**Hearing Date:** 4/28/2022
**Department:** 85

University of Southern California v. Ernest Kanevsky and Yuguo Bai, 22STCV11631
Tentative decision on application for preliminary injunction: granted

Plaintiff University of Southern California (“USC”) applies for a preliminary injunction to enjoin Defendants Ernest Kanevsky (“Kanevsky”) and Yuguo Bai (“Bai”) from entering any USC campus, residence, medical center, or other premises within the County of Los Angeles (“County”).

The court has read and considered the moving papers (no opposition was filed) and renders the following tentative decision.

**A. Statement of the Case**

**1. The Complaint**

Plaintiff filed the Complaint on April 6, 2022, alleging claims for (1) public and (2) private nuisance.  In pertinent part, the Complaint alleges that Defendants conducted three classroom takeover pranks on the USC campus as follows:

1. On September 20, 2021, Defendants Kanevsky and Bai – neither of whom are USC students – and an associate (“Doe 1”) entered classroom 101 in the Mark Taper Hall of Humanities (“Taper Hall”) and interrupted a live data sciences lecture.  Kanevsky claimed loudly that his farther owned the school.  Kanevksy asked Doe 1 to remove the professor from the classroom so they could take over the “boring” lecture, calling the professor “dangerous.”  As Doe 1 used physical intimidation to make the professor yield and force him out, Bai took over the class and began to lecture that he needed marijuana to survive.  As students began to leave, Kanevsky said Doe 1 should take over.  Doe 1 said Bai sucked at teaching and challenged him to a fight.  As students continued to leave, the three invaders yelled at them, calling them peasants.  The three Defendants fled before security arrived, and the professor required extra protection in the following weeks to continue teaching.

2. On November 12, 2021, Defendants and two associates (“Doe 2” and “Doe 3”) dressed themselves as characters from the violent television show “Squid Game” and entered classroom 301 of Taper Hall.  Bai entered in a green track suit begging for help and claiming that people with weapons were coming to kill him.  Moments later, Kanevsky and Doe 2 ran into the classroom in orange body suits and black masks.  The two chased Bai around the classroom while Bai yelled that his family would die if he was caught.  Doe 2 grabbed a student’s skateboard to use in the chase.  After Bai tried hiding behind the professor, Kanvesky and Doe 2 lifted Bai and hauled him out like it was a kidnapping while Bai yelled his “mom was going to die!”  Doe 3 recorded the incident and uploaded it to YouTube as a prank video.  The incident left several student witnesses visibly shaken.

3. On March 29, 2022, as a live lecture on the Holocaust began in Taper Hall, Bai snuck in and sat among the students.  Some time after, Kanevsky entered dressed as a member of the “Russian Mafia” with a black skintight muscle shirt and slacks and a silver briefcase.  He called out looking for a “Hugo Boss.” The name was frightening to the professor because Hugo Boss was a Nazi uniform manufacturer during World War II.  The professor believed that he class was targeted in retaliation for him lecturing on the Holocaust.  Bai responded that he was Hugo Boss, at which point someone on Kanevsky’s cell phone, which was in speaker mode, yelled that he was a “piece of shit” and “motherfucker.”  Kanevsky then claimed that Bai/Boss’s father owed him $50,000.  By this point the students viewed the incident as a credible threat of imminent violence, and they panicked and fled the room en masse, leaving behind laptops and tripping over seats and each other.  Campus security caught Defendants Kanevski and Bai at gunpoint in a campus parking structure before they could escape.

Defendants’ conduct has caused physical and emotional damage to students and professors, caused parents to feel concerned for their children’s safety, cost USC financially as it spent many hours providing counseling to the victims, destroyed the safe environment of an educational facility, kept students from their education, and compromised USC’s image to potential students as an institution that can keep them safe.

The Complaint seeks: (1) a Temporary Restraining Order (“TRO”) and a preliminary injunction preventing Defendants from entering any USC-owned facilities in the County and posting about these three takeovers online; (2) compensatory damages; and (3) attorney’s fees and costs.

**2. Course of Proceedings**

            On April 6, 2022, Plaintiff USC personally served Defendant Bai with the Complaint, Summons, and moving papers.  Maldonado Supp. Decl., ¶4, Ex. B.

On April 8, 2022, Plaintiff USC applied *ex parte* for a TRO and order to show cause re: preliminary injunction (“OSC”) seeking to enjoin Defendants from (1) entering any USC-owned, operated, or occupied campus, residence, medical center, or other premises; and (2) making any online posts about the takeovers at issue.  The court granted the TRO only on the first issue, noting that First Amendment prior restraint law prevented issuance of a preliminary injunction the second issue.  The court set an OSC hearing why Defendants should not be enjoined from entering any USC-owned, operated, or occupied campus, residence, medical center, or other premises.  The Court ordered Plaintiff to serve both Defendants with the *ex parte* application by April 11, 2022.

            On April 11, 2022, Plaintiff personally served Defendant Bai with the *ex parte* application, memorandum of points and authorities, evidence, and the signed TRO/OSC.  Maldonado Supp. Decl., ¶4, Ex. A.

            On April 12, 2022, Plaintiff personally served Defendant Kanevsky at his address in Texas with the Complaint, Summons, moving papers, *ex parte*application, evidence, and the signed TRO/OSC.  Maldonado Supp. Decl., ¶8, Ex. D.[[1]](file:///C%3A/Users/JDeLuna/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/VH3G8ZDI/Apr%2028%2022STCV11631%20USC%20preliminary%20injunction.docx#_ftn1)

**B. Applicable Law**

**1. Preliminary Injunction**

An injunction is a writ or order requiring a person to refrain from a particular act; it may be granted by the court in which the action is brought, or by a judge thereof; and when granted by a judge, it may be enforced as an order of the court.  Code of Civil Procedure (“CCP”) §525.  An injunction may be more completely defined as a writ or order commanding a person either to perform or to refrain from performing a particular act.  *See* Comfort v. Comfort, (1941) 17 Cal.2d 736, 741. McDowell v. Watson, (1997) 59 Cal.App.4th 1155, 1160.[[2]](file:///C%3A/Users/JDeLuna/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/VH3G8ZDI/Apr%2028%2022STCV11631%20USC%20preliminary%20injunction.docx#_ftn2)  It is an equitable remedy available generally in the protection or to prevent the invasion of a legal right.  Meridian, Ltd. v. City and County of San Francisco, et al., (1939) 13 Cal.2d 424.

The purpose of a preliminary injunction is to preserve the *status quo* pending final resolution upon a trial.  *See* Scaringe v. J.C.C. Enterprises, Inc., (1988) 205 Cal.App.3d 1536. Grothe v. Cortlandt Corp., (1992) 11 Cal.App.4th 1313, 1316; Major v. Miraverde Homeowners Assn., (1992) 7 Cal.App.4th 618, 623.  The *status quo* has been defined to mean the last actual peaceable, uncontested status which preceded the pending controversy.  Voorhies v. Greene (1983) 139 Cal.App.3d 989, 995, quoting United Railroads v. Superior Court,(1916) 172 Cal. 80, 87. 14859 Moorpark Homeowner’s Assn. v. VRT Corp., (1998) 63 Cal.App.4th 1396. 1402.

A preliminary injunction is issued after hearing on a noticed motion.  The complaint normally must plead injunctive relief.  CCP §526(a)(1)-(2).[[3]](file:///C%3A/Users/JDeLuna/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/VH3G8ZDI/Apr%2028%2022STCV11631%20USC%20preliminary%20injunction.docx#_ftn3)  Preliminary injunctive relief requires the use of competent evidence to create a sufficient factual showing on the grounds for relief.  *See e.g.*Ancora-Citronelle Corp. v. Green, (1974) 41 Cal.App.3d 146, 150.  Injunctive relief may be granted based on a verified complaint only if it contains sufficient evidentiary, not ultimate, facts.  *See* CCP §527(a).  For this reason, a pleading alone rarely suffices.  Weil & Brown, California Procedure Before Trial, 9:579, 9(ll)-21 (The Rutter Group 2007).  The burden of proof is on the plaintiff as moving party.  O’Connell v. Superior Court, (2006) 141 Cal.App.4th 1452, 1481.

A plaintiff seeking injunctive relief must show the absence of an adequate damages remedy at law.  CCP §526(4); Thayer Plymouth Center, Inc. v. Chrysler Motors, (1967) 255 Cal.App.2d 300, 307; Department of Fish & Game v. Anderson-Cottonwood Irrigation Dist., (1992) 8 Cal.App.4th 1554, 1565.  The concept of “inadequacy of the legal remedy” or “inadequacy of damages” dates from the time of the early courts of chancery, the idea being that an injunction is an unusual or extraordinary equitable remedy which will not be granted if the remedy at law (usually damages) will adequately compensate the injured plaintiff.  Department of Fish & Game v. Anderson-Cottonwood Irrigation Dist., (1992) 8 Cal.App.4th 1554, 1565.

In determining whether to issue a preliminary injunction, the trial court considers two factors: (1) the reasonable probability that the plaintiff will prevail on the merits at trial (CCP §526(a)(1)), and (2) a balancing of the “irreparable harm” that the plaintiff is likely to sustain if the injunction is denied as compared to the harm that the defendant is likely to suffer if the court grants a preliminary injunction.  CCP §526(a)(2); 14859 Moorpark Homeowner’s Assn. v. VRT Corp., (1998) 63 Cal.App.4th 1396. 1402; Pillsbury, Madison & Sutro v. Schectman, (1997) 55 Cal.App.4th 1279, 1283; Davenport v. Blue Cross of California, (1997) 52 Cal.App.4th 435, 446; Abrams v. St. Johns Hospital, (1994) 25 Cal.App.4th 628, 636.  Thus, a preliminary injunction may not issue without some showing of potential entitlement to such relief.  Doe v. Wilson, (1997) 57 Cal.App.4th 296, 304.  The decision to grant a preliminary injunction generally lies within the sound discretion of the trial court and will not be disturbed on appeal absent an abuse of discretion.  Thornton v. Carlson, (1992) 4 Cal.App.4th 1249, 1255.

A preliminary injunction ordinarily cannot take effect unless and until the plaintiff provides an undertaking for damages which the enjoined defendant may sustain by reason of the injunction if the court finally decides that the plaintiff was not entitled to the injunction.  *See* CCP §529(a); City of South San Francisco v. Cypress Lawn Cemetery Assn., (1992) 11 Cal.App.4th 916, 920.

**2. Nuisance Law**

A nuisance is anything which is injurious to health or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfort enjoyment of life or property.  Civil Code §3479.

A public nuisance is one which affects the entire community or neighborhood or any considerable number of people, even if the extent of the annoyance or damage inflicted is unequal among individuals.  Civil Code §3480.  A public nuisance may be abated by any public body or officer authorized thereto by law.  Civil Code §3494.  To be enjoinable, the interference with collective social interests must be both substantial and unreasonable.  People ex rel. Gallo v. Acuna,¿(1997) 14 Cal.4th 1090, 1105.  An interference is substantial if it causes significant harm and unreasonable if its social utility is outweighed by the gravity of the harm inflicted.  County of Santa Clara v. Atlantic Richfield Co.,¿(2006) 137 Cal.App.4th 292, 305.

Causation is an essential element of a public nuisance claim.  Citizens for Odor Nuisance Abatement v. City of San Diego,¿(2017) 8 Cal.App.5th 350, 359.  A plaintiff must establish a “connecting element” or a “causative link” between the defendant’s conduct and the threatened harm.  Id.  Public nuisance liability does not hinge on whether the defendant owns or controls the property or whether the defendant was in the position to abate the nuisance.  Id.  Rather, the critical question is whether the defendant created or assisted in the creation of the nuisance.  Id.  Causation may consist of either an act or a failure to act under circumstances in which the actor is under a duty to take positive action to prevent or abate the interference.  Id. (summary judgment affirmed on public nuisance claim for noxious sea lion waste odors at La Jolla Cove where city had no affirmative duty to control the sea lions).

Any nuisance that is not a public nuisance is a private nuisance.  Civil Code §3481.  For a private nuisance, plaintiff must prove an injury specifically referable to the use and enjoyment of his or her land.  The injury, however, need not be different in kind from that suffered by the general public.  Kroll-Irvine Center Property Owners Assn. v. County of Orange, (1994) 24 Cal.App.4th 1036, 1041.  A nuisance which is both private and public may be enjoined at the instance of a private plaintiff.  Mangini v. Aerojet General, (1991) 230 Cal.App.3d 1125, 1138.

**B. Statement of Facts**

Taper Hall is a multi-purpose lecture hall with various lecture-style rooms.  Prince Decl., ¶5.  Only USC students can attend the classes there.  Prince Decl., ¶4.  The USC Department of Public Safety (“DPS”) is responsible for ensuring that Taper Hall and other USC facilities remain safe so students can pursue academic and social goals.  Prince Decl., ¶6.

Kanevsky is a “YouTuber” who regularly uploads prank videos to YouTube that include bullying, harassing, and intimidating unsuspecting civilians.  Prince Decl., ¶¶ 9-10, Ex. A.  The channel’s content is so egregious that on February 3, 2021 YouTube removed it from the platform.   Prince Decl., ¶11, Ex. B.  Neither Kanevksy nor Bai is a USC student or otherwise has permission to enter USC classes and film prank videos.  Prince Decl., ¶13.

On September 20, 2021, Defendants and Doe 1 entered classroom 101 in Taper Hall and interrupted a live data sciences lecture, Kanevsky claiming loudly that he was “Bradley Wellington III” and that his father owned the school.  Lawson Decl., ¶¶ 4, 7-8, Ex. A.  After letting the professor continue for a bit longer while standing at the front of the class, Kanevksy called the lecture “boring” and asked Doe 1 to escort the professor out from the classroom so that Bai could take over.  Lawson Decl., ¶¶ 4, 9, Ex. A.  A student later gave a witness statement indicating that Kanevsky told the professor he no longer had permission to teach his own class.  Lawson Decl., ¶10.  When the professor resisted leaving the lectern, Kanevsky told Doe 1 to escort him out, calling the professor “dangerous” and making him extremely uncomfortable.  Lawson Decl., ¶¶ 4, 12-13, Ex. A.  Doe 1 used physical intimidation to make the professor leave by towering over him.  Lawson Decl., ¶¶ 4, 14, Ex. A.

Bai took over the class, claiming that he had credentials in data sciences and worked with a professor in the field for the last 12 years.  Lawson Decl., ¶4, Ex. A.  Bai then began spewing nonsense that marijuana causes the brain to expand, thereby opening the path to heaven.  Lawson Decl., ¶¶ 4, 15-16, Ex. A.  From the first row, Doe 1 then began calling out that Bai sucks, throwing chicken nuggets at him before claiming to the class that chicken nuggets are the most important food for the body.  Lawson Decl., ¶4, Ex. A.  Kanevsky suggested that Doe 1 should take over teaching, and Doe 1 suggested that he and Kanevsky should fight to decide who would teach.  Lawson Decl., ¶¶ 4, 17, Ex. A.  As students began to leave, Kanevsky stepped up and began delivering the final “lesson” about how his daddy was successful without going to college and that everyone there was “finessed” to pay for taking these classes.  Lawson Decl., ¶¶ 4, 18, Ex. A.  As students continued to leave, the three invaders yelled at them to get out and called them “peasants”.  Lawson Decl., ¶¶ 4, 18, Ex. A.  The three pranksters fled before DPS arrived, and the professor required extra protection in the following weeks to continue teaching.  Lawson Decl., ¶20; Prince Decl., ¶18.

On November 12, 2021, Defendants Kanevsky, Bai, Doe 2, and Doe 3 dressed themselves as characters from the violent television show “Squid Game” and entered classroom 301 of Taper Hall.  Gonzalez Decl., ¶¶ 4, 6, Ex. A.  Squid Game centers around masked guards in orange bodysuits performing mass and individual executions of players in green track suits.  Gonzalez Decl., ¶6.  In that spirit, Bai dressed in a green track suit while Kanevsky and Doe 2 were dressed in orange body suits and black masks.  Gonzalez Decl., ¶¶ 7-8, 10, Ex. B.  Bai burst into the room first, panting and begging the teacher to help him as people were coming for him with weapons.  Gonzalez Decl., ¶¶ 4, 7, 9, Ex. A.  Just as the teacher was telling him to call DPS, Kanevsky and Doe 2 entered and began chasing Bai around the room through rows of students.  Gonzalez Decl., ¶¶ 4, 11, Ex. A.  At one point, Bai yelled: “If they catch me, my family will die!”  Gonzalez Decl., ¶¶ 4, 11, Ex. A.  Doe 2 picked up a student’s skateboard and continued to chase Bai.  Gonzalez Decl., ¶¶ 4, 12, Ex. A.  Bai kept yelling that the situation was serious as he hid behind the professor’s pant leg.  Gonzalez Decl., ¶¶ 4, 13, Ex. A.  Kanvesky and Doe 2 then lifted Bai and hauled him out like it was a kidnapping and Bai yelled that his “mom was going to die!”  Gonzalez Decl., ¶¶ 4, 14-15, Ex. A.  DPS only arrived after the three pranksters fled from campus, and interviews revealed that many of the student witnesses were visibly shaken – both by the conduct and how easy it was for three strangers to get inside the classroom.  Gonzalez Decl., ¶¶ 16-17.

On March 29, 2022, as a live lecture on the Holocaust began in Taper Hall, Bai snuck in and sat among the students.  Farris Decl., ¶¶ 4-6, Ex. A.[[4]](file:///C%3A/Users/JDeLuna/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/VH3G8ZDI/Apr%2028%2022STCV11631%20USC%20preliminary%20injunction.docx#_ftn4)  Sometime afterwards, Kanevsky entered dressed as a member of the “Russian Mafia” in a black skintight muscle shirt and slacks with a silver briefcase.  Farris Decl., ¶¶ 4, 7, Ex. A.  As he walked down the aisle, he called out that he was looking for “Hugo Boss.”  Farris Decl., ¶¶ 4, 8, Ex. A.  Bai responded he was Hugo Boss, at which point someone on the speaker of Kanevsky’s cell phone yelled that he was a “piece of shit” and a “motherfucker.”  Farris Decl., ¶¶ 4, 8-9, Ex. A.  The professor later explained to DPS that Hugo Boss was a Nazi uniform manufacturer during World War II, which made him terrified that this event was a retaliation for his lectures on the Holocaust.  Briseno Decl., ¶5.

Kanevsky slowly walked closer and claimed that Bai/Boss’s father owed him $50,000.  Farris Decl., ¶¶ 4, 11, Ex. A.  Students began panicking and fleeing the classroom *en masse*, leaving behind laptops and backpacks and tripping over seats and each other in the process.  Farris Decl., ¶¶ 4, 12, Ex. A.

One of the students ran into DPS Officer Devon Farris and told him that there was “a man with a gun,” prompting him to call for backup on the radio.  Farris Decl., ¶3.  The responding officers eventually managed to capture Defendants Kanevsky and Bai at gunpoint as they tried to escape through a parking garage available to students and the public.  Briseno Decl., ¶6.  During a subsequent LAPD interview, they denied possessing a firearm throughout the incident.  Briseno Decl., ¶7.

Following this third incident, USC received various reactions from concerned citizens who wanted to know what DPS would do, including (1) a phone call from a concerned San Diego Administrative Law Judge, (2) a phone call from a parent, (3) an email from the Jewish community on campus due to the Antisemitism in the third incident, (4) an email from the National Anti-Defamation League because of the Anti-Semitic, and (5) an email from a professor expressing concerns for personal well-being.  Prince Decl., ¶16.

The three incidents have collectively caused physical and emotional damage to students and professors, caused parents to feel concerned for their children’s safety, cost the USC financially as it spent many hours providing counseling to the victims, destroyed the safe environment of an educational facility, kept students from learning what those three lectures were going to be about, and compromised USC’s image to potential students as an institution that can keep them safe. Prince Decl., ¶15.  Fewer students have attended the Holocaust class since the March 29, 2022 takeover, which suggests that they are too scared of a repeat incident.  Prince Decl., ¶17.  USC’s loss of goodwill is ongoing as more calls come in.  Prince Decl., ¶19.  Given how violent Kanevsky’s pranks are, Plaintiff is fortunate that there has not been an injury from a defensive response by a Good Samaritan acting to protect everyone from a life-threatening situation.  Prince Decl., ¶21.

**D. Analysis**

Plaintiff USC seek a preliminary injunction enjoining Defendants from entering any USC-owned, operated, or occupied campus, residence, medical center, or other premises.  Neither Kanevsky nor Bai opposes.

            **1. Probability of Success**

            **a. Public Nuisance**

A public nuisance is one which affects the entire community or neighborhood or any considerable number of people, even if the extent of the annoyance or damage inflicted is unequal among individuals.  Civil Code §3480.  A public nuisance may be abated by any public body or officer authorized thereto by law.  Civil Code §3494.  To be enjoinable, the interference with collective social interests must be both substantial and unreasonable.  People ex rel. Gallo v. Acuna,¿*supra,*14 Cal.4th at 1105.  An interference is substantial if it causes significant harm and unreasonable if its social utility is outweighed by the gravity of the harm inflicted.  County of Santa Clara v. Atlantic Richfield Co.,¿*supra,*137 Cal.App.4th at 305.  A plaintiff must also establish a “connecting element” or a “causative link” between the defendant’s conduct and the threatened harm.  Id.  Public nuisance liability does not hinge on whether the defendant owns or controls the property or whether the defendant was in the position to abate the nuisance.  Id.  Rather, the critical question is whether the defendant created or assisted in the creation of the nuisance.  Id.

Plaintiff USC is an entity authorized to abate a public nuisance on its own campus.  USC has shown that Defendants have engaged in three separate disruptions of Taper Hall classes, all of which are on video.  Lawson Decl., ¶4, Ex. A; Gonzalez Decl., ¶4, Ex. A; Farris Decl., ¶4, Ex. A.  In the first, they forcibly ejected a professor out of his classroom before lecturing on nonsensical topics, staged a scenario in which two of the disruptors seemed about to fight, and then yelled at students and called them peasants.  Lawson Decl., ¶¶ 4, 9-18, Ex. A.  In the second, Bai and Kanevsky recreated a murderous chase from Squid Game in what would look like a kidnapping to an unsuspecting observer, all while Bai acted scared.  Gonzalez Decl., ¶¶ 4, 7-15, Ex. A.  In the third, Bai and Kanevsky posed as a German Nazi leader and a Russian Mafia enforcer and yelled obscenities at each other during a lecture about the Holocaust.  Farris Decl., ¶¶ 4, 7-9, 11, Ex. A.

Defendants’ conduct was offensive to the professors and students and to any ordinary reasonably prudent person who sees it.  Defendants’ actions have disrupted student education and scared students, parents, and teachers.  USC has received and continues to receive complaints from various persons expressing valid concerns for the safety of those on the USC campus.  Some students are shaken by the implication that strangers can get inside a classroom so easily and are concerned for their future safety.  Defendants’ conduct further has affected the recruitment of prospective students.

The court does not perceive any social benefit from the pranks.  While First Amendment prior restraint law protects the posting of videos online, neither the First Amendment nor any other legal or moral authority supports Defendants’ misconduct.  Defendants implicitly admitted as much by fleeing the scene.  Plaintiff has demonstrated a likelihood of success on its public nuisance claim.

**b. Private Nuisance**

A nuisance that is not a public nuisance is a private nuisance.  Civil Code §3481. For a private nuisance, plaintiff must prove an injury specifically referable to the use and enjoyment of his or her land.  The injury, however, need not be different in kind from that suffered by the general public.  Kroll-Irvine Center Property Owners Assn. v. County of Orange, *supra,*24 Cal.App.4th at 1041.  A nuisance which is both private and public may be enjoined at the instance of a private plaintiff.  Mangini v. Aerojet General, *supra,*230 Cal.App.3d at 1138.

As shown above, the three disruptions qualify as nuisances.  There is no dispute that Taper Hall is USC property, used to provide students with a safe environment to pursue academic and social goals.  USC has the right to prevent outsiders from entering and disrupting classes.  The university has been impacted by student, parental, and professor concern, spent many hours counseling victims, and impacts to its goodwill and reputation.  Plaintiff has demonstrated a likelihood of success on its private nuisance claim.

**2. Balance of Hardships**

The second factor which a trial court examines is the interim harm that plaintiff is likely to sustain if the injunction is denied as compared to the harm that the defendant is likely to suffer if the court grants a preliminary injunction.  Donahue Schriber Realty Group, Inc. v. Nu Creation Outreach, (2014) 232 Cal.App.4th 1171, 1177.  This factor involves consideration of the inadequacy of other remedies, the degree of irreparable harm, and the necessity of preserving the status quo.  Id.

USC asserts that, if the court does not enjoin Defendants from entering campus facilities again, they can continue to strike fear and confusion in students and their parents.  Any visit may cause student attendance at classes to decrease for week afterwards, as it did here.  Unless USC can guarantee that it will not suffer such interruptions in the future, its reputation and goodwill among will decrease.  App. at 12-13.

The court agrees.  Defendants Kanevsky and Bai are not USC students and can hardly suffer harm from being banned from its campus and other facilities.  Since Kanevsky lives in Texas, it is even more unlikely that he would suffer harm if banned from entering the campus or facilities of a California school.  The balance of harms strongly favors a preliminary injunction.

**E. Conclusion**

The application for a preliminary injunction is granted.  Defendants will be enjoined from entering any USC-owned, operated, or occupied campus, residence, medical center, or other premises.

The court must require a bond supporting the preliminary injunction.  The purpose of a bond is to cover the defendant’s damages from an improvidently issued injunction.  CCP §529(a).  In setting the bond, the court must assume that the preliminary injunction was wrongly issued.  Abba Rubber Co. v. Seaquist, (1991) 235 Cal.App.3d 1, 15.  The attorney’s fees necessary to successfully procure a decision dissolving the injunction are damages that should be included in setting the bond.  Id., *supra*, 235 Cal.App.3d at 15-16.  The greater the likelihood of the plaintiff prevailing, the less likely the preliminary injunction will have been wrongly issued, and that is a relevant factor for setting the bond.  Oiye v. Fox, (2012) 211 Cal.App.4th 1036, 1062.   The likelihood of Defendants succeeding in this action is minimal and the bond will be set at $100.

[[1]](file:///C%3A/Users/JDeLuna/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/VH3G8ZDI/Apr%2028%2022STCV11631%20USC%20preliminary%20injunction.docx#_ftnref1) Plaintiff’s service was a day late under the court’s order.  Plaintiff’s counsel explains that he attempted to serve Kanevsky twice at the address he gave to campus police.  Maldonado Supp. Decl., ¶¶ 5-6.  Counsel contacted Kanevsky via email, and he provided his Texas address.  Plaintiff personally served him the next day.  Maldonado Supp. Decl., ¶¶ 7-8, Ex. C-D.

[[2]](file:///C%3A/Users/JDeLuna/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/VH3G8ZDI/Apr%2028%2022STCV11631%20USC%20preliminary%20injunction.docx#_ftnref2) The courts look to the substance of an injunction to determine whether it is prohibitory or mandatory.  Agricultural Labor Relations Bd. v. Superior Court, (1983) 149 Cal.App.3d 709, 713.  A mandatory injunction — one that mandates a party to affirmatively act, carries a heavy burden: “[t]he granting of a mandatory injunction pending trial is not permitted except in extreme cases where the right thereto is clearly established.”  Teachers Ins. & Annuity Assoc. v. Furlotti, (1999) 70 Cal.App.4th 187, 1493.

[[3]](file:///C%3A/Users/JDeLuna/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/VH3G8ZDI/Apr%2028%2022STCV11631%20USC%20preliminary%20injunction.docx#_ftnref3) However, a court may issue an injunction to maintain the *status quo* without a cause of action in the complaint.  CCP §526(a)(3).

[[4]](file:///C%3A/Users/JDeLuna/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/VH3G8ZDI/Apr%2028%2022STCV11631%20USC%20preliminary%20injunction.docx#_ftnref4) The video is the only one without audio.  DPS separately analyzed an audio recording not included with the evidence.  Farris Decl., ¶4.