

HONORABLE THOMAS O. RICE

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*Counsel for Defendant Ryan Lamberson*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

ELF-MAN, LLC,

Plaintiff,

vs.

RYAN LAMBERSON,

Defendants.

No. 2:13-CV-00395-TOR

DECLARATION OF J.  
CHRISTOPHER LYNCH IN  
SUPPORT OF DEFENDANT'S  
MEMORANDUM REGARDING  
MOTION TO DISMISS

I, J. Christopher Lynch, declare as follows:

1. I am over 18 years of age and am competent to testify. I make this declaration based on my own personal knowledge. I am one of the attorneys for Defendant, Ryan Lamberson (hereinafter, "Mr. Lamberson").

2. In the *Elf-Man* cases in other districts where a purported copyright certificate was submitted to the Court, the certificate is incomplete and missing the

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IN SUPPORT OF MEMORANDUM RE  
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1 critical page two containing the acknowledgement of who presented it to the  
2 Copyright Office. For example, Exhibit B of the Complaint filed in *Elf-Man LLC*  
3 *v. Does 1-85* in the District of Colorado, Case No. 1:13-cv-00686, contains page 1  
4 of the purported certificate, but not page 2.

5 3. On June 18, 2014, I inquired about the missing page 2 of the  
6 purported certificate from the other cases. Mr. Lowe replied on June 19, 2014: “I  
7 likewise have not seen page 2 of the Elf-Man registration yet. The plaintiff has  
8 only provided page 1, and it may be that the plaintiff simply no longer has the  
9 original certificate with page 2 (I’m still checking).”

10 4. In Mr. Lowe’s earlier BitTorrent case in this District, *Canal Street*  
11 *Films v. Does 1-13*, Case No. 2:13-cv-03001-EFS, Mr. Lowe did submit the  
12 purported copyright certificate for the direct-to-DVD movie *Scary or Die*, but the  
13 copyright certificate was executed by “Josh Partridge” who was not the author of  
14 the movie nor an officer of Canal Street Films. This certificate is attached hereto as  
15 Exhibit A. Mr. Partridge’s publicly-available LinkedIn page is attached hereto as  
16 Exhibit B which states he worked for “Anti Piracy Management  
17 Company/Guardaley,” the firm that presumably conducted the investigation and  
18 presumably had a monetary stake in the outcome of that enforcement litigation,  
19 and this one.

20 5. GuardaLey is tied to the purported investigative firm in this case Anti-  
21 Piracy Management Company, LLC (“APMC”). For example, Patrick Achache  
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1 signed as “President” of APMC on the agreement filed under seal in connection  
2 with my Declaration in Support of our Reply Memorandum in Support of our  
3 Motion to Compel. ECF Nos. 65 and 66. Mr. Achache has submitted declarations  
4 in other districts indicating he is an executive in GuardaLey, for example, ECF No.  
5 29-1 in *Achte/Neunte Boll Kino Beteiligungs GMBH v. Does 1 – 4,577*, Case No.  
6 1:10-cv-00453-RMC in the District of Columbia where Mr. Achache testifies: “I  
7 am Director of Data Services for Guardaley, Limited.”

8         6. Neither GuardaLey nor Mr. Partridge were identified to the Court as  
9 parties in interest by Mr. Lowe in submitting the required Corporate Disclosure  
10 Statement in the *Canal Street Films* case referred to in paragraph 4 above, even  
11 though it appears GuardaLey was a real party in interest in that case, just as its  
12 sister company APMC is an undisclosed real party in interest in this case.

13         7. I asked for source “work made for hire” and “assignment” documents  
14 of Elf-Man, LLC in discovery and received a jumble of redacted papers that do not  
15 appear to cover each of the participants who made copyrightable contributions to  
16 the movie. For example, there are many more people listed in the production  
17 credits of the movie than people for whom we received redacted assignment  
18 documents and “deal memos” which do not expressly make assignments.

19         8. I asked plaintiff in discovery to identify the “piece” that plaintiff’s  
20 investigators allegedly harvested from the IP address later associated with Mr.  
21 Lamberson, but plaintiff was unable to identify the piece.

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1           9. I am informed by the Vuse BitTorrent client software documentation  
2 that a BitTorrent piece (actually a “block” of a “piece”) for a 700MB sized movie  
3 such as *Elf-Man* has a size that can range from 32kB to 64kB, and the smaller the  
4 pieces, the faster the torrent works. At 32kB, the run-time of any one piece would  
5 be approximately .241 seconds (241 milliseconds). At 64kB, the run-time of any  
6 one piece would be approximately .482 seconds (482 milliseconds). According to  
7 wikianswers, the time of a blink of an eye is between 300 and 400 milliseconds.

8           10. We were provided an encrypted PCAP file as part of discovery as to  
9 the evidence plaintiff had against Mr. Lamberson. We were not provided the  
10 associated technical report listed in plaintiff’s Initial Disclosures. My staff was  
11 able to de-encrypt the PCAP file and determined it showed one handshake request  
12 from the investigator’s machine and one block of one piece returned to the  
13 investigator’s machine at its request. I reviewed the decrypted report and could see  
14 the computer code standing for these events and the date and one-second time-  
15 frame in which they occurred. I later asked a technician at the Electronic Frontier  
16 Foundation if this single handshake/reply could be confirmed and I was told it  
17 could, by virtue of the binary number shown on the decrypted report. I have  
18 confronted plaintiff numerous times about this evidence and plaintiff has never  
19 disputed that only one block of one piece was delivered to the investigator’s  
20 computer at its request.

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1           11. Using Google maps and street view I discovered that plaintiff's only  
2 "fact" witnesses that were identified in plaintiff's Initial Disclosures as likely  
3 having false addresses, given with an intent to deceive as to these witnesses' real  
4 employers. Using the Deutsche telekom website, I discovered that the telephone  
5 numbers for these witnesses did not have the city codes for Stuttgart as the initial  
6 Disclosures stated, but had city codes for Karlsruhe, Germany, the known  
7 headquarters of GuardaLey, since a Google search of "Guardaley Ltd Karlsruhe"  
8 returns a map of Karlsruhe pinpointing the GuardaLey facility. I called Mr.  
9 Macek's telephone number with the Karlsruhe city code and it was answered  
10 "GuardaLey."

11           12. Plaintiff refused to disclose the relative stake that APMC has in this  
12 matter, but it has such a stake, because any settlements plaintiff did wrest go first  
13 to paying APMC, before payment to the purported rights holder. This is seen on  
14 page 7 of the agreement between APMC and Vision Films, filed under seal as  
15 Exhibit B to my Declaration in Support of our Reply Memorandum in Support of  
16 our Motion to Compel, also filed today as ECF Nos. 65 and 66.

17           13. Recall that plaintiff was loath to describe its relationship with its  
18 investigators, resulting in a six week delay by plaintiff from the Court's Order,  
19 ECF No. 31, to the provision of such an explanation. I confronted plaintiff with  
20 evidence of the implausibility of the explanation, including such fundamentals that  
21 a South Dakota shell corporation could not have a German national (Mr. Macek,  
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1 identified as plaintiff's "primary investigator") "working for" it, as the explanation  
2 proffers. Newly discovered evidence further exposes plaintiff's "explanation" as  
3 implausible: in *Elf-Man, LLC v. Does 1-85*, Case No. 1:13-cv-00686-WYD-MEH  
4 filed March 14, 2013, in the District of Colorado, Elf-Man, LLC claims its  
5 investigator was working for "IPP, Limited," ECF No. 1, at pages 7-8, not Crystal  
6 Bay Corporation as plaintiff claims in this case, even though the time-frames of the  
7 typed-up charts overlap in the cases. IPP, Limited is a German company associated  
8 with GuardaLey. For example, Exhibit T of ECF No. 9-1 filed in the District of  
9 Maryland in Case No. 1:14-cv-00223 is a employment listing in German for "IPP  
10 INT." for a "Linux Administrator" where the response mail address is  
11 "jobs@guardaley.com."

12 14. I have asked Ms. VanderMay, Mr. Crowell, and Mr. Lowe to please  
13 correct the apparently incorrect addresses (of the very witnesses plaintiff suggests  
14 we travel to Germany to depose), but none of these counsel have done so. As  
15 noted in my Declaration in Support of our Motion to Compel these German to  
16 come to Spokane at plaintiff's expense for deposition, ECF No. 53, Mr. Patzer has  
17 been identified in other Initial Disclosures as residing in the United Kingdom, not  
18 Germany.

19 15. Mr. Lamberson's investigation has now revealed that APMC appears  
20 to be the investigator, the financier of the litigation, the party hiring the attorneys,  
21 the party preparing the pleadings, and the party negotiating the settlements and  
22

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1 cashing the checks. This is shown in the “Prezi Presentation” transcript attached as  
2 Exhibit C to my Declaration in Support of our Reply Memorandum in Support of  
3 our Motion to Compel, filed today, ECF No. 65-3.

4 16. There are numerous important open issues plaintiff has refused to  
5 address: (1) plaintiff did not note nor take the deposition of Mr. Lamberson, which  
6 was agreed on by counsel and scheduled for Thursday, June 19, 2014, despite  
7 knowledge that Mr. Lamberson had arranged to take that day off from work at no  
8 pay; (2) plaintiff did not appear at its noted Fed. R. Civ. P. 30(b)(6) deposition, nor  
9 did plaintiff provide any alternate dates; (3) plaintiff has not substantively  
10 responded to inquiries from defense counsel regarding a number of relevant issues  
11 including (i) the correct addresses of its witnesses, (ii) provision of the results of  
12 plaintiff’s subpoena to Comcast, presumably served on plaintiff on the subpoena  
13 due date of June 6, 2014, (iii) the required privilege log to support its purported  
14 objections regarding APMC (plus, obviously, the associated requested documents),  
15 (iv) how the relationship of the investigators actually works, as opposed to the  
16 implausible explanation provided which includes that Mr. Macek, a German  
17 national (whose phone number is answered “GuardaLey”) could possibly have  
18 been “working for” a delinquent South Dakota “shelf” corporation (Crystal Bay  
19 Corporation) in “its technical department” when Crystal Bay Corporation appears  
20 to have no real operations and continues to be in violation of South Dakota  
21 corporate law. Attached as Exhibit C is a condensed copy of the Fed. R. Civ. P.

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1 30(b)(6) deposition of Elf-Man LLC and its exhibits, which was noted and which  
2 neither Elf-Man LLC nor its counsel attended. Mr. Lamberson is also submitting  
3 his own declaration today to show the impact of this matter on his life and  
4 finances, including the day's pay he lost when plaintiff did not take his deposition  
5 on the appointed date, June 19, 2014.

6 17. The American Intellectual Property Law Association ("AIPLA")  
7 publishes statistics every other year on the costs of a variety of types of intellectual  
8 property cases.

9 18. The most recent version of the statistics is for 2013. Pages 171-172  
10 are attached as Exhibit D. For copyright cases with a value under \$1,000,000, the  
11 statistics show an average litigation cost of \$216,000 through discovery and  
12 \$373,000 through trial. For copyright cases with a value between \$1,000,000 and  
13 \$10,000,000, the statistics show an average litigation cost of \$415,000 through  
14 discovery and \$710,000 through trial.

15 19. I am the lead counsel on the case. My Lee & Hayes associates Jeffrey  
16 R. Smith and Rhett V. Barney have assisted me.

17 20. Mr. Smith has taken the main responsibility for discovery disputes in  
18 the matter and he has engaged with the Court in the two telephonic discovery  
19 conferences held. Mr. Smith was primarily responsible for the explanations to the  
20 Court that German nationals cannot be lawfully deposed in United States civil  
21 litigation by telephone.

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1        21. Mr. Barney has taken the main responsibility for working with Mr.  
2 Lamberson and he has engaged in numerous conferences with Mr. Lamberson  
3 explaining the nature of the claims against him. Mr. Barney has visited Mr.  
4 Lamberson in his home in order to prepare thorough and complete responses to the  
5 written discovery served upon him by plaintiffs. Mr. Barney has inspected Mr.  
6 Lamberson's computer and instructed him on spoliation rules so that the computer  
7 remained in a proper condition for the inspection by plaintiff that we had urged  
8 from the start, but which plaintiff never undertook.

9        22. I am a graduate of the University of Washington College of  
10 Engineering in 1984 and the University of Washington School of Law in 1987. I  
11 was admitted to practice in Washington and in this District in 1987. I am a  
12 licensed patent attorney, USPTO Registration No. 34,216. I have over 25 years of  
13 intellectual property practice. I have been counsel of record in numerous patent,  
14 trademark, and copyright matters in this District. I have also been an adjunct  
15 professor and associate professor at Gonzaga University School of Law teaching a  
16 variety intellectual property courses every year since 1991. In 2008, I was  
17 appointed by the Judges of this District to a three-year term as Lawyer  
18 Representative to the Ninth Circuit Judicial Conference. Currently, I am the  
19 practice group leader of the trademark, copyright and licensing practices at Lee &  
20 Hayes, which is the largest intellectual property boutique in the northwest with its  
21 headquarters in Spokane. My standard hourly billing rate is \$490, which I note is  
22

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1 almost identical to the \$495 per hour of Mr. Lowe's fee request. The AIPLA  
2 statistics for an intellectual property lawyer of my years of practice in intellectual  
3 property law is an average of \$534 per hour. *See* Exhibit D. I have charged my  
4 time on this matter for Mr. Lamberson, however, at \$250 per hour.

5 23. Mr. Smith is a 1988 graduate of Whitworth University with a  
6 bachelors of science degree. He graduated from the Yale University School of  
7 Medicine in 1990. He graduated from Gonzaga University School of Law in 2004.  
8 He was admitted to this Court in 2007. Mr. Smith practiced medicine for 18 years  
9 before becoming an attorney. He is in the corporate, litigation, and life-sciences  
10 practice groups at Lee & Hayes as an associate. Mr. Smith's customary billing rate  
11 is \$270 per hour for litigation and corporate work and \$350 per hour for life  
12 sciences work. The AIPLA statistics for an intellectual property lawyer of Mr.  
13 Smith's experience as an associate is \$347 per hour. *See* Exhibit D. I have  
14 charged Mr. Smith's time on this matter for Mr. Lamberson, however, at \$200 per  
15 hour.

16 24. Mr. Barney is a 2007 graduate of Brigham Young University-Idaho  
17 with a bachelors of science degree. He graduated from Gonzaga University School  
18 of Law in 2011. Mr. Barney worked in intellectual property throughout his law  
19 school career including as the lead United States consultant to an international  
20 company compiling an intellectual property case law database. Mr. Barney is in  
21 the trademark, copyright and litigation practice groups at Lee & Hayes. Mr.  
22

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1 Barney's customary billing rate is \$260 per hour. The AIPLA statistics for an  
2 intellectual property lawyer of Mr. Barney's experience as an associate is \$271 per  
3 hour. *See* Exhibit D. I have charged Mr. Barney's time on this matter for Mr.  
4 Lamberson, however, at \$200 per hour.

5 25. Messrs Smith, Barney and I have kept contemporaneous time records  
6 pursuant to our law firm's policies. We have prepared and sent monthly bills to  
7 Mr. Lamberson. I have reviewed those billing records in preparation of this  
8 declaration.

9 26. The billing records show activity starting on October 9, 2013 and we  
10 have seven bills: for October and November combined, December, 2013 and  
11 January, February, March, April and May 2014. Our bills for June 2014 will be  
12 processed along with the other bills for our firm in the next two weeks. I can  
13 provide more detail on these billing if the court requests, but here is a summary of  
14 the billing entries and the time and fees logged.

15 27. The billings for October show meetings with Mr. Lamberson, review  
16 of the Complaint and the court files, correspondence with opposing counsel asking  
17 for her to examine Mr. Lamberson's computer, Rule 11 preparation, and  
18 investigation of Crystal Bay Corporation.

19 28. The bills for November show legal research on plaintiff's ill-fated  
20 "indirect copying" claim, on secondary copyright liability, the motion to sever, on  
21 the required meetings of counsel and correspondence with opposing counsel asking  
22

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1 for her to examine Mr. Lamberson's computer, and investigation of BitTorrent  
2 false positives. The combined October/November time for Mr. Lynch is 23 hours,  
3 for Mr. Smith is 7.8 hours, and for Mr. Barney is 2 hours.

4 29. The bills for December show correspondence with opposing counsel  
5 asking her to examine Mr. Lamberson and his computer, correspondence, the joint  
6 report for the court, review of other BitTorrent cases throughout the country  
7 including Elf-Man LLC cases, additional investigation of Crystal Bay Corporation  
8 and also IPP and Guardaley. The bills show preparation of our Answer,  
9 Affirmative Defenses and Counterclaims and the Court's scheduling conference.  
10 The December time for Mr. Lynch is 45.5 hours, for Mr. Smith is 3 hours, and for  
11 Mr. Barney is 3 hours.

12 30. The bills for January show numerous discovery matters including  
13 meetings with our client about the same, correspondence, the protective order,  
14 investigation of IPP and Guardaley, legal research regarding liability issues, and  
15 preparation of a response to plaintiff's motion to dismiss plus preparation of our  
16 amended answer. The bills include discovery conferences with opposing counsel  
17 and demands for plaintiff to comply with discovery. The January time for Mr.  
18 Lynch is 45 hours, for Mr. Smith is 7.6 hours, and for Mr. Barney is 10.5 hours.

19 31. The bills for February show our conference with the court that  
20 resulted in the order of counsel to produce discovery, all of the related  
21 correspondence in that regard, investigation regarding Vision Films and Anchor  
22

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1 Bay Media, legal research regarding use of fictitious defendants, memoranda filed  
2 with the court, and preparation of responses to plaintiff's discovery. The February  
3 time for Mr. Lynch is 47 hours, for Mr. Smith is 2 hours, and for Mr. Barney is 14  
4 hours.

5 32. The bills for March show efforts to get compliance with the court  
6 order, review of incoming discovery and the initial disclosures, correspondence  
7 with opposing counsel on a number of topics, investigation of Vision Films and its  
8 BitTorrent cases, preparation of discovery out to plaintiff, preview of incoming  
9 orders, investigation regarding witnesses and patterns of testimony, investigation  
10 of the German companies we had discovered, legal research regarding foreign  
11 depositions, timelines of the alleged activities, and legal research regarding  
12 plaintiff's motion. The March time for Mr. Lynch is 35.2 hours, for Mr. Smith is  
13 13.1 hours, and for Mr. Barney is 2 hours.

14 33. The bills for April show review of Malibu Media cases as we  
15 discovered it used the same German back office, Noerr Pennington research and  
16 the sham litigation exception, briefing on the same, correspondence with opposing  
17 counsel demanding the documents ordered by the court in February, investigation  
18 of Patrick Achache and APMC, legal research regarding letters rogatory and the  
19 process for foreign depositions, legal research on the real party in interest, and  
20 preparation of our first motion to compel. The April time for Mr. Lynch is 46.2  
21 hours, for Mr. Smith is 25.3 hours, and for Mr. Barney is 3.8 hours.

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1       34. The bills for May show the second discovery conference with the  
2 Court and related correspondence, correspondence with opposing counsel about  
3 discovery, legal research regarding private investigator laws, preparation of  
4 briefing for the court. The May time for Mr. Lynch is 34 hours, for Mr. Smith is 12  
5 hours, and for Mr. Barney is 1.5 hours.

6       35. The timesheets for June (bills not yet prepared) show conferences  
7 with Mr. Crowell and Mr. Lowe, legal research regarding the mailbox rule,  
8 investigation of Mr. Crowell's Elf-Man cases and how Ms. VanderMay copied  
9 what he had done not using certificates or witnesses, preparation of our second  
10 motion to compel, legal research regarding privilege and agents, legal research  
11 regarding Rule 41(a)2, Rule 11, 28 U.S.C. § 1927, and Rule 54, briefing for the  
12 court, and additional investigation regarding APMC. The June time for Mr. Lynch  
13 is 58.8 hours, for Mr. Smith is 9.7 hours, and for Mr. Barney is 2 hours.

14       36. The timesheets for July show preparation of our Reply Memorandum  
15 to support the motion to compel, and the memorandum regarding the motion to  
16 dismiss, selection of exhibits and preparation of declarations for the court. The  
17 approximate July time for Mr. Lynch is 12 hours, for Mr. Smith is 2 hours, and for  
18 Mr. Barney is 3 hours.

19       37. The sum of these hours times the \$250 per hour rate for Mr. Lynch  
20 and the \$200 per hour rate for Messrs. Smith and Barney is \$111,725. Our request  
21 is for \$100,000 in order to incentivize plaintiff to accept this condition rather than  
22

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1 continue to run up the bills as it may face in a full fee request if this case continues.  
2 We do not request rates higher than we claim even though higher rates than our  
3 request are customary for our levels of experience.

4 38. We also request payment of our only allowable cost under Fed. R.  
5 Civ. P. 54(d), 28 U.S.C. §1920 of \$154.50 for the court reporter and transcript fee  
6 for the Fed. R. Civ. 30(b)(6) deposition of Elf-Man LLC.

7 39. These fees and costs were necessarily incurred in this successful  
8 defense of the matter. I am willing to provide as much more detail on these items  
9 as the Court may desire.

10 I declare under penalty of perjury under the laws of the United States that  
11 the foregoing is true and correct.

12 DATED this 3<sup>rd</sup> day of July, 2014 at Spokane, Washington.

13 LEE & HAYES, PLLC

14  
15 By: s/ J. Christopher Lynch

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20  
21 *Counsel for Defendant Ryan Lamberson*

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 3<sup>rd</sup> day of July, 2014, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

David A. Lowe                      [lowe@lowegrahamjones.com](mailto:lowe@lowegrahamjones.com)

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By: s/ J. Christopher Lynch

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DECLARATION OF J. CHRISTOPHER LYNCH  
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# EXHIBIT A

DECLARATION OF J. CHRISTOPHER LYNCH  
IN SUPPORT OF MEMORANDUM RE  
PLAINTIFF'S MOTION TO DISMISS - 17

**EXHIBIT A**

DECLARATION OF J. CHRISTOPHER LYNCH  
IN SUPPORT OF MEMORANDUM RE  
PLAINTIFF'S MOTION TO DISMISS - 18

## Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Maria A. Pallante*

Register of Copyrights, United States of America

**Registration Number**  
**PA 1-810-569**

**Effective date of  
registration:**  
October 26, 2012

### Title

**Title of Work:** Scary or Die

### Completion/Publication

**Year of Completion:** 2012

**Date of 1st Publication:** September 11, 2012

**Nation of 1st Publication:** United States

### Author

■ **Author:** Canal Street Films

**Author Created:** entire motion picture, production/producer, direction/director, script/screenplay

**Work made for hire:** Yes

**Citizen of:** United States

**Domiciled in:** United States

### Copyright claimant

**Copyright Claimant:** Canal Street Films

5706 Cherokee Circle, Simi Valley, CA, 93063, United States

### Rights and Permissions

**Organization Name:** Secure Media Partners

**Email:** josh@securemediapartners.com

**Telephone:** 310-386-3052

**Address:** 11664 National Blvd.

#323

Los Angeles, CA 90064 United States

### Certification

**Name:** Josh Partridge


**Date:** October 16, 2012

# EXHIBIT B

DECLARATION OF J. CHRISTOPHER LYNCH  
IN SUPPORT OF MEMORANDUM RE  
PLAINTIFF'S MOTION TO DISMISS - 20

7/3/2014

Josh Partridge | LinkedIn



## Josh Partridge

Founder at PeerLogix

San Diego, California (Greater San Diego Area) | Information Technology and Services

**Join LinkedIn and access Josh Partridge's full profile. It's free!**

As a LinkedIn member, you'll join 300 million other professionals who are sharing connections, ideas, and opportunities.

- See who you and **Josh Partridge** know in common
- Get introduced to **Josh Partridge**
- Contact **Josh Partridge** directly

[View Josh's full profile](#)

### Josh Partridge's Overview

Current	<b>Founder at PeerLogix</b> <b>Founder at Secure Media Partners</b>
Past	US Business Development at Anti Piracy Management Company/Guardaley Sales and Acquisitions at Arsenal Pictures
Education	University of Arizona
Connections	<b>346 connections</b>

### Josh Partridge's Summary

Intellectually Property Consulting, Start Ups, Operations expert, IT applications, Business and Product Development advising.

### Josh Partridge's Experience

- Founder**  
**PeerLogix**  
 December 2012 – Present (1 year 8 months)
- Founder**  
**Secure Media Partners**  
 September 2012 – Present (1 year 11 months) | Los Angeles
- US Business Development**  
**Anti Piracy Management Company/Guardaley**  
 July 2011 – June 2012 (1 year)
- Sales and Acquisitions**  
**Arsenal Pictures**  
 September 2008 – June 2011 (2 years 10 months)






### Josh Partridge's Skills & Expertise

Business Development    Entertainment    Film    Feature Films    Strategic Partnerships

### Josh Partridge's Education

**University of Arizona**  
 Economic Development  
 2004 – 2008

### Josh Partridge's Additional Information

Groups and Associations:	 Film & TV Professionals
	 Hedge Private Equity and Private Film Financing
	 Inc. 500   5000
	 Indie Film Financing
	 Private Equity and Venture Capital - Film Financing Group

<http://www.linkedin.com/pub/josh-partridge/29/226/500>

1/2

7/3/2014

Josh Partridge | LinkedIn



Private Equity and Venture Capital Group

Contact Josh for:

- career opportunities
- new ventures
- expertise requests
- reference requests
- consulting offers
- job inquiries
- business deals
- getting back in touch

View Josh Partridge's full profile to...

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- Get introduced to **Josh Partridge**
- Contact **Josh Partridge** directly

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# EXHIBIT C

DECLARATION OF J. CHRISTOPHER LYNCH  
IN SUPPORT OF MEMORANDUM RE  
PLAINTIFF'S MOTION TO DISMISS - 23



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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ELF-MAN, LLC,

Plaintiff,

vs.

Case No. 2:13-CV-0395-TOR

RYAN LAMBERSON,

Defendant

---

DISCOVERY DEPOSITION

ELF-MAN, LLC

TAKEN ON  
FRIDAY, JUNE 20, 2014  
9:03 A.M.

LEE & HAYES, PLLC  
601 WEST RIVERSIDE AVENUE, SUITE 1400  
SPOKANE, WASHINGTON 99201

<p>2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 Appearing on behalf of the Defendant:</p> <p>4 RHETT V. BARNEY, ESQUIRE</p> <p>5 Lee &amp; Hayes, PLLC</p> <p>6 601 West Riverside Avenue, Suite 1400</p> <p>7 Spokane, Washington 99201</p> <p>8 (509) 324-9256</p> <p>9 (509) 232-8979 Fax</p> <p>10 rhettb@leehayes.com</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>4</p> <p>1 5/8/2014 were marked as Exhibit 2 for identification.)</p> <p>2 MR. BARNEY: And the third document is</p> <p>3 communications with opposing counsel regarding different</p> <p>4 dates wherein we could schedule this 30(b)(6) deposition and</p> <p>5 other depositions in this matter. It was submitted from</p> <p>6 Chris Lynch to opposing counsel on Monday, May 5th, 2014 at</p> <p>7 11:07 a.m.</p> <p>8 (Whereupon, communications from Chris Lynch dated</p> <p>9 5/5/2014 were marked as Exhibit 3 for identification.)</p> <p>10 MR. BARNEY: And we'll go ahead and wait 15</p> <p>11 minutes and give opposing counsel an opportunity to arrive.</p> <p>12 THE REPORTER: Would you like to go off the</p> <p>13 record?</p> <p>14 MR. BARNEY: Sure.</p> <p>15 THE REPORTER: Time is 9:05 a.m. and we are off</p> <p>16 the record.</p> <p>17 (Whereupon, a recess was taken.)</p> <p>18 THE REPORTER: We are back on the record. The</p> <p>19 time is 2:24 p.m. -- excuse me, 9:24 a.m.</p> <p>20 MR. BARNEY: It appears that counsel for plaintiff</p> <p>21 Elf-Man or a representative from plaintiff Elf-Man is not</p> <p>22 going to be present or coming today. It -- we have a view of</p> <p>23 some of the roads and it doesn't appear that there's any</p> <p>24 kind of traffic jam. Traffic seems to be -- I can see the</p> <p>25 freeway and traffic is moving freely. Haven't heard any</p>
<p>3</p> <p>1 DISCOVERY DEPOSITION</p> <p>2 ELF-MAN, LLC</p> <p>3 TAKEN ON</p> <p>4 FRIDAY, JUNE 20, 2014</p> <p>5 9:03 A.M.</p> <p>6</p> <p>7 THE REPORTER: The time is 9:03 a.m. We are on</p> <p>8 the record. Counsel, please introduce yourself and state</p> <p>9 whom you represent for the record.</p> <p>10 MR. BARNEY: My name is Rhett Barney. I'm counsel</p> <p>11 for Ryan Lamberson, defendant in this matter. It doesn't</p> <p>12 look like opposing counsel or representatives are here yet,</p> <p>13 so while we're waiting I would like to introduce and mark</p> <p>14 some documents into evidence. This is the first one, which</p> <p>15 is the notice of the 30(b)(6) deposition which was submitted</p> <p>16 by Chris Lynch to opposing counsel on May 21st, 2014 at 3:22</p> <p>17 p.m.</p> <p>18 (Whereupon, a document entitled "Notice of</p> <p>19 Deposition" was marked as Exhibit 1 for identification.)</p> <p>20 MR. BARNEY: The second document is communications</p> <p>21 with opposing counsel regarding topics that we will be</p> <p>22 presenting during the 30(b)(6) deposition. That was sent</p> <p>23 from Chris Lynch on Thursday, May 8th at 2:35 p.m. to</p> <p>24 opposing counsel.</p> <p>25 (Whereupon, communications from Chris Lynch dated</p>	<p>5</p> <p>1 reports about issues or delays at the airport. The weather</p> <p>2 is clear. We have not received a call from opposing counsel</p> <p>3 indicating that he will be coming. So at this point in</p> <p>4 time, I think we can conclude the deposition.</p> <p>5 THE REPORTER: Would you like to order an original</p> <p>6 of the transcript?</p> <p>7 MR. BARNEY: Yes, please. If you can have that to</p> <p>8 us by the 2nd of July or a little earlier than that will be</p> <p>9 -- that gives us plenty of time.</p> <p>10 THE REPORTER: The time is 9:26 a.m. and we are</p> <p>11 off the record.</p> <p>12 (Whereupon, the Statement for the Record re: the</p> <p>13 Deposition of Elf-Man, LLC was concluded at 9:26 a.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>6</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 I, Peter Sowards, Notary Public, certify that</p> <p>4 the foregoing was reported by stenographic and/or mechanical</p> <p>5 means, that same was reduced to written form; that the</p> <p>6 transcript prepared by me, or under my direction, is a true</p> <p>7 and accurate record of same to the best of my knowledge and</p> <p>8 ability; that there is no relation nor employment by any</p> <p>9 attorney or counsel employed by the parties hereto, nor</p> <p>10 financial or otherwise interest in the action filed or</p> <p>11 outcome.</p> <p>12</p> <p>13 IN WITNESS HEREOF, I have hereunto set my hand</p> <p>14 this 1st day of July, 2014.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 /s/ Peter Sowards</p> <p>23</p> <p>24</p> <p>25</p>	

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<u>1</u>	<u>A</u>	<u>D</u>	<b>freely</b> 4:25
<b>1</b> 3:19	<b>a.m</b> 3:5 3:7	<b>dated</b> 3:25	<b>freeway</b> 4:25
<b>11:07</b> 4:7	4:7 4:15	4:8	<b>FRIDAY</b> 3:4
<b>15</b> 4:10	4:19 5:10	<b>dates</b> 4:4	<u>G</u>
	5:13	<b>defendant</b>	<b>gives</b> 5:9
<u>2</u>	<b>ahead</b> 4:10	3:11	<u>H</u>
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<b>2nd</b> 5:8	4:2 4:10	4:5	<b>indicating</b>
<u>3</u>	4:14 4:20	<b>different</b> 4:3	5:3
<b>3</b> 4:9	5:7	<b>DISCOVERY</b> 3:1	<b>introduce</b> 3:8
<b>3:22</b> 3:16	<u>C</u>	<b>document</b> 3:18	3:13
<b>30 (b) (6)</b>	<b>Chris</b> 3:16	3:20 4:2	<b>issues</b> 5:1
3:15 3:22	3:23 3:25	<b>documents</b>	<u>J</u>
4:4	4:6 4:8	3:14	<b>jam</b> 4:24
<u>5</u>	<b>clear</b> 5:2	<b>during</b> 3:22	<b>July</b> 5:8
<b>5/5/2014</b> 4:9	<b>coming</b> 4:22	<u>E</u>	<b>JUNE</b> 3:4
<b>5/8/2014</b> 4:1	5:3	<b>earlier</b> 5:8	<u>L</u>
<b>5th</b> 4:6	<b>communication</b>	<b>Elf-Man</b> 3:2	<b>Lamberson</b>
<u>8</u>	<b>s</b> 3:20 3:25	4:21 4:21	3:11
<b>8th</b> 3:23	4:3 4:8	5:13	<b>little</b> 5:8
<u>9</u>	<b>conclude</b> 5:4	<b>entitled</b> 3:18	<b>LLC</b> 3:2 5:13
<b>9:03</b> 3:5 3:7	<b>concluded</b>	<b>evidence</b> 3:14	<b>Lynch</b> 3:16
<b>9:05</b> 4:15	5:13	<b>excuse</b> 4:19	3:23 3:25
<b>9:24</b> 4:19	<b>counsel</b> 3:8	<b>Exhibit</b>	4:6 4:8
<b>9:26</b> 5:10	3:10 3:12	3:19 4:1	<u>F</u>
5:13	3:16 3:21	4:9	<b>first</b> 3:14
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<b>mark</b> 3:13	3:22	<b>Sure</b> 4:14	
<b>marked</b> 3:19	<hr/>	<hr/>	
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<b>matter</b> 3:11	<b>re</b> 5:12	<b>there's</b> 4:23	
4:5	<b>received</b> 5:2	<b>third</b> 4:2	
<b>May</b> 3:16 3:23	<b>recess</b> 4:17	<b>Thursday</b> 3:23	
4:6	<b>record</b> 3:8	<b>today</b> 4:22	
<b>minutes</b> 4:11	3:9 4:13	<b>topics</b> 3:21	
<b>Monday</b> 4:6	4:16 4:18	<b>traffic</b>	
<b>moving</b> 4:25	5:11 5:12	4:24 4:24	
<hr/>	<b>regarding</b>	4:25	
N	3:21 4:3	<b>transcript</b>	
<b>notice</b> 3:15	<b>REPORTER</b>	5:6	
3:18	3:7 4:12	<hr/>	
<hr/>	4:15 4:18	V	
O	5:5 5:10	<b>view</b> 4:22	
<b>opportunity</b>	<b>reports</b> 5:1	<hr/>	
4:11	<b>represent</b> 3:9	W	
<b>opposing</b> 3:12	<b>representativ</b>	<b>wait</b> 4:10	
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4:6 4:11	<b>es</b> 3:12	<b>we'll</b> 4:10	
5:2	<b>Rhett</b> 3:10	<b>we're</b> 3:13	
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<b>original</b> 5:5	<b>Ryan</b> 3:11	<b>Whereupon</b>	
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<b>p.m</b> 3:17 3:23	<b>schedule</b> 4:4	5:12	
4:19	<b>second</b> 3:20	<b>whom</b> 3:9	
<b>plaintiff</b>	<b>seems</b> 4:24	<hr/>	
4:20 4:21	<b>sent</b> 3:22	Y	
<b>please</b> 3:8	<b>state</b> 3:8	<b>yet</b> 3:12	
5:7	<b>Statement</b>	<b>yourself</b> 3:8	
<b>plenty</b> 5:9	5:12		
<b>point</b> 5:3	<b>submitted</b>		
<b>present</b> 4:22	3:15 4:5		
<b>presenting</b>			

**From:** Chris Lynch  
**Sent:** Wednesday, May 21, 2014 3:22 PM  
**To:** 'elfmanwa@vandermaylawfirm.com'  
**Cc:** Jeffrey Smith; Rhett Barney; Julie Sampson; Lauren Van Winkle  
**Subject:** FRCP 30(b)(6) Notice of Deposition of Elf-Man LLC for Friday June 20

Counsel: here is our FRCP 30(b)(6) Notice for Friday June 20 here at the Lee & Hayes offices in downtown Spokane. We have also sent this by USPS.

We noted this 30(b)(6) for the day after Mr. Lamberson's deposition for which we are holding Thursday June 19 open. We are also willing to set this for the day before Ryan's deposition, so on Wednesday June 17 if that is easier for you or your client.

Thank you.

J. Christopher Lynch  
(509) 944-4792  
[chris@leehayes.com](mailto:chris@leehayes.com)



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EXHIBIT	
1	
DEPONENT NAME:	DATE:
Statement on the Record	6/20/14

**From:** Chris Lynch  
**Sent:** Thursday, May 08, 2014 2:35 PM  
**To:** 'elfmanwa@vandermaylawfirm.com'  
**Cc:** Jeffrey Smith; Rhett Barney; Lauren Van Winkle; Julie Sampson  
**Subject:** RE: Discovery issues

We will ask Ryan to request that day off. We will defer to the Court regarding the propriety of the pro hac vice under the local rules.

We will provide you a form for our 30(b)(6) request, but, essentially, it will be to provide a witness to give the evidence plaintiff has as to the allegations of paragraphs 18-19, 22-26, 81-83, 113, and 115-149 of the First Amended Complaint, as well as the topic of the seeding of the movie to bittorrent by plaintiff or Vision Films. We will note this for Friday June 20 here in Spokane.

We are completing our response to your letter to Judge Rice which we will submit today and copy to your firm.

Thank you.

---

**From:** elfmanwa@vandermaylawfirm.com [mailto:elfmanwa@vandermaylawfirm.com]  
**Sent:** Thursday, May 08, 2014 1:57 PM  
**To:** Chris Lynch  
**Subject:** RE: Discovery issues

Chris, both Carl and I are available on June 19th. I may be coming from out of the area so would like to hold off on setting a start time until Carl and I can look at travel arrangements. I am thinking that we might want to plan on a mid- to late morning start so that we can fly into Spokane that morning. With a morning start time, I fully expect that we can conclude this deposition on the 19th.

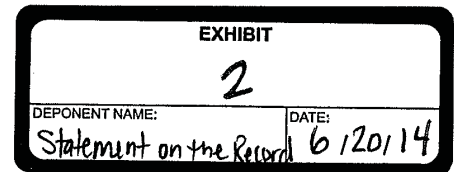
Regards,

Maureen

> Ms. VanderMay:

>

> How long do you expect for the deposition? Mr. Lamberson would be  
> available after 2pm on May 28 or 29.



>  
> He can get an entire day, but needs 30 days notice to get the time off.  
> As it stands now, he could request this for Thursday June 12 or 19 or  
> Thursday July 10, 17 or 24. We can also do Saturday June 14, or 21 or  
> Saturday July 12, 19 or 26.  
>  
> Then we would like to set the Elf-Man LLC 30(b)(6) for the day before or  
> after Mr. Lamberson's deposition.  
>  
> Thank you.  
>  
>  
From: Chris Lynch  
> Sent: Friday, May 02, 2014 10:39 AM  
> To: 'elfmanwa@vandermaylawfirm.com'; Lauren Van Winkle; Julie Sampson;  
> Rhett Barney; Jeffrey Smith  
> Subject: RE: Discovery issues  
>  
> May 9 is fine either time.  
> We can do a call Tuesday at 2pm.  
>  
> We are not certain what the issue is. You want a hearing to see if Mr.  
> Crowell can take the deposition without being admitted or of record? You  
> asked us to approve this -- we made a proposal to accommodate that request  
> and you rejected it.  
>  
> We have asked our client to get back to us with several available dates  
> for deposition after 5/12. We expect to be able to give you a series of  
> dates that will work for us and our client. We see no reason at this  
> time to object to a Motion to admit Mr. Crowell and we may still be  
> willing to stipulate to him taking the deposition without admission  
> provided your firm cooperates on providing a witness for a 30b6 deposition  
> of Elf-Man LLC on the following day.  
>  
> The rules require us to meet and confer on our Motion to Compel re the  
> Germans and to submit a report -- so we can also use our time Tuesday to  
> discuss this.  
>  
>  
>  
>  
From: [elfmanwa@vandermaylawfirm.com](mailto:elfmanwa@vandermaylawfirm.com)<<mailto:elfmanwa@vandermaylawfirm.com>>  
> [<mailto:elfmanwa@vandermaylawfirm.com>]  
> Sent: Friday, May 02, 2014 10:14 AM  
> To: Chris Lynch  
> Cc: Jeffrey Smith  
> Subject: RE: Discovery issues  
>  
>  
> Gentlemen: in light of your denial of our proposal as to how to proceed

> with discovery, I have contacted Judge Rice's chambers with respect to his  
> availability for a telephonic discovery conference. Although his staff  
> will have to check with him for final approval, they have indicated that  
> he would have time for this on Friday, May 9th at either 11:30 a.m. or 3  
> p.m. Please advise as to your availability at your soonest convenience.  
> Although we have conferred at length in writing, I would suggest that we  
> schedule a time to confer with respect to discovery for some time early  
> next week. Please advise as to your availability for that as well. I  
> would suggest any time that works for your office on Tuesday afternoon  
> since Monday is a travel day for me.

>  
> On another matter, I was unexpectedly out yesterday and, therefore,  
> finalizing a follow up letter to you regarding our client's investigators  
> was delayed. We will get that off to you this morning.

>  
> Thank you for your attention to these matters,

>  
> Maureen

>

>

>

>

>

>

>

>

>> I am sorry you could not agree to our proposal. We saw it as fair since  
>> your witnesses will have to travel to Spokane at some point.

>>

>> Jeff and I will contact Mr. Lamberson and suggest days for his  
>> deposition  
>> starting with May 12.

>>

>> Since today is our last day to request the Letters Rogatory to conduct  
>> the  
>> foreign depositions, we will formally ask the court for this, in  
>> addition  
>> to our request in the alternative to order the Germans to appear in  
>> Spokane for deposition.

>>

>> Thank you.

>>

>>

>>

>

From: [elfmanwa@vandermaylawfirm.com](mailto:elfmanwa@vandermaylawfirm.com)<<mailto:elfmanwa@vandermaylawfirm.com>>

>> [<mailto:elfmanwa@vandermaylawfirm.com>]

>> Sent: Wednesday, April 30, 2014 3:08 PM

>> To: Chris Lynch

>> Subject: RE: Discovery issues

>>

>>

>> Counsel: your proposal to stipulate to Mr. Crowell's participation in  
>> the  
>> depositions in this case if our client agrees to produce Messrs. Macek  
>> and  
>> Patzer for deposition in Spokane is hereby rejected. The following is  
>> our  
>> counterproposal: we propose scheduling Mr. Lamberson's deposition on  
>> the  
>> first date on which Mr. Crowell, Mr. Smith (or another lawyer from your  
>> office if you prefer) and I are available and that you stipulate to Mr.  
>> Crowell's conducting the deposition, although I will also be in  
>> attendance. We will also make arrangements for the forensic analysis of  
>> at least Mr. Lamberson's computer that is identified in his discovery  
>> responses, along with any additional computers within his custody or  
>> control identified at his deposition. As I have previously indicated,  
>> in  
>> our view structuring discovery in this fashion will save both parties  
>> and,  
>> potentially, the court, a great deal of time and money. Mr. Crowell and  
>> I  
>> have dates available in May and June, beginning on May 12th, and,  
>> depending upon your office's availability, we expect to be able to get  
>> this scheduled in the very near term. In the event that you still wish  
>> to  
>> take the depositions of Messrs. Macek and Patzer afte  
>

**From:** Chris Lynch  
**Sent:** Monday, May 05, 2014 11:07 AM  
**To:** Chris Lynch; 'elfmanwa@vandermaylawfirm.com'; Lauren Van Winkle; Julie Sampson; Rhett Barney; Jeffrey Smith  
**Subject:** RE: Discovery issues

Ms. VanderMay:

How long do you expect for the deposition? Mr. Lamberson would be available after 2pm on May 28 or 29.

He can get an entire day, but needs 30 days notice to get the time off. As it stands now, he could request this for Thursday June 12 or 19 or Thursday July 10, 17 or 24. We can also do Saturday June 14, or 21 or Saturday July 12, 19 or 26.

Then we would like to set the Elf-Man LLC 30(b)(6) for the day before or after Mr. Lamberson's deposition.

Thank you.

---

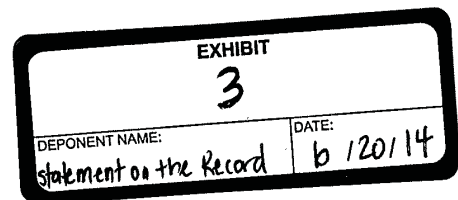
**From:** Chris Lynch  
**Sent:** Friday, May 02, 2014 10:39 AM  
**To:** 'elfmanwa@vandermaylawfirm.com'; Lauren Van Winkle; Julie Sampson; Rhett Barney; Jeffrey Smith  
**Subject:** RE: Discovery issues

May 9 is fine either time.  
We can do a call Tuesday at 2pm.

We are not certain what the issue is. You want a hearing to see if Mr. Crowell can take the deposition without being admitted or of record? You asked us to approve this -- we made a proposal to accommodate that request and you rejected it.

We have asked our client to get back to us with several available dates for deposition after 5/12. We expect to be able to give you a series of dates that will work for us and our client. We see no reason at this time to object to a Motion to admit Mr. Crowell and we may still be willing to stipulate to him taking the deposition without admission provided your firm cooperates on providing a witness for a 30b6 deposition of Elf-Man LLC on the following day.

The rules require us to meet and confer on our Motion to Compel re the Germans and to submit a report -- so we can also use our time Tuesday to discuss this.



---

**From:** [elfmanwa@vandermaylawfirm.com](mailto:elfmanwa@vandermaylawfirm.com) [<mailto:elfmanwa@vandermaylawfirm.com>]  
**Sent:** Friday, May 02, 2014 10:14 AM  
**To:** Chris Lynch  
**Cc:** Jeffrey Smith  
**Subject:** RE: Discovery issues

Gentlemen: in light of your denial of our proposal as to how to proceed with discovery, I have contacted Judge Rice's chambers with respect to his availability for a telephonic discovery conference. Although his staff will have to check with him for final approval, they have indicated that he would have time for this on Friday, May 9th at either 11:30 a.m. or 3 p.m. Please advise as to your availability at your soonest convenience. Although we have conferred at length in writing, I would suggest that we schedule a time to confer with respect to discovery for some time early next week. Please advise as to your availability for that as well. I would suggest any time that works for your office on Tuesday afternoon since Monday is a travel day for me.

On another matter, I was unexpectedly out yesterday and, therefore, finalizing a follow up letter to you regarding our client's investigators was delayed. We will get that off to you this morning.

Thank you for your attention to these matters,

Maureen

> I am sorry you could not agree to our proposal. We saw it as fair since  
> your witnesses will have to travel to Spokane at some point.  
>  
> Jeff and I will contact Mr. Lamberson and suggest days for his deposition  
> starting with May 12.  
>  
> Since today is our last day to request the Letters Rogatory to conduct the  
> foreign depositions, we will formally ask the court for this, in addition  
> to our request in the alternative to order the Germans to appear in  
> Spokane for deposition.  
>  
> Thank you.

>  
>  
>  
>  
> From: [elfmanwa@vandermaylawfirm.com](mailto:elfmanwa@vandermaylawfirm.com)  
> [<mailto:elfmanwa@vandermaylawfirm.com>]  
> Sent: Wednesday, April 30, 2014 3:08 PM  
> To: Chris Lynch  
> Subject: RE: Discovery issues

>  
>  
> Counsel: your proposal to stipulate to Mr. Crowell's participation in the

> depositions in this case if our client agrees to produce Messrs. Macek and  
> Patzer for deposition in Spokane is hereby rejected. The following is our  
> counterproposal: we propose scheduling Mr. Lamberson's deposition on the  
> first date on which Mr. Crowell, Mr. Smith (or another lawyer from your  
> office if you prefer) and I are available and that you stipulate to Mr.  
> Crowell's conducting the deposition, although I will also be in  
> attendance. We will also make arrangements for the forensic analysis of  
> at least Mr. Lamberson's computer that is identified in his discovery  
> responses, along with any additional computers within his custody or  
> control identified at his deposition. As I have previously indicated, in  
> our view structuring discovery in this fashion will save both parties and,  
> potentially, the court, a great deal of time and money. Mr. Crowell and I  
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> depending upon your office's availability, we expect to be able to get  
> this scheduled in the very near term. In the event that you still wish to  
> take the depositions of Messrs. Macek and Patzer afte

# EXHIBIT D

DECLARATION OF J. CHRISTOPHER LYNCH  
IN SUPPORT OF MEMORANDUM RE  
PLAINTIFF'S MOTION TO DISMISS - 37

**AIPLA**

**American Intellectual Property Law Association**

Serving America's Legal and Creative Community

# **REPORT OF THE ECONOMIC SURVEY 2013**

**PREPARED UNDER DIRECTION OF THE  
AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION  
LAW PRACTICE MANAGEMENT COMMITTEE**

**DAVID A. DIVINE, CHAIR  
RICHARD W. GOLDSTEIN, VICE CHAIR**

**July 2013**

**ARI** Association  
Research, Inc.

910 Clopper Road, Suite 210N  
Gaithersburg, Maryland 20878  
TEL: (240) 268-1262  
ARI@associationresearch.com

## Private Firm, Partner

## Average hourly billing rate in 2012 (Q35)

Private Firm, Partner

		Average hourly billing rate in 2012				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		435	\$469	\$350	\$425	\$570
Years of Intellectual Property Law Experience	Fewer than 5	3	\$263	ISD	\$240	ISD
	5-6	7	\$286	\$245	\$295	\$350
	7-9	21	\$302	\$255	\$300	\$350
	10-14	91	\$392	\$300	\$350	\$450
	15-24	178	\$481	\$360	\$448	\$583
	25-34	90	\$534	\$400	\$498	\$628
	35 or More	44	\$569	\$416	\$525	\$689
Location	Boston CMSA	15	\$627	\$400	\$650	\$750
	NYC CMSA	25	\$563	\$350	\$450	\$725
	Philadelphia CMSA	18	\$460	\$349	\$463	\$500
	Washington, DC CMSA	72	\$500	\$375	\$485	\$590
	Other East	16	\$412	\$338	\$400	\$468
	Metro Southeast	16	\$369	\$326	\$355	\$400
	Other Southeast	8	\$402	\$303	\$335	\$550
	Chicago CMSA	35	\$497	\$400	\$475	\$560
	Minne.-St. Paul PMSA	27	\$413	\$330	\$390	\$500
	Other Central	83	\$376	\$300	\$355	\$440
	Texas	38	\$546	\$373	\$588	\$678
	Los Angeles CMSA	13	\$557	\$420	\$575	\$675
	San Francisco CMSA	21	\$673	\$500	\$680	\$825
	Other West	48	\$389	\$289	\$388	\$450
IP Technical Specialization (>=50%)	Biotechnology	23	\$511	\$350	\$575	\$660
	Chemical	37	\$425	\$313	\$410	\$500
	Computer Hardware	3	\$403	ISD	\$395	ISD
	Computer Software	38	\$471	\$380	\$448	\$585
	Electrical	45	\$498	\$355	\$450	\$613
	Mechanical	88	\$398	\$325	\$365	\$469
	Medical/ Health Care	15	\$423	\$336	\$395	\$470
	Pharmaceutical	15	\$528	\$375	\$550	\$630
Age	Younger than 35	10	\$309	\$225	\$273	\$341
	35-39	36	\$375	\$293	\$343	\$434
	40-44	61	\$455	\$303	\$399	\$588
	45-49	92	\$447	\$350	\$400	\$508
	50-54	85	\$476	\$348	\$450	\$575
	55-59	69	\$485	\$383	\$450	\$550
	60 or Older	82	\$543	\$400	\$500	\$653
Gender	Male	390	\$470	\$350	\$428	\$563
	Female	42	\$459	\$300	\$398	\$595
Highest Non-Law Degree	Bachelor's Degree	288	\$466	\$334	\$425	\$575
	Master's Degree	83	\$472	\$350	\$425	\$570
	Doctorate Degree	29	\$484	\$355	\$470	\$600
Ethnicity	White/Caucasian	394	\$469	\$350	\$425	\$570
	Hispanic/Latino	7	\$491	\$407	\$500	\$600
	Asian/Pacific Islander	13	\$480	\$328	\$485	\$583
	Blended	4	\$375	\$288	\$400	\$438
	Other	3	\$307	ISD	\$310	ISD
Full-time Intellectual Property lawyers and agents in the firm or corporation	1-2	26	\$365	\$269	\$348	\$436
	3-5	60	\$387	\$301	\$358	\$444
	6-10	47	\$403	\$320	\$370	\$475
	11-25	97	\$404	\$330	\$390	\$450
	26-50	77	\$475	\$353	\$425	\$575
	51-100	60	\$564	\$451	\$523	\$700
	101-150	30	\$599	\$526	\$600	\$650
	More than 150	32	\$706	\$578	\$690	\$800

# Private Firm, Associate

## Average hourly billing rate in 2012 (Q35)

Private Firm, Associate

		Average hourly billing rate in 2012				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		356	\$339	\$240	\$305	\$400
Years of Intellectual Property Law Experience	Fewer than 5	124	\$271	\$200	\$250	\$317
	5-6	70	\$330	\$249	\$310	\$394
	7-9	57	\$347	\$275	\$325	\$400
	10-14	49	\$419	\$305	\$395	\$550
	15-24	27	\$422	\$305	\$395	\$500
	25-34	11	\$539	\$390	\$526	\$725
	35 or More	8	\$508	\$331	\$548	\$638
Location	Boston CMSA	16	\$407	\$330	\$392	\$478
	NYC CMSA	34	\$442	\$315	\$407	\$568
	Philadelphia CMSA	10	\$361	\$289	\$343	\$441
	Washington, DC CMSA	63	\$373	\$285	\$340	\$450
	Other East	22	\$278	\$234	\$255	\$301
	Metro Southeast	14	\$343	\$200	\$324	\$414
	Other Southeast	16	\$264	\$226	\$250	\$328
	Chicago CMSA	22	\$365	\$269	\$335	\$448
	Minne.-St. Paul PMSA	17	\$287	\$223	\$250	\$339
	Other Central	54	\$254	\$208	\$243	\$285
	Texas	21	\$391	\$275	\$381	\$518
	Los Angeles CMSA	13	\$389	\$255	\$395	\$503
	San Francisco CMSA	12	\$460	\$321	\$513	\$576
	Other West	42	\$274	\$199	\$250	\$346
IP Technical Specialization (>=50%)	Biotechnology	23	\$345	\$260	\$325	\$415
	Chemical	22	\$344	\$250	\$315	\$395
	Computer Software	47	\$358	\$240	\$345	\$405
	Electrical	35	\$300	\$225	\$260	\$350
	Mechanical	64	\$277	\$225	\$250	\$315
	Medical/ Health Care	15	\$325	\$225	\$300	\$395
	Pharmaceutical	13	\$387	\$320	\$370	\$488
	Other areas	3	\$478	ISD	\$550	ISD
Age	Younger than 35	111	\$287	\$210	\$250	\$340
	35-39	100	\$332	\$250	\$320	\$393
	40-44	71	\$371	\$275	\$350	\$450
	45-49	28	\$357	\$261	\$333	\$440
	50-54	15	\$368	\$280	\$350	\$445
	55-59	11	\$403	\$250	\$360	\$450
	60 or Older	18	\$474	\$303	\$513	\$603
Gender	Male	285	\$344	\$240	\$315	\$408
	Female	68	\$312	\$226	\$280	\$383
Highest Non-Law Degree	Bachelor's Degree	229	\$330	\$230	\$295	\$398
	Master's Degree	76	\$349	\$260	\$328	\$400
	Doctorate Degree	41	\$359	\$278	\$325	\$420
Ethnicity	White/Caucasian	304	\$337	\$240	\$300	\$400
	Black/African American	4	\$405	\$285	\$383	\$548
	Hispanic/Latino	5	\$378	\$297	\$350	\$473
	Asian/Pacific Islander	26	\$326	\$250	\$315	\$403
	Blended	5	\$348	\$220	\$240	\$530
	Other	3	\$313	ISD	\$325	ISD
Full-time Intellectual Property lawyers and agents in the firm or corporation	1-2	12	\$223	\$176	\$200	\$265
	3-5	28	\$278	\$218	\$249	\$316
	6-10	43	\$310	\$240	\$275	\$390
	11-25	70	\$308	\$248	\$293	\$376
	26-50	79	\$334	\$225	\$325	\$400
	51-100	48	\$398	\$300	\$375	\$453
	101-150	31	\$351	\$255	\$310	\$455
	More than 150	35	\$452	\$345	\$405	\$595

**Total Costs: Litigation-Copyright Infringement by Location****Litigation-Copyright Infringement <\$1M End of Discovery (000s) by Location (Q44a)**

	Location										
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South- east	Other South- east	Minne- St. Paul PMSA	Other Central	Other West
Number of Respondents	53	2	4	1	1	5	3	2	5	14	4
Mean (Average)	\$216	ISD	\$221	ISD	ISD	\$175	\$65	ISD	\$222	\$132	\$688
First Quartile 25%	\$78	ISD	ISD	ISD	ISD	\$113	ISD	ISD	\$50	\$71	ISD
Median (Midpoint)	\$150	ISD	\$150	ISD	ISD	\$200	\$50	ISD	\$110	\$125	\$163
Third Quartile 75%	\$250	ISD	ISD	ISD	ISD	\$225	ISD	ISD	\$450	\$200	ISD

**Litigation-Copyright Infringement <\$1M Inclusive, all costs (000s) by Location (Q44b)**

	Location										
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South- east	Other South- east	Minne- St. Paul PMSA	Other Central	Other West
Number of Respondents	53	2	4	1	1	5	3	2	5	14	4
Mean (Average)	\$373	ISD	\$425	ISD	ISD	\$317	\$147	ISD	\$395	\$245	\$269
First Quartile 25%	\$175	ISD	ISD	ISD	ISD	\$168	ISD	ISD	\$88	\$138	ISD
Median (Midpoint)	\$300	ISD	\$250	ISD	ISD	\$400	\$75	ISD	\$250	\$225	\$288
Third Quartile 75%	\$450	ISD	ISD	ISD	ISD	\$425	ISD	ISD	\$775	\$363	ISD

**Litigation-Copyright Infringement \$1-\$10M End of Discovery (000s) by Location (Q44c)**

	Location										
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South- east	Other South- east	Minne- St. Paul PMSA	Other Central	Other West
Number of Respondents	41	0	3	1	1	5	2	0	3	10	5
Mean (Average)	\$415	ISD	\$408	ISD	ISD	\$365	ISD	ISD	\$358	\$200	\$300
First Quartile 25%	\$150	ISD	ISD	ISD	ISD	\$188	ISD	ISD	ISD	\$86	\$100
Median (Midpoint)	\$350	ISD	\$275	ISD	ISD	\$300	ISD	ISD	\$200	\$150	\$400
Third Quartile 75%	\$500	ISD	ISD	ISD	ISD	\$575	ISD	ISD	ISD	\$363	\$450

### Total Costs: Litigation-Copyright Infringement by Location

#### Litigation-Copyright Infringement \$1-\$10M Inclusive, all costs (000s) by Location (Q44d)

	Location														
		Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South- east	Other South- east	Chicago CMSA	Minne- St. Paul PMSA	Other Central	Texas	L.A. CMSA	S.F. CMSA	Other West
Number of Respondents	40	0	3	1	1	5	2	0	3	1	10	4	1	5	4
Mean (Average)	\$710	ISD	\$750	ISD	ISD	\$590	ISD	ISD	\$742	ISD	\$366	\$700	ISD	\$1,620	\$581
First Quartile 25%	\$313	ISD	ISD	ISD	ISD	\$350	ISD	ISD	ISD	ISD	\$150	ISD	ISD	\$950	ISD
Median (Midpoint)	\$563	ISD	\$400	ISD	ISD	\$550	ISD	ISD	\$300	ISD	\$250	\$750	ISD	\$1,500	\$538
Third Quartile 75%	\$950	ISD	ISD	ISD	ISD	\$850	ISD	ISD	ISD	ISD	\$638	ISD	ISD	\$2,350	ISD

#### Litigation-Copyright Infringement \$10-\$25M End of Discovery (000s) by Location (Q44e)

	Location														
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash. DC CMSA	Other East	Metro South- east	Other South- east	Chicago CMSA	Minne- St. Paul PMSA	Other Central	Texas	L.A. CMSA	S.F. CMSA	Other West
Number of Respondents	35	0	2	1	1	3	1	0	3	1	9	4	1	6	3
Mean (Average)	\$825	ISD	ISD	ISD	ISD	\$667	ISD	ISD	\$408	ISD	\$318	\$638	ISD	\$2,275	\$500
First Quartile 25%	\$300	ISD	ISD	ISD	ISD	ISD	ISD	ISD	ISD	ISD	\$105	ISD	ISD	\$900	ISD
Median (Midpoint)	\$600	ISD	ISD	ISD	ISD	\$450	ISD	ISD	\$250	ISD	\$300	\$675	ISD	\$1,625	\$500
Third Quartile 75%	\$1,000	ISD	ISD	ISD	ISD	ISD	ISD	ISD	ISD	ISD	\$525	ISD	ISD	\$4,100	ISD

#### Litigation-Copyright Infringement \$10-\$25M Inclusive, all costs (000s) by Location (Q44f)

	Location														
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South- east	Other South- east	Chicago CMSA	Minne.- St. Paul PMSA	Other Central	Texas	L.A. CMSA	S.F. CMSA	Other West
Number of Respondents	35	0	2	1	1	3	1	0	3	1	9	4	1	6	3
Mean (Average)	\$1,335	ISD	ISD	ISD	ISD	\$1,083	ISD	ISD	\$842	ISD	\$568	\$1,213	ISD	\$3,250	\$1,000
First Quartile 25%	\$500	ISD	ISD	ISD	ISD	ISD	ISD	ISD	ISD	ISD	\$225	ISD	ISD	\$1,613	ISD
Median (Midpoint)	\$1,000	ISD	ISD	ISD	ISD	\$750	ISD	ISD	\$500	ISD	\$600	\$1,050	ISD	\$2,625	\$1,000
Third Quartile 75%	\$1,750	ISD	ISD	ISD	ISD	ISD	ISD	ISD	ISD	ISD	\$900	ISD	ISD	\$5,225	ISD