UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES—GENERAL

Case No. CV 18-268-MWF (AGRx) **Date: May 6, 2019**
Title: GraceHouse Group, LLC, et al. v. Isaac Moraleja, et al.

Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:	Court Reporter:
Rita Sanchez	Not Reported
Attorneys Present for Plaintiff:	**Attorneys Present for Defendant:**
None Present	None Present

Proceedings (In Chambers): ORDER RE: DEFENDANT OMNIA MEDIA, INC.'S MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO 17 U.S.C. § 505 AND 28 U.S.C. § 1927 [53]

Before the Court is Defendant Omnia Media, Inc.'s ("Omnia Media") Motion for Attorneys' Fees and Costs Pursuant to 17 U.S.C. § 505 and 28 U.S.C. § 1927 (the "Motion"), filed on March 1, 2019. (Docket No. 53). Plaintiffs GraceHouse Group, LLC ("GraceHouse") and Christine D'Clario filed an Opposition on March 11, 2019. (Docket No. 54). Omnia Media filed a Reply on March 18, 2019. (Docket No. 56). The Court has read and considered the papers on the Motion and held a hearing on April 1, 2019.

For the reasons discussed below, the Motion is **GRANTED *in part*** and **DENIED *in part*** as follows:

- **GRANTED *in part*** to the extent it seeks reasonable attorneys' fees, with alterations as noted. The Court determines that Omnia Media, as the prevailing party, is entitled to recover reasonable attorneys' fees under the Copyright Act. Although the Court concludes that Omnia Media may not recover fees for all of the hours its attorneys expended on the case, the Court **AWARDS** Omnia Media **$112,430.25** in attorneys' fees; and

- **DENIED *in part*** to the extent it seeks sanctions against Plaintiffs' counsel because the Court cannot conclude that they unreasonably and vexatiously multiplied the proceedings.

I. BACKGROUND

On January 11, 2018, Plaintiffs commenced this action. (Complaint (Docket No. 1)). Plaintiffs amended their Complaint on March 26, 2018. (*See* First Amended Complaint ("FAC") (Docket No. 19)).

The Court's Order issued on November 27, 2018 (the "November 27 Order"), denying Plaintiffs' Motion for Order Allowing Filing of Second Amended Complaint for Copyright Infringement, contained a detailed explanation of the relevant allegations. (Docket No. 46)). The following section is substantially similar and is recited for context.

Plaintiff D'Clario is a "hugely successful musical artist, songwriter, and Christian worship leader in the Latin music genre" and "has been nominated for several awards, including GMA [Gospel Music Association] Dove Awards for Spanish language albums." (FAC ¶ 3). She "has spent a lifetime honing her craft, creating unique music, and working tirelessly to create goodwill and to display her creative works." (*Id.*). She is "the author of the music, lyrics, and video display of the following original musical compositions entitled: (a) 'Como Dijiste;' (b) 'Gloria en lo Alto;' (c) 'El Nos Ama;' (d) 'Padre Nuestro;' and, (e) 'Eres Mi Fuerza' (collectively the 'Infringed Compositions')." (*Id.* ¶ 15). Her entire music catalogue, including the Infringed Compositions, is managed by co-Plaintiff GraceHouse (*Id.*).

Non-moving Defendants Isaac Moraleja and his company Música Cristiana TV ("MCTV") "obtained a license [in 2012] allowing him to display the [Infringed Compositions] on his YouTube channel" for promotional purposes. (November 27 Order at 2). In September 2017, Plaintiff D'Clario "learned that Defendants Moraleja and MCTV were illegally using the Infringed Compositions and actively profiting from the[ir] use." (FAC ¶ 17). Omnia Media, a "digital content studio that creates,

develops, and distributes premium original content," managed the contents on Defendants Moraleja and MCTV's YouTube channel and "exercised its management control over displaying the Infringed Compositions by displaying them to the public thousands of times without Plaintiff's consent." (*Id.* ¶ 11, 18).

On several occasions, Plaintiff D'Clario "sent cease and desist letters to all the Defendants, including [between] September 2017 and October 2017" and "notified Defendants of their violations and demanded an accounting of royalties Defendants have misappropriated." (*Id.* ¶ 20). But "Defendants have refused to cease their infringing activity and have not accounted for any profits derived from their illegal activity." (*Id.*). Plaintiffs assert a single cause of action for direct and contributory copyright infringement. (*Id.* ¶¶ 22–34).

On February 15, 2019, the parties stipulated to dismiss Omnia Media with prejudice and "deemed [Omnia Media as] the prevailing party." ("Stipulation to Dismiss Omnia Media" (Docket No. 51)). Through its present Motion, Omnia Media request that the Court award it attorneys' fees and costs under the Copyright Act and sanctions pursuant 28 U.S.C. § 1927.

II. DISCUSSION

The Copyright Act provides that a district court, "in its discretion," may award costs and "a reasonable attorney's fee to the prevailing party" in a copyright infringement lawsuit. 17 U.S.C. § 505.

In exercising this discretion, "a district court may not 'award[ ] attorney's fees as a matter of course'; rather, a court must make a more particularized, case-by-case assessment." *Kirtsaeng v. John Wiley & Sons, Inc.*, 136 S. Ct. 1979, 1985 (2016) (quoting *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 533 (1994)) (alteration in original). There are "'several nonexclusive' factors to inform a court's fee-shifting decisions: 'frivolousness, motivation, objective unreasonableness[,] and the need in particular circumstances to advance considerations of compensation and deterrence.'" *Id.* (quoting *Fogerty*, 510 U.S. at 534, n. 19). The Ninth Circuit has also instructed district

courts to consider "the degree of success obtained" by the prevailing party. *See, e.g.*, *Love v. Associated Newspapers, Ltd.*, 611 F.3d 601, 614–15 (9th Cir. 2010) (affirming the district court's award of attorneys' fees to the defendants and concluding that the "district court did not abuse its discretion awarding these attorneys' fees").

In conducting this analysis, district courts should give "substantial weight" to the objective reasonableness of the losing party's litigation position, while "also taking into account all other relevant factors." *Kirtsaeng*, 136 S. Ct. at 1989.

Here, the parties do not dispute that Omnia Media is the prevailing party and indeed, their stipulation to dismiss Omnia Media expressly "deemed [it] the prevailing party." (Stipulation to Dismiss Omnia Media at 2). Neither do the parties dispute that Omnia Media is entitled to some attorneys' fees. (*See* Mot. at 10; Opp. at 5–7). For instance, Omnia Media argues that it is entitled to $111,725.00 in attorneys' fees and costs for the work done in defense of this action from February 1, 2018, to January 31, 2019. (Mot. at 20). Meanwhile, Plaintiffs argue that some of the fees requested are "unreasonable, unnecessary or excessive," and $35,815.00 is "a more than reasonable amount of compensation for the work done in this case." (Opp. at 7).

Accordingly, the Court need not analyze the relevant factors—such as the degree of success by Omnia, frivolousness of Plaintiffs' claims, Plaintiffs' motivation in bringing the claims, and objective (un)reasonableness of the claims—and instead will proceed to the appropriateness of the claimed fees.

A. Legal Standard

In copyright cases, the Ninth Circuit utilizes the "lodestar method" to calculate a reasonable fee award. *See Lawrence v. Sony Pictures Entm't, Inc.*, 534 F. App'x 651, 654 (9th Cir. 2013). The lodestar is comprised of the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate of the attorneys. *Fischel v. Equitable Life Assur. Soc'y of U.S.*, 307 F.3d 997, 1006 (9th Cir. 2002).

In making that calculation, the Court may consider the following guidelines:

> (1) the time and labor required, (2) the novelty and difficulty of the questions involved, (3) the skill requisite to perform the legal service properly, (4) the preclusion of other employment by the attorney due to acceptance of the case, (5) the customary fee, (6) whether the fee is fixed or contingent, (7) time limitations imposed by the client or the circumstances, (8) the amount involved and the results obtained, (9) the experience, reputation, and ability of the attorneys, (10) the 'undesirability' of the case, (11) the nature and length of the professional relationship with the client, and (12) awards in similar cases.

Id. "After the lodestar is determined, the court may make adjustments, depending on the circumstances of the case." *United Steelworkers v. Phelps Dodge Corp.*, 896 F.2d 403, 406 (9th Cir. 1990) (citing *Blum v. Stenson*, 465 U.S. 886, 897, 104 S. Ct. 1541, 79 L. Ed. 2d 891 (1984)). "Factors subsumed in the original determination of reasonable hours and rates, however, should not be used to adjust the lodestar figure." *Id.* "[T]here is a strong presumption" that the lodestar calculation "is a reasonable fee." *Id.*

The Court will address, in turn, the reasonableness of the hourly rates and the hours expended.

B. Hourly Rates for Omnia Media's Counsel

In determining the reasonable hourly rates for Defendant's counsel, the Court is guided by the attorneys' usual billing rates. *See Moore v. James H. Matthews & Co.*, 682 F.2d 830, 840 (9th Cir. 1982) ("Unless counsel is working outside his or her normal area of practice, the billing-rate multiplier is, for practical reasons, usually counsel's normal billing rate."); *Perfect 10, Inc. v. Giganews, Inc.*, No. CV 11-7098-AB (SHx), 2015 WL 1746484, at *5 (C.D. Cal. Mar. 24, 2015) (citing *Moore* for standard and granting motion for attorneys' fees and costs).

Here, Omnia Media's counsel has submitted reasonably detailed invoices for each month of work on this case from February 1, 2018, to January 31, 2019.

(Declaration of Robert M. Collins ("Collins Decl."), ¶ 14, Ex. G (Docket No. 48)). Mr. Collins' declaration and the attached invoices demonstrate two partners were assigned to the case—Messrs. Collins and Daniel C. DeCarlo—and a billing rate of $550 per hour for Mr. DeCarlo and $450 for Mr. Collins. (*Id.* ¶¶ 18–22). Upon review of Mr. Collins' declaration and invoices, the Court determines that the hourly rates are reasonable. Plaintiffs also do not challenge the hourly rates in their Opposition.

C. Hours Expended by Omnia Media's Counsel

Omnia Media argues that it has "submit[ed] substantial evidence to document the reasonable number of hours expended in the defense of this case" and the detailed billing narratives "demonstrate that this matter was appropriately staffed, and counsel for Omnia [Media] made every effort to minimize the attorneys' fees incurred." (Mot. at 19 (citing Collins Decl. ¶ 20)). Omnia Media argues that it "has also reduced the amount of attorneys' fees it is seeking through this [M]otion as it is not seeking reimbursement for the time and costs incurred by [its] in-house counsel managing this case, even though [it] could properly seek such time." (*Id.*). For instance, prior to engaging outside counsel, in-house counsel for Omnia Media "performed the initial factual and legal investigation of the claims, and still maintained an active role in managing the litigation after outside counsel was retained." (*Id.* (citing Collins Decl. ¶ 22)).

In response, Plaintiffs raise numerous challenges to Omnia Media's requested fees, summarized as follows:

Request for extension of time to respond to original Complaint. Plaintiffs argue that Mr. Collins "billed 0.9 [hours] on February 13 and 14, 2018, to request from Plaintiff's counsel an extension of time to respond to the [original] [C]omplaint," but because the request was a very short email and very short telephone call, it should have "take[n] less than 0.1 [hours]." (Opp. at 12). The Court disagrees that the time billed is unreasonable because, as pointed out by Omnia Media, the "exchange took place over the course of two days and required five (5) emails between the parties, and four (4) phone calls as [Omnia Media's] counsel was required to leave three voicemails for

Plaintiffs' counsel before the parties could connect via phone to discuss an analysis of the case and the requested extension." (*See* Reply at 9).

Preparation of Answer. Plaintiff argues that counsel "spent 7.2 hours researching and preparing an answer to the complaint which asserted one cause of action for copyright infringement," which is unreasonable and "should take 2.0 hours or less." (Opp. at 12). The Court again disagrees with Plaintiff's contention because, as pointed out by Omnia Media, preparing the Answer "requires thorough review and analysis of the allegations, communication with client and review of documentary evidence to ensure allegations are properly averred to, that all applicable affirmative defenses are raised and that there is a proper basis for the positions taken in the Answer." (*See* Reply at 10).

Omnia Media's response to requests for production. Plaintiffs argue that counsel spent "4.7 hours reviewing and preparing responses to [Plaintiffs'] request for production documents" but did not end up responding to those requests and "never produced any documents." (Opp. at 12). But this argument is puzzling because after Plaintiffs initially propounded these requests and Omnia Media began preparing the responses, Plaintiffs voluntarily withdrew the requests. (*See* Reply at 10; Collins Decl., ¶ 9, Ex. E). It would be unfair and unreasonable for Omnia Media to bear the expenses associated with a request propounded and ultimately withdrawn by Plaintiffs.

Omnia Media's review of document requests. Plaintiffs argue that Mr. Collins unreasonably "spent 1.4 hours looking at [their] request for production of documents sent to co-[D]efendant Isaac Moraleja," when it "would perhaps take ten minutes to read and understand." (Opp. at 12). The Court is not persuaded because, as pointed out by Omnia Media, reviewing "written discovery served on other parties to determine impact on co-[D]efendants is a routine part of providing a vigorous defense." (Reply at 11).

Conference on June 4, 2018. Plaintiffs next argue that Mr. Collins unreasonably claimed he spent 1.6 hours on June 4, 2018, conferencing with Plaintiffs' counsel, Dugan Kelley, when the brief discussion "took no more than ten minutes."

(Opp. at 12). Omnia Media argues, and the Court finds persuasive, that the 1.6 hours reflect the time "expended on phone calls with co-defense counsel Richard Towne, and writing and reviewing a series of emails between [Omnia Media's] counsel, Mr. Towne and Dugan Kelley between 1:33 p.m. and 7:29 p.m. on June 4." (Reply at 11).

Time related to potential motion for summary judgment. Plaintiffs also argue that Omnia Media's counsel unreasonably included a total of 3.8 hours between June 2018 and October 2018 "working on a motion for summary judgment Omnia [Media] admits it never needed." (Opp. at 13). The Court disagrees and finds convincing Omnia Media's position that "a party should always be evaluating the evidence and whether it supports a dispositive motion" and these 3.8 hours "evaluating the propriety of a summary judgment motion and discussing it with opposing counsel over the course of a year was necessary and appropriate to a full defense of this action." (*See* Reply at 12).

Evaluation and meet and confer on Rule 11 motion. Plaintiffs argue that Omnia Media's counsel spent a total of 20 hours—3.7 for Mr. DeCarlo and 16.3 for Mr. Collins—preparing a motion for sanctions that they never filed. (Opp. at 13). The Court disagrees. As noted by Omnia Media, the great bulk of the 20 hours was spent on "extensive writing and conferring [with Plaintiffs' counsel] . . . on the law and the impropriety of their claims." (Reply at 12). Indeed, the "exchanges between the parties ultimately resulted in Plaintiffs admitting that [GraceHouse] had no standing and that [an online distribution agreement] applied to the D'Clario content at issue." (*Id.*). Omnia Media finally notes that "were it not for the detailed analysis it provided in its Rule 11 correspondence, Plaintiffs might still be pressing their baseless claims." (*Id.*).

The Court is in no way criticizing counsel or suggesting that the hours worked were unnecessary. Rather, the Court concludes the litigation strategy to spend 20 hours on potential Rule 11 motion appears to be reasonable and commensurate with the ultimate result obtained in the action.

Time related to motion for leave to amend. Plaintiffs also argue that Omnia Media's counsel unreasonably spent 40 hours—2.8 hours for Mr. DeCarlo and 37.2 for Mr. Collins—to oppose Plaintiffs' request for leave to file a second amended complaint. (Opp. at 14). Plaintiffs also argue that the counsel unreasonably spent 10.5 hours—2 hours for Mr. DeCarlo and 8.5 hours for Mr. Collins—preparing for and filing an "objection to Plaintiff's [late-filed] reply brief [and] sur-reply." (*Id.*). Plaintiffs finally contend that counsel "spent excessive amounts of time preparing for and attending a hearing on a simple motion for leave to file a second amended complaint," totaling 12.8 hours. (*Id.*). Mr. DeCarlo billed a total of 3.7 hours, consisting of 1.5 preparing for the hearing, 1.0 for travel time, 1.2 for appearance at the hearing. (*Id.* at 14–15). Mr. Collins billed a total of 9.1 hours, 5.8 for preparation, 1.1 for travel time, and 2.2 for attendance. (*Id.*).

In response, Omnia Media argues that it successfully opposed the motion for leave to amend and "spent the time necessary to oppose this motion, and prepared heavily for this hearing, as it viewed the opposition and hearing as opportunities to advise the Court on the frivolity of Plaintiffs' claims . . . ." (Reply at 13). Omnia Media also argues that it "believed a strong presentation on the papers and at this hearing would put serious pressure on Plaintiffs to finally dismiss their claims." (*Id.*). Omnia Media finally contends that the "preparation yielded the desired result and that this time expenditure was necessary and appropriate." (*Id.*).

The Court disagrees and reduces the hours billed by Omnia Media's counsel by **50%** because the time spent was disproportionate. In so ruling, the Court is neither saying that the time was not spent nor that Omnia Media did not benefit; the Court is saying that it is not an amount that Plaintiff should reasonably be forced to bear.

Accordingly, the Court determines that 20 hours (18.6 for Mr. Collins and 2.8 for Mr. DeCarlo) should be subtracted from the total time billed for work on the opposition, 5.25 hours (4.25 for Mr. Collins and 1.0 for Mr. DeCarlo) for work on the objection and proposed sur-reply, and 6.4 hours (4.55 for Mr. Collins and 1.85 for Mr. DeCarlo) for time related to preparing for and attending the hearing.

Omnia Media's preparation of written discovery. Plaintiffs argue that counsel unreasonably spent 15.6 hours—1.1 for Mr. DeCarlo and 14.5 hours for Mr. Collins—drafting the following written discovery: "(a) Interrogatories (15 total), (b) Request for production of documents (65 total), and; (c) Request for admission (15 total)." (Opp. at 15). The Court disagrees and concludes that the time expended relative to the total number of requests, 95 in total, appears to be reasonable.

Redacted time entries. Plaintiffs finally argue that Omnia Media's counsel "has redacted fifty-six of the attorney times entries, removing critical information describing counsel's work" and it is difficult for either Plaintiffs or the Court to "determine if the redacted time entries represent time reasonably spent defending this matter or disputes that exist between Omnia [Media] and Moraleja, or some unrelated issues." (Opp. at 10–11 (emphasis in original)). The total number of hours spent was 58.8—17.4 for Mr. DeCarlo and 41.4 for Mr. Collins.

In response, Omnia Media contends that "[a]ll of these fees were necessarily incurred [] in defense of this meritless action and these invoices are appropriately redacted to preserve applicable privileges," such as the attorney-client, work product, and co-defense privileges. (Reply at 7–8). The Court agrees.

In light of the year-long litigation history of the case and the fact that Omnia Media was able to secure its dismissal, the Court concludes that the total time expended is reasonable. Indeed, many of the time entries relate to communications with the client, drafting emails to opposing and co-counsel, and analysis and review of various legal issues, all necessary and important tasks in the litigation. Moreover, the Court believes that the minor haircut, discussed below, is an adequate offset to the issues raised by Plaintiff.

D. Additional Hours Expended

As noted above, Omnia Media's request for attorneys' fees is for the work done in defense of this action from February 1, 2018, to January 31, 2019. After the hearing, Omnia Media filed a Second Supplemental Declaration of Robert M. Collins

("Supp. Collins Decl. II"). (Docket No. 58). Along with Mr. Collins' second supplemental declaration, Omnia Media filed under seal an unredacted billing statement for the work done in this action between February 1, 2019, and April 9, 2019. (Docket No. 59).

Omnia Media notes that between February 1, 2019, and April 9, 2019, its counsel spent an additional 92.7 hours (4.2 for Mr. DeCarlo and 88.5 for Mr. Collins) in this action. (Supp. Collins Decl. II ¶ 10). The Court takes issue with some of the hours billed by Mr. Collins because they, similar to the hours billed in connection with the opposition to Plaintiffs' request for leave to file a second amended complaint, appear to be disproportionately high. Specifically, of the 88.5 hours Mr. Collins billed, at least 47.7 hours were billed for work related to this Motion, which appears to be disproportionate and not a reasonable expense for Plaintiffs to bear.

The Court notes that, in contrast to his work on the Motion, Mr. Collins billed only 19.5 hours for the work on the Reply. The Court, of course, recognizes that drafting an argument on the Motion may be more time-consuming than on the Reply and there are other differences (*e.g.*, there is one additional declaration submitted in support of the Motion). But the differences are not significant enough to explain spending more than twice the amount of time on the Motion as the time spent on the Reply. Accordingly, the Court reduces the hours billed by Mr. Collins by **10 hours**.

E. Lodestar Calculation and Minor Haircut

The following chart presents the final calculation of the lodestar amount for work performed between February 1, 2018, to April 9, 2019:

Attorney	Hourly Rate	Compensable Hours	Total
Daniel C. DeCarlo	$550	47.05	$25,877.50
Robert M. Collins	$450	220.10	$99,045.00
Total			**$124,922.50**

While the time billed is generally reasonable, the Court notes some inefficiencies. For example, as noted above, counsel spent 15.6 hours total in drafting and serving relatively simple written discovery. Additionally, many of the tasks performed could have been assigned to an associate with lower billing rates. The Court does not mean to suggest that the client did not benefit from having two partners on the project. Counsel advocated zealously on behalf of their client, and the billing records were scrupulously kept. Nonetheless, it appears that some of the tasks could have been performed at lower billing rates or more efficiently.

Accordingly, the Court applies a 10% "haircut" to account for these inefficiencies. *See Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008) (permitting the district court to "impose a small reduction, no greater than 10 percent — a 'haircut' — based on its exercise of discretion and without a more specific explanation"); *see also Chaudhry v. City of Los Angeles*, 751 F.3d 1096, 1111 (9th Cir. 2014) (affirming the rule that "[a] district court can reduce a lawyer's request for duplicative or unnecessary work, and it can impose up to a 10 percent reduction without explanation."); *Banas v. Volcano Corp.*, 47 F. Supp. 3d 957, 969 (N.D. Cal. 2014) (applying a 5% across-the-board reduction to the hours billed to account for excessive billing and inefficiency); *Rosenfeld v. U.S. Dep't of Justice*, 904 F. Supp. 2d 988, 1008 (N.D. Cal. 2012) (reducing fee award by 10% to account for counsel's billing inefficiencies and failure to demonstrate appropriate billing judgment); *Jadwin v. Cty. of Kern*, 767 F. Supp. 2d 1069, 1112–13 (E.D. Cal. 2011) (applying "[a] modest downward adjustment of 10% . . . with respect to the alleged non-litigation work").

As adjusted to account for inefficiencies, the Court concludes that Omnia Media should be awarded reasonable fees in the amount of **$112,430.25** [$124,922.50 x 0.90].

Accordingly, the Motion is **GRANTED *in part*** to the extent it seeks an award of reasonable attorneys' fees.

III. REQUEST FOR SANCTIONS

Apart from the recovery of attorneys' fees under the Copyright Act, Omnia Media argues that "it is also entitled to the recovery of its fees as a sanction [under 28 U.S.C. § 1927] due to Plaintiffs' counsel's vexatious multiplication of these proceedings." (Mot. at 15).

Section 1927 provides as follows:

> Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

Id.

Omnia Media argues "Plaintiffs and their counsel filed this suit without any apparent serious evaluation of the validity of the claims asserted against Omnia and actively worked to conceal the scope of the [online distribution agreement] and its applicability to the musical compositions placed at issue in the litigation." (Mot. at 15). Omnia Media also contends that Plaintiffs' counsel "insistence" on continued pursuit of the action the face of "overwhelming evidence" that Omnia Media had no liability constitutes vexatious multiplication of these proceedings. (*Id.* at 16). At the hearing, Omnia Media repeated these arguments.

The Court disagrees and therefore declines to award sanctions. It is unclear how Plaintiffs' counsel unreasonably and vexatiously multiplied the proceedings. The Complaint was limited to a single claim for copyright infringement and when Omnia Media's counsel "claimed the [C]omplaint violated Rule 11 because it was unsupported by facts," Plaintiffs' counsel voluntarily amended the Complaint to include additional allegations. (*See* Opp. at 19). To the extent the parties dispute the scope of the online distribution agreement, Plaintiffs' counsel note that it "is vague as to what copyrighted material is licensed, and under what terms the material is licensed." (*Id.* at 19–20). And when the ambiguity was resolved, Plaintiffs' counsel stipulated to dismissing Omnia Media. Moreover, the Court views the attorneys' fees award as an adequate measure to deter future frivolous lawsuits.

Accordingly, the Motion is **DENIED *in part*** to the extent it seeks sanctions against Plaintiffs' counsel.

IV. CONCLUSION

For the reasons discussed above, the Motion is **GRANTED *in part*** and **DENIED *in part***. Omnia Media shall be awarded **$112,430.25** in reasonable attorneys' fees. Omnia Media is further awarded its costs as allowed by law.

IT IS SO ORDERED.