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18 Attorneys for Plaintiff Mockingbird Foundation

19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **San Francisco Division**

22 THE MOCKINGBIRD FOUNDATION, INC.,)
23)
24 Plaintiff,)
25 v.)
26 QUANG-TUAN LUONG,)
27)
28 Defendant.)

ORDER
Case No. 3-19-cv-05671-JS
RULE 41 DISMISSAL

Because defendant Quang-Tuan Luong has provided a judicially enforceable license (see attached Exhibit A) granting plaintiff the right to host links to, or forum users' posting of photographs, without liability for infringement, as sought by the First Amended Complaint, this action should be dismissed without prejudice.

DATED: March 9, 2020

PUBLIC CITIZEN LITIGATION GROUP
1600 20th Street NW
Washington, D.C. 20009

By: /s/ Paul Alan Levy
(pro hac vice to be sought)
Telephone: (202) 588-7725
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JUELSGAARD INTELLECTUAL PROPERTY AND
INNOVATION CLINIC

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Dated: 3/10/2020

SO ORDERED.


United States District Judge

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EXHIBIT A

March 5, 2020

The Mockingbird Foundation
1461-B Old San Jose Road
Soque, CA 95073

Dear Sir or Madam:

After reviewing the information provided in the correspondence with my attorney as well as court filings and after conducting further due diligence about the financial resources about The Mockingbird Foundation and the nature of its work, I determined this is a claim that I would have never chosen to litigate.

While I believe the unlicensed use of my photo was a violation of my copyrights and I was willing to litigate this matter on principle if you would have accepted my offer to mutually waive claims to attorney's fees and to limit my potential recovery to a nominal amount, that offer was rejected.

Seeing that The Mockingbird Foundation is now complying with the Digital Millennium Copyright Act, I do not see any circumstance where it makes economic or legal sense to litigate a claim involving an inline link on a user forum associated with Phish.net.

Accordingly, I hereby grant The Mockingbird Foundation the following license:

Quang-Tuan Luong grants The Mockingbird Foundation, and all of its officers and agents, an irrevocable retroactive and future license to enable the viewing of any of his photographs on Phish.net's forum section via a link, including on any subdomain of Phish.net, and an irrevocable retroactive but not future license for any of his photographs that were posted by users to Phish.net, including on any subdomain of Phish.net, before September 29, 2019.

Best of luck to your organization in the future.

Sincerely,

Q.T. Luong

