

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	Civil Case No.: <u>1:12-cv-22768-PAS</u>
)	
v.)	
)	
LEO PELIZZO,)	
)	
Defendant.)	
_____)	

PLAINTIFF’S FIRST SET OF INTERROGATORIES TO DEFENDANT

Pursuant to Fed.R.Civ.P. 33, Plaintiff, MALIBU MEDIA, LLC (“Plaintiff”), hereby propounds the following Interrogatories upon Defendant, LEO PELIZZO (“Defendant”), which Defendant shall answer fully and separately in writing under oath in the manner and within the time prescribed by the applicable Federal Rules of Civil Procedure.

Dated: March 22, 2013

Respectfully submitted,

By: /s/ M. Keith Lipscomb
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CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2013, a true and correct copy of the foregoing document was served via U.S. Mail and/or email to the following:

Francisco J. Ferreiro, Esq.
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By: /s/ M. Keith Lipscomb

DEFINITIONS AND INSTRUCTIONS

1. “Computer Devices” means a personal computer, lap-top computer, tablet, I-Pad, game system, or any other device capable of distributing a .torrent file.

2. “Document” means any written or graphic matter or other tangible means of preserving thought or expression, and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including, but not limited to, correspondence, memoranda, notes, logs, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books reports, charts, ledgers, invoices, work sheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, canceled checks, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind, including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings, motion pictures and electronic, mechanical or electric recording or representations of any kind (including, without limitations, tapes, cassettes, discs and recordings).

3. The term “every document” means each document or group of documents or communication as above defined known to you and every such document or communication which can be located or discovered by reasonably diligent efforts.

4. The term “you” or “your” means the person upon whom these interrogatories were served and any other person(s) or entity(ies) acting or purporting to act on your behalf or under your control.

5. “Person” means any natural person, individual, proprietorship, partnership, corporation, association, organization, joint venture, firm, other business enterprise, governmental body, group or natural person or other entity.

6. “Identify”, when used with reference to a natural person, means state:

- (a) His full name and address (or, if the person’s present address is not known, his or her last known address).
- (b) His or her relationship to you.
- (c) Such other information sufficient to enable an identification of the person.

7. “Identify”, when used with reference to any entity other than a natural person, means:

- (a) State the full name of the entity, the type of entity (e.g., corporation, partnership, etc.), the address of its principal place of business, its principal business activity and, the jurisdiction under the laws of which it has been organized.
- (b) State whatever other information that you may have concerning the existence or identity of the entity.

8. “Identify”, when used with reference to a documents or communication, means:

- (a) Its nature (e.g., letter, telegram, memorandum, chart (report or study), date, author, and place of preparation and the name and address of each addressee, if there is an addressee.
- (b) The identity of each signer of the document or communication.
- (c) The title or heading of the document or communication.
- (d) Its substance.
- (e) Its present location or, if the present location is not known, the last known location and its custodian.

9. "Identify," when used in any other context than herein above set forth, means describe the act, word, situation, event, conduct or course of action, etc. to be identified as fully as possible and identify each document or communication in which such act, word, situation, event, conduct or course of action, etc., was recorded, described and referred to.

10. If any interrogatory calls for a document or non-written communication which you claim to be privileged, state the grounds upon which the claim of privilege is made and identify each document or non-written communication. In identifying such document or communication, you may substitute for a summary of its content, principal terms or provisions, a statement of the subject matter to which it relates. The fact that an interrogatory calls in part for documents or non-written communications which you claim to be privileged is not a basis for you to fail to identify fully all documents or non-written communications which you claims to be privileged is not a basis for you to fail to identify fully all documents or non-written communications called for by such interrogatory as to which no privilege is claimed.

11. If you cannot answer any interrogatory fully and completely after exercising due diligence to make inquiry and secure the information to do so, please so state and answer the interrogatory to the extent possible. Specify the portion of such interrogatory you claim you are unable to fully and completely answer, and further specify the facts on which you rely to support your contention that you are unable to answer the interrogatory fully and completely.

12. Please use the space provided for your answer if adequate; if not, attach additional sheets with the required information.

INTERROGATORIES TO LEO PELIZZO

1. State the full name, address and position relative to the Defendant of the person(s) answering these Interrogatories and for each such person state what that person contributed.

Response to Interrogatory No. 1:

2. Describe in detail your educational background, where you went to high school, college (if you attended), your major and your work history, and in chronological fashion identify each of your former employers and your present employers, state how long you worked at each such employer, and summarize your job duties for each such employer. For the avoidance of doubt, if at any time you were self-employed, the sole proprietorship, partnership or legal entity through which you were self-employed qualifies as an employer within the meaning of this interrogatory.

Response to Interrogatory No. 2:

3. Explain in detail your exposure to Computer Devices in school, college, work and at home, include within your answer any courses or classes you have taken to learn how to use Computer Devices and/or the software that enables the Computer Devices to work, list all of the programs that you know how to use, and state when you learned how to use each such program.

Response to Interrogatory No. 3:

4. Identify by brand, trademark, model number, version and by any other relevant form of identifier each of the Computer Devices used in your home during the preceding two years and for each such Computer Device, state when it was purchased, from where it was purchased, who is authorized to use the Computer Device, who has been authorized to use the Computer Device, the times during which each such person was authorized to use the Computer Device, and identify the person who primarily uses the Computer Device.

Response to Interrogatory No. 4:

5. Identify each wireless router or modem used in your home during the preceding two years and for each such device state the duration during which it was password protected. If you have changed the password for a wireless router or modem during the last two years, state when you changed the password and explain why you changed the password.

Response to Interrogatory No. 5:

6. For each Computer Device, wireless router and modem identified above, identify the person that installed it, connected it, or otherwise set it up, and each person that has moved, modified or otherwise controlled it.

Response to Interrogatory No. 6:

7. Describe your house, apartment, or dwelling in detail, including its configuration, the number of floors, and its size or approximate size in square feet, and identify the location inside your house, apartment, or dwelling that each of your Computer Device(s), wireless router(s) or modem(s) is located. For purposes of this response, kindly create a diagram similar to the one that follows but which more accurately reflects the shape of your house, apartment or dwelling:

Response to Interrogatory No. 7:

First Floor



Second Floor



8. Identify each person who you provided with access to your wireless router(s) or modem(s) during the last two years, and state the duration during which each such person had access to your wireless router(s) or modem(s).

Response to Interrogatory No. 8:

9. For each person identified above, state his or her age or approximate age, describe his or her relationship to you, and state whether or not he or she used a password to connect to your wireless router or modem.

Response to Interrogatory No.9:

10. Identify each person who was at your home on January 23, 2012, February 6, 2012, March 1, 2012, March 8, 2012, March 28, 2012, April 19, 2012, April 24, 2012, May 12, 2012, and May 17, 2012 (the "Subject Days"), and state whether each such person had access to your Computer Device(s), wireless router(s) or modem(s).

(a) If no one was home on the Subject Days, identify: (i) the Computer Devices that were on or running on each of the Subject Days, and (ii) when were you last home prior to each of the Subject Days.

Response to Interrogatory No. 10:

11. Identify any communication you have received from your ISP in the last two years including any changes regarding the terms of your contract or agreement, and any notices you have received, including but not limited to notices of copyright infringement.

Response to Interrogatory No. 11:

12. For each of the Computer Devices identified in your response to Interrogatory No. 4, identify by brand, trademark, model number, version and any other form of identifier each of the video or audio players and other programs which enable you to view videos, TV, DVDs, movies, or listen to music, and in your answer identify which of those players or programs were operational on January 23, 2012, February 6, 2012, March 1, 2012, March 8, 2012, March 28, 2012, April 19, 2012, April 24, 2012, May 12, 2012, and May 17, 2012.

Response to Interrogatory No. 12:

13. When, how and where did you first learn about BitTorrent, who was with you when you first learned about BitTorrent.

Response to Interrogatory No. 13:

14. Identify each person, including yourself, if applicable, whom you know, at any time in the past, has used BitTorrent or any other type of peer-to-peer file sharing program.

Response to Interrogatory No. 14:

15. Identify each BitTorrent Client, in other words software program that enables the BitTorrent protocol to work, which is or has ever been installed on one of the Computer Devices in your home.

Response to Interrogatory No. 15:

16. Identify each BitTorrent file that you have downloaded, and each BitTorrent website that you have visited.

Response to Interrogatory No. 16:

17. For each of your Computer Devices, identify each program used to encrypt, destroy, erase, delete, or wipe out files or data from said Computer Device; and any program used to mask, switch or hide your IP address or email address.

Response to Interrogatory No. 17:

18. Identify each website, blog or message board, which you have visited, or to which you have subscribed, posted or hosted, which refers to, relates to, or discusses, internet piracy, BitTorrent, file sharing, or which provides information to people regarding suits which allege that people have committed on-line copyright infringement.

Response to Interrogatory No. 18:

19. Explain in detail what you posted on each website, blog or message board identified above and any information that you learned from said website, blog or message board.

Response to Interrogatory No. 19:

20. Which internet browsers do you use and have you searched for X-Art, Malibu Media, or torrent files?

Response to Interrogatory No. 20:

21. Have you ever knowingly downloaded a song, movie, game, software program or computer file from a file sharing service? For purposes of your answer “file sharing service” should be interpreted to mean any peer-to-peer, streaming, one click, storage locker or other type of service that provides content for free or for a monthly subscription. Examples of these types of services include but are limited to Napster, Limewire, BitTorrent, MegaUpload, Piratebay, Utorrent, Extratorrent and Grokster.

Response to Interrogatory No. 21:

22. Have you or anyone who has had access to a wireless router(s) or modem(s) in your home visited an adult website within the last two years?

Response to Interrogatory No. 22:

23. Have you ever watched x-rated, adult or pornographic movies or live feeds (collectively, “adult content”)? If so, when approximately was the last time you watched adult content, how often do you watch adult content, which studios do you prefer, and what type of movies do you prefer?

Response to Interrogatory No. 23:

24. How and from where do you procure adult content to watch? Have you ever subscribed to an internet company distributing adult content?

Response to Interrogatory No. 24:

25. Is there anyone in your personal or professional life who you do not want to know that you watch adult content? If so, explain who and why?

Response to Interrogatory No. 25:

CERTIFICATION / JURAT PAGE

By: _____
Name: Leo Pelizzo

STATE OF FLORIDA)
) SS:
COUNTY OF _____)

BEFORE ME, the undersigned, having personally appeared _____,
as _____ and who after first being duly sworn, deposes and states that the
foregoing Answers to Interrogatories are true and correct to the best of his/her knowledge and
belief.

NOTARY PUBLIC, STATE OF
FLORIDA AT LARGE

Print Name: _____

Commission No. _____

My Commission Expires: _____