred responsibility to the web site hosting company  
21 located in Malaysia. The web site hosting company did not respond to MRIC's requests. On  
22 May 4, 2009, MRIC sent an e-mail containing the Court's order to the e-mail address listed on  
23 Defendant's new website.

24           On June 23, 2009, Plaintiff's counsel sent an infringement report to PayPal.com, the  
25 company that processes the transactions that take place on Defendant's site, requesting that  
26 PayPal discontinue processing sales on that site. Paypal received an objection to the  
27 infringement report from the account holder, and as a result, refused to take action.

1 By August 6, 2009, Defendant still had not responded to this Court's Order to Show  
2 Cause and was still infringing MRIC's copyright, so MRIC filed a Motion for Contempt (Dkt.  
3 #22). While that motion was pending before the Court, MRIC served PayPal with a  
4 subpoena. The subpoena revealed that Defendant's PayPal account listed an e-mail address  
5 different from the one to which MRIC sent the Court's Order to Show Cause. MRIC then e-  
6 mailed the Order to that e-mail address, withdrew its previous motion, and filed this motion  
7 on September 3, 2009. Defendant still has not responded.

8 The PayPal records obtained by subpoena also revealed that Defendant has been  
9 operating out of Bellingham and other locations in Whatcom County, Washington, not British  
10 Columbia, Canada. Transaction records show ATM withdrawals from Whatcom County  
11 banks as well as retail purchases from Whatcom county stores, both consistent over several  
12 months. The records also revealed that Defendant partnered with Jesse Kebel ('Kebel') in  
13 operating the infringing web sites. It turns out that it was Kebel who objected to the  
14 infringement report MRIC sent to PayPal. PayPal refused to terminate the account because  
15 Kebel's name was not on the court order. Even though Kebel objected to the infringement  
16 report, claiming at least partial ownership of the web site, the records show that Defendant  
17 continued to make cash withdrawals from the account. The Paypal records also show that  
18 Defendant has made over \$230,000 selling MRIC's copyrighted works in the last three years,  
19 far more than the \$30,000 this Court awarded in statutory damages.

20 Defendant has failed to respond to the pleadings and the Court's orders. The record  
21 shows that he has tried to avoid contact and has ignored Plaintiff's correspondence. He has  
22 deliberately tried to impede the judicial process by giving MRIC a false address and by  
23 moving his infringing web site overseas. In addition, the record shows that Defendant  
24 continues to infringe MRIC's copyrights in violation of the Court's order.

25 '[P]ersons subject to an injunctive order issued by a court with jurisdiction are expected  
26 to obey that decree until it is modified or reversed, even if they have proper grounds to object  
27 to that order.' *GTE Sylvania, Inc. v. Consumers Union of the United States, Inc.*, 445 U.S.  
28 375, 386 (1980) (citations omitted). '[C]ourts have inherent power to enforce compliance with

1 their lawful orders through civil contempt.” *Spallone v. United States*, 493 U.S. 265, 276  
2 (1990) (quoting *Shillitani v. United States*, 384 U.S. 364, 370 (1966)). “Sanctions for civil  
3 contempt may be imposed to coerce obedience to a court order, or to compensate the party  
4 pursuing the contempt action for injuries resulting from the contemptuous behavior, or both.”  
5 *General Signal Corp. v. Donallco, Inc.*, 787 F.2d 1376, 1380 (9th Cir. 1986). Sanctions may  
6 include fines, imprisonment, and payment of the plaintiff’s attorney’s fees spent in obtaining  
7 compliance with the Court’s orders. G.R. 3(d); *Shillitani*, 384 U.S. at 370; *BMG Music v.*  
8 *Perez*, 952 F.2d 318, 320 (9th Cir. 1991). Plaintiff was notified in the Court’s Order Granting  
9 Plaintiff’s Motion for Order to Show Cause that possible sanctions for contempt include  
10 imprisonment. (Dkt. #21 at 2).

11 Defendant’s noncompliance with this Court’s orders has been serious and willful.  
12 Therefore, the Court finds Defendant in contempt. MRIC continues to be harmed by  
13 Defendant’s copyright infringement. It is difficult to calculate the amount that MRIC is  
14 harmed on a daily basis, but Defendant’s aggregate benefit from infringing on MRIC’s  
15 copyrights has been sizeable. 17 U.S.C. §504(c)(1) allows copyright owners to collect  
16 statutory damages between \$750.00 and \$30,000.00 for each act of infringement. The low  
17 end of this range is reasonable to induce compliance and compensate MRIC for ongoing  
18 infringement. Therefore, the Court orders sanctions of \$750.00 each day that Defendant is not  
19 in compliance with the Court’s orders, commencing the date of this Order.

20 Finally, due to Defendant’s ongoing non-compliance, Plaintiff has been forced to file a  
21 Motion for Order to Show Cause (Dkt. #20) and a Motion for Contempt (Dkt. #26), which  
22 would have been unnecessary had Defendant complied. Consequently, Defendant must pay  
23 the reasonable attorney’s fees MRIC incurred in bringing those two motions. *See* G.R. 3(d).

24 Having reviewed the relevant pleadings, the declarations and exhibits attached thereto,  
25 and the remainder of the record, the Court hereby finds and ORDERS:

26 (1) Plaintiff’s ‘Motion for Contempt’ (Dkt. #26) is GRANTED. Defendant C.J. Rutchey  
27 a/k/a Christopher Mark Rutchey is hereby found in contempt of Court.  
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1 (2) Defendant Rutchey is ORDERED to pay sanctions of \$750.00 per day, starting from  
2 the date of this Order, payable to Plaintiff, until such time he complies with the Court's orders  
3 including the Court's Order Granting Plaintiff's Motion for Default Judgment (Dkt. #19) and  
4 Order Granting Plaintiff's Motion for Order to Show Cause (Dkt. #21).

5 (3) Defendant Rutchey is ORDERED to pay reasonable attorney's fees and costs  
6 incurred by Plaintiff in bringing its Motion for Order to Show Cause (Dkt. #20) and its  
7 Motion for Contempt (Dkt. #26). Plaintiff is DIRECTED to file with the Court a Motion for  
8 Reasonable Attorney's Fees and Costs including supporting affidavits describing in itemized  
9 fashion the time spent by Plaintiff's attorneys, the tasks performed, and hourly rate. Plaintiff  
10 shall note such a motion for 7 judicial days after it is filed.

11 (4) The Clerk shall issue a Warrant for Contempt of Court, directing the United States  
12 Marshall in the name of the United States to apprehend C.J. Rutchey a/k/a Christopher Mark  
13 Rutchey and bring him before this Court for further proceedings.

14 (5) The Clerk is directed to forward a copy of this Order to all counsel of record.

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16 DATED this 8<sup>th</sup> day of October, 2009.

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19 RICARDO S. MARTINEZ  
20 UNITED STATES DISTRICT JUDGE  
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