

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MALIBU MEDIA, LLC,)
)
 Plaintiff,)
) Civil Action No.
 v.) 8:13-cv-03007-JSM-TBM
)
 ROBERTO ROLDAN,)
)
 Defendant.)
)
 _____)

**DEFENDANT'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S
MOTION FOR LEAVE TO SUBSTITUTE PARTY DEFENDANT [53]**

COMES NOW Defendant, ROBERTO ROLDAN, by and through his undersigned counsel, and, pursuant to 3.01(b) of the Middle District Local Rules, files this response in opposition to Plaintiff's motion to substitute party Defendant (Doc. 53).

I. Introduction

Plaintiff is the most litigious copyright plaintiff in the United States.¹ Since its first lawsuit filed on February 8, 2012 (which, incidentally was also the very day Malibu Media, LLC was formed), Plaintiff has filed 3,540² separate federal civil actions for the alleged infringement of its pornographic films. (That is about half the number of pending cases in this

¹ Mike Masnik, *One Single Porn Copyright Troll, Malibu Media, Accounted For Nearly 40% Of All Copyright Lawsuits This Year*, TECHDIRT (May 19, 2014), at <http://www.techdirt.com/articles/20140517/06552727268/one-single-porn->

² Pacer.gov search for "Malibu Media" (last check February 20, 2012).

judicial division in 2014.³) None of these 3,540 actions made it through discovery to an actual trial on the merits.⁴

Plaintiff follows a pattern. Its lawsuits, filed in assembly line fashion, accuse individuals like Defendant of illegally downloading Plaintiff's pornography. Usually Plaintiff seeks large sums of settlement money.

Each case is a crapshoot. Usually Plaintiff targets the Internet subscriber (Doc. 8 ¶ 27). The person who actually committed the download, however, is never really more than a guess because Plaintiff always has only an IP address and can never truly identify whether the downloader was a resident or guest in the home or a neighbor within proximity of the router. As Judge Ungaro explained, "Even if this IP address is located within a residence, . . . [Plaintiff's] software cannot identify **who** has access to that residence's computer and **who** would actually be using it to infringe Plaintiff's copyright."⁵ Counsel for another Plaintiff in a similar BitTorrent case openly conceded that at least "30% of the names turned over by

³ Federal Judicial Caseload Statistics 2014, <http://www.uscourts.gov/Statistics/FederalJudicialCaseloadStatistics.aspx> (showing 7,408 cases pending in the Middle District of Florida in 2014).

⁴ Malibu Media may say that it had one trial, the often cited "Bellwether Trial" in June 2013 in the Eastern District of Pennsylvania, Case No. 12-cv-2088; however, that was not a proper trial "on the merits" as the defendants had already stipulated to liability, so it does not count.

⁵ Order dismissing Malibu Media's Case No. 1:14-cv-20213-UU [10] (S.D. Fla. March 20, 2014) (copy at Doc. 16-1) (emphasis added).

ISPs are not those of individuals who actually downloaded or shared copyrighted material." *Digital Sin, Inc. v. Does 1-176*, 279 F.R.D. 239, 242, 2012 WL 263491 *3 (S.D.N.Y. Jan. 30, 2012).

In some cases, Plaintiff receives a settlement and files a notice of voluntary dismissal. In others, Plaintiff dismisses the case for some other reason, but almost always before a decision is made on the merits so the defendant cannot seek recovery of his own attorney fees and costs. The unfortunate result is that thousands of Defendants are required to pay to defend against these cases, and Malibu Media continues to file 1,000 of its shot-in-the-dark lawsuits each year.

Correlative to its well-oiled litigation machine, Plaintiff is not used to losing. In most cases, Plaintiff expects that the defendant, wearied from the costs and frustration of defending the case, will pay settlement money to be done with the litigation. Or, on the other hand, if Plaintiff rolls the wrong dice and sues someone who obviously did not do it, Plaintiff will file a notice of voluntary dismissal and bypass paying the Defendant's fees and costs.

Except here. In the instant case, Plaintiff filed a lawsuit against someone who obviously is not liable, but Plaintiff, blind with bravado, did not catch on until it was too late. Plaintiff filed a lawsuit against Defendant without

sufficient factual support to link him to the home affiliated with the subject IP address, not to mention the download, and now attempts to quietly slip away with no penalty.

II. Plaintiff first sued the subscriber, then switched to Defendant, now wants to switch back to the subscriber.

On November 27, 2013, Plaintiff filed its original complaint against "John Doe [Internet] subscriber assigned IP address 96.58.134.12." (Doc. 1.) Although Plaintiff did not know his name at the time, the "subscriber" was Angel Roldan, Defendant's father, who, ironically, Plaintiff now wants to re-add as a party (Doc. 53).

On March 27, 2014, Plaintiff moved to extend the 120-day time limit to effectuate service. Having conducted an "initial investigation of the information provided by the ISP," Plaintiff concluded "that the infringer ***is not the subscriber of the internet service but another individual residing at the subscriber's home.***" (Doc. 6 ¶ 3, emphasis added.)

Plaintiff's "initial investigation" was (like its lawsuits) a matter of chance; Plaintiff merely ran an Accurint® report.⁶ Placing such heavy reliance on it was Plaintiff's first major error. The incorrect report led Plaintiff to

⁶ See Doc. 53 at 2 ("because LexisNexis's Accurint database identified Roberto as residing at Angel's house until January of 2014 . . . Plaintiff established a reasonable prima facie basis for believing that Roberto was the most likely infringer.")

Defendant, who had moved out of the home about a year before the alleged infringements. Plaintiff, however, strongly relied on this information, despite LexisNexis's warnings, such as:

Due to the nature of the origin of public record information, the public records and commercially available data sources used in reports may contain errors. Source data is sometimes reported or entered inaccurately, processed poorly or incorrectly, and is generally not free from defect. This product or service aggregates and reports data, as provided by the public records and commercially available data sources, and is not the source of the data, nor is it a comprehensive compilation of the data. **Before relying on any data, it should be independently verified.**⁷

Rather than independently verifying the results through a competent investigator,⁸ Plaintiff looked at Defendant's public Facebook page to see that Defendant had "liked" 8 of the 2,514 items (television shows, movies, etc.) Plaintiff's German agent had allegedly detected from being downloaded from the same IP address (Doc. 8 ¶¶ 24-38). Even though these titles, including *Breaking Bad*, *Scrubs*, *Lost*, and *Star Wars*, were also liked by tens of millions of others, "liking" them was enough "evidence"

⁷ Accurint® for Legal Professionals, <http://www.lexisnexis.com/en-us/products/accurint-for-legal-professionals.page>

⁸ Doc 36-1 at 8, Plaintiff's answer to Defendant's Interrogatory No. 20 ("Plaintiff has never sent an investigator to or neighbor Defendant's property to investigate the Defendant on location").

to convince Plaintiff that Defendant had downloaded its (wholly unrelated) content.

On April 3, 2014, Plaintiff filed its amended complaint (Doc. 8) which dropped the never-served "John Doe" (Angel Roldan) and added Roberto Roldan as Defendant. Plaintiff labeled Defendant "a persistent online infringer of Plaintiff's copyrights" (Doc. 8 ¶ 2) and sued him, pursuant to the Copyright Act, for \$150,000 for the allegedly "willful" infringement of *each* of 40 works⁹ – a total of **\$6 million** – plus attorney's fees and costs.

The videos Plaintiff accused Defendant of downloading are all pornographic and published under the "X-Art" brand on Plaintiff's website, www.xart.com. Rather than having any sort of discrete "brown wrapper," the X-Art website immediately affronts its viewers with multiple screenshots of vulgarity, complete with naked penises, shaved vaginas, gaping mouths, and bare bodies in various sexual positions. The content is embarrassing, especially when a Defendant is named in a public civil action as having downloaded it illegally and willfully.

⁹ Defendant disputes that the videos (all short films) are separate works and continues to contend that in fact they are components of a collective work.

As a result of Plaintiff's lawsuit, Defendant – a college student and Fulbright scholar¹⁰ at the dawn of his career – has been wrongly and publicly accused of being the illegal downloader of Plaintiff's obscenities. His name is begrimed, and Plaintiff now, as if to say, "oops, wrong party!" attempts to do the same thing to Defendant's father – while simultaneously trying to avoid paying Defendant's cost of defending the lawsuit. As further part of this tactic, Plaintiff also smears Defendant's counsel.

III. Plaintiff's below-the-belt comments are wholly irrelevant and inaccurate

Plaintiff's cries of being victimized by defense counsel are entirely irrelevant to the issue of Plaintiff's right to amend the complaint to add a new party at this very late stage. They are also inaccurate – not to mention in very poor taste. Essentially, Plaintiff aims to take the focus off its own egregiousness by smearing Defendant's attorney in a series of personal attacks. In its motion, Plaintiff makes so many attacks at Defendant's counsel it seems Plaintiff has forgotten that this case is not between attorneys but rather between parties. Furthermore, had Defendant and his attorney known that Plaintiff intended to file such a grumbling diatribe,

¹⁰ Defendant is an honors student and the recipient of a Fulbright award. See, e.g., Roberto Roldan profile on the Fulbright Commission website: <http://www.fulbright.org.uk/about/meet-our-fulbrighters/roberto-roldan/796>

which obviously creates disagreement among counsel, Defendant would have implored Plaintiff to try to first work out these disagreements.¹¹ The undersigned can confidently represent that the personal attacks in Plaintiff's motion were not a topic of good-faith conference. All references specific to defense counsel improperly lack the requisite spirit of civility and cooperation¹² and should promptly be stricken.

IV. Plaintiff's histrionic accusations are a bid to disguise its own failure to look at Defendant's initial disclosures

When Plaintiff tried to serve Defendant at the address associated with the IP address, its process server was promptly told Defendant did not live there.¹³ If this hiccup in service of process was not enough to cause Plaintiff to question its "initial investigation," Defendant, on July 28, 2014, in his initial disclosures, provided Plaintiff with documented proof that Defendant lived in Tampa during the period of alleged downloads: (1) a signed lease agreement for an apartment where Defendant lived from May 1, 2013, through July 31, 2014,¹⁴ which period encompasses all the alleged infringements; (2) a USF Housing Room condition report to show when Defendant resided at

¹¹ See, e.g., Middle District Discovery (2001) ("Courtesy suggests that good faith consultation is appropriate before commencing action that might result in disagreement among counsel.")

¹² See Local Rule 2.04(h).

¹³ Doc. 13 (Plaintiff eventually found and served Defendant in Tampa.)

¹⁴ Copy at Doc. 35, Exh. B.

USF; and (3) payment and billing receipts showing that Defendant paid for utilities and rent at an address other than where the subject IP address was located.

Although Defendant provided these evidentiary documents, Plaintiff completely ignored them. Plaintiff is, admittedly, a busy litigant, with 731 of its 3,540 BitTorrent cases still open and pending in the United States District Courts.¹⁵ With initial disclosures from these other 700+ Defendants coming in at various times, Plaintiff probably did not give Defendant's initial disclosures much of a glance – or, rather, any glance. While Plaintiff evinces histrionics over the additional details Defendant later provided (class and work schedules), it refuses to accept responsibility that Plaintiff, since July 28, 2014, sat on Defendant's initial disclosures and *forgot about them*.

Plaintiff's lack of scrutiny of Defendant's initial disclosures is evident in the questions Plaintiff subsequently propounded in its first interrogatories, which were not geared toward the facts of the instant case but rather were stock form interrogatories that Plaintiff might send to any Defendant. (Copy at **Exhibit "1."**) Despite possessing of documents to prove Defendant did not reside in the home with the subject IP address, Plaintiff asked things like, in Interrogatory No. 4,

¹⁵ Pacer.gov (last search February 22, 2015).

the identity of "each of the Computer Devices used *in your home* . . ." and, in No. 5, "each wireless router or modem used *in your home* . . ." In No. 7, Plaintiff even asked Defendant to describe his "house, apartment, or dwelling in detail" with an illustration. Not one question was included about Defendant's affiliation with the address associated with the IP address or the various documents Defendant had already provided.

Plaintiff also, in a misleading assertion, melodramatically recounts that Defendant "admitted that he had used the µTorrent BitTorrent client—the identical client used to infringe Plaintiff's copyrights—to illegally download and distribute copyrighted works" (Doc. 53 at 3 ¶ 5). Although Defendant did admit having used the µTorrent client, he did not admit to having "illegally download[ed] and distribute[d] copyrighted works." Furthermore, µTorrent is the most popular BitTorrent client, used by "tens of millions of BitTorrent users"¹⁶; the fact that it is the same client used by the infringer is about as criminalizing as saying both the infringer and Defendant like *Breaking Bad* and The Beatles.

¹⁶ E.g., Ben Jones, *Top 10 UTorrent Alternatives*, TORRENTFREAK (Aug. 19, 2012), <http://torrentfreak.com/top-10-utorrent-alternatives-120819/>; Ernesto, *UTorrent & BitTorrent Surge to 150 Million Monthly Users*, TORRENTFREAK (Jan. 9, 2012), <https://torrentfreak.com/bittorrent-surges-to-150-million-monthly-users-120109/>

Additionally, Plaintiff goes as far in its motion as to even recreate the past. For example:

In light of Roberto's close proximity to Angel's home, as early as August 6, 2014, Plaintiff requested production of additional evidence from which one could reasonably conclude that Roberto, who only lived a short driving distance from Angel's home, would nevertheless not have had access to Angel's home or to the instrumentality of infringement. Conlin¹⁷ declined to produce any additional evidence.

(Doc. 53 at 3 ¶ 6) (emphasis in original).

This paragraph is incredibly misleading. As explained above, Defendant *had already produced* its lease, university housing report, and utility bills, and Plaintiff *failed to look* at these documents. It is true that August 6, 2014, was the date when Plaintiff propounded its first request for production of documents. However, based on the wording of these requests (as well as its first interrogatories, served on the same date) it is apparent that, at such time, Plaintiff *had not even looked* at Defendant's initial disclosures and still believed Defendant resided in the house with the IP address.

Plaintiff's requests (copy at **Exhibit "2"**) did not take into consideration that Defendant lived in "close proximity to

¹⁷ (again in a below-the-belt personal attack on defense counsel)

Angel's home," as Plaintiff would have the Court believe. They seek nothing to substantiate Defendant's claim that he did not reside in the house with the subject IP address but rather made multiple irrelevant and overreaching requests for documents (and hard drives) that are irrelevant to the facts of the case. Despite that such request is wholly improper and objectionable under Rule 34(a)¹⁸, Plaintiff asked for a copy of the hard drives for each Computer Device in Defendant's "house, apartment or dwelling" (RPD No. 1) and other documents pertaining to *Defendant's* home. Plaintiff even asked Defendant for "documents . . . that would indicate you were not *at your residence* or within the control of *your IP address* at the time of the infringement" (RPD No. 15, emphasis added).

As were appropriate, Defendant served objections to these overreaching requests. These objections were not, as Defendant represents, a refusal "to produce additional evidence," which,

¹⁸ In the Eleventh Circuit, unrestricted access to computer device(s) is not allowed pursuant to the Federal Rules. See *In re Ford Motor Co.*, 345 F.3d 1315, 1316-17 (11th Cir. 2003) "Rule 34(a) does not grant unrestricted, direct access to a respondent's database compilations.")

; *Balfour Beatty Rail, Inc. v. Vaccarello*, 3:06-CV-551-J-20MCR, 2007 WL 169628, at *1 (M.D. Fla. 2007) (denying plaintiff's motion to compel defendant's hard drive in case alleging destruction of information on plaintiff's computer because plaintiff is not allowed direct access to another party's databases); *Carolina Bedding Direct, LLC v. Downen*, 3:13-CV-336-J-32MCR, 2013 WL 2431972, at *1 (M.D. Fla. 2013) (denying motion to compel defendant's hard drive in a case premised on defendant's alleged illegal accessing of Plaintiff's computer system, because Rule 34 does not grant unrestricted access to a respondent's database).

essentially, as is evident in the August 6, 2014, requests, Plaintiff had not properly asked for.

The parties then went back and forth for weeks over these objections. It seems that Plaintiff was so headstrong to believe what its inaccurate Accurint report had revealed that it chose to ignore Defendant's claims of innocence. With this brash, overconfident assumption, Plaintiff pressed onward.

It is apparent, now, in hindsight, that Plaintiff's error was its failure to examine Defendant's initial disclosures. Had it scrutinized these documents, it could have – and likely would have – dismissed the case immediately. But it did not even look at them. In addition to Plaintiff's discovery questions, the discovery discussions between counsel further confirm this fact. One particular dispute focused on Plaintiff's RPD No. 16, which sought "documents or contracts pertaining to ownership of the property, title of the home or apartment, or any existing lease, rental agreements, sublet agreements, or documents relating to any legal notice of tenants or residents authorized to live in the property at the time of the infringement." Defendant objected, among other things, to the word "property" and explained that, if Plaintiff were referring to address associated with the IP address, Defendant had no such documents, but, if "the property"

referred to *Defendant's* residence, Defendant would provide a copy of his 2013-14 lease.

In a December 29, 2014, written response to these objections, Plaintiff's attorney replied: "With regard to the Tampa residence, Defendant has stated that he is 'providing a copy of his 2013-2014 Lease.' **We have yet to receive this production.**" (Letter at **Exhibit "3"** at 10.)

V. Plaintiff forgets it has the burden of proof

It is not Defendant's fault that *Plaintiff* failed to look at Defendant's initial disclosures. It is not Defendant's fault that Plaintiff, in crafting its discovery requests, failed to properly consider Defendant's denials of Plaintiff's allegations. Plaintiff – not Defendant – is the party with the burden of proof.¹⁹ Plaintiff – not Defendant – must obtain evidence to show that it (1) owns a valid copyright in the work and (2) defendant copied original elements.²⁰ "The plaintiff can prove copying either directly or indirectly, by establishing

¹⁹ See, e.g., Order granting summary judgment for Defendant, *Malibu Media v. Doe*, 2:14-cv-1280-SD [Doc. 40 at 14] (E.D. Pa. Feb. 2, 2015) ("Doe, of course, as the party that does not have the burden of proof as to the underlying claim 'has no obligation to produce evidence negating its opponent's case.'")

²⁰ E.g., *Feist Publications, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361, (1991); *Original Appalachian Artworks, Inc. v. Toy Loft, Inc.*, 684 F.2d 821, 824 (11th Cir. 1982) (citations omitted).

that the defendant had access, and produced something 'substantially similar,' to the copyrighted work."²¹

Copying is not presumed from the mere allegation that Defendant "likes" certain television shows (that have nothing to do with Plaintiff's films) on Facebook. Access is not presumed because an Accurint® report said Defendant resided in the house where the IP address was located. Plaintiff, as part of its burden of proof, has a duty to prove its case.

VI. Why didn't Plaintiff just dismiss Defendant?

Plaintiff's instant motion to substitute parties is a desperate attempt to avoid having Defendant declared "prevailing party."

After Defendant filed its motion for summary judgment, Plaintiff found itself in a quandary. Plaintiff suddenly realized it had a losing case.

On Tuesday, February 17, 2015, following the deposition of Defendant and his parents, Plaintiff represented that it wished to dismiss its claims against Defendant. Plaintiff, however, admitted such dismissal would also need to include Defendant dismissing its own claims of attorney's fees.²² Defendant's attorney explained that such dismissal should be with prejudice

²¹ *Leigh v. Warner Bros.*, 212 F.3d 1210, 1214 (11th Cir. 2000) (citation omitted).

²² **Exhibit "4,"** Stipulation proposed by Plaintiff (highlighting added).

and on the merits, and Defendant would not dismiss his claims of attorney fees as prevailing party pursuant to 17 U.S.C. § 505. Plaintiff continued to litigate.

On Wednesday, February 18, 2015, the parties appeared at a hearing on pending discovery issues. Much in the same way it did in the instant motion, Plaintiff used the hearing time to make personal attacks against Defendant's attorney as if Defendant had victimized Plaintiff. Plaintiff's counsel admitted that it had indeed sued the wrong person and intended to dismiss Defendant but hoped to substitute parties.

On Thursday, February 19, 2015, Defendant, still a party to the litigation and still not dismissed, reminded Plaintiff that a 30(B)(6) deposition remained scheduled and pressed Plaintiff as to whether it would be moving for a dismissal. That afternoon, Plaintiff's attorney replied in part, "We're getting ready to file our motion to dismiss." Accordingly, Defendant cancelled the 30(B)(6) deposition.

Then, that evening, Plaintiff filed the instant motion, which does not ask the Court for a dismissal but only leave to amend the complaint. The granting of this motion would greatly detriment and prejudice Defendant's outstanding claim for attorney fees and costs. First, if Plaintiff simply "substitutes" parties without a dismissal on the merits, the

case against Defendant might never properly come to a conclusion. Such result could enable Plaintiff to potentially avoid paying Defendant's fees and costs, as the Copyright Act only allows for fees to the "prevailing party." A "prevailing party" is generally determined based on the merits of the case, as opposed to a mere technicality. Additionally, Plaintiff knows that Defendant and his father have a close relationship. In fact, when conducting Defendant's deposition and after already determining his innocence, Plaintiffs' counsel asked Defendant how "close" he was with his parents. A "close" relationship might enable Plaintiff to use the claims against Defendant's father as leverage in a way to evade paying Defendant's attorney fees.

These are the true reasons why, Plaintiff, about one week from the close of the discovery, has moved to amend its pleading to drop Defendant in place for the party it already dropped when it filed its amended complaint (Doc. 8).

VII. Justice cannot allow Plaintiff to substitute defendants

One of Plaintiff's arguments is that the substitution would save money. Aside from a \$400 filing fee, Plaintiff would incur virtually no attorney fees to prepare a separate lawsuit. As explained above, Plaintiff is a *litigation machine* and has filed 3,540 complaints, the majority of which are

virtually identical, paragraph for paragraph, with the exception of elements related to respective IP addresses and "Hit Dates" of alleged infringements.

Additionally, Justice does not allow such an amendment as Plaintiff seeks, according to Rule 15(a)(2). When, as here, a party does not have the opposing party's consent, Rule 15(a)(2) allows a party to seek leave of court to file a second amended pleading, which can be granted "freely . . . when justice so requires." However, motions to amend any pleading or a motion for continuance of trial are "disfavored." (Doc. 25 ¶ 2). First, as discussed above, an amendment would prejudice Defendant. Furthermore, despite having conducted Defendant's and his parents' depositions, Plaintiff has no "new evidence" to show that Defendant's father is the infringer. Plaintiff wrongly states that the "testimony implicated Angel [Roldan] as the likely infringer, insofar as the testimony established that Angel had the means, access, and motive to commit the infringement at issue." (Doc. 53 at 4). Even after conducting these depositions, Plaintiff is in no better position than it was at the very beginning of the case. Plaintiff knew then that Angel Roldan was the subscriber and resided in the house; however, it determined that *Defendant* was the infringer and dropped Angel as a party. Now, faced with losing a case and

potentially having to pay Defendant's fees, Plaintiff held a fishing expedition of depositions in a desperate attempt and to obtain some shred of reason to file a lawsuit against Defendant's parents. Plaintiff's questioning during the deposition did not rule out, or even ask, whether any neighbors had access to the Internet account. In fact, when Angel Roldan explained that his Internet account had been hacked and the hacker had renamed the router signal to "asshole," Plaintiff's attorney declined to question further. Although several other houses lie within the distance of Angel Roldan's router, Plaintiff asked nothing about these neighbors. Therefore, if anything was "self-serving," to borrow Plaintiff's accusatory term, it was Plaintiff's fishing expedition.

VIII. Defendant deserves a dismissal on the merits

Finally, Defendant deserves a dismissal on the merits. Because of Plaintiff's egregiousness of putting Defendant in this position, causing him to incur the costs of defending this case and falsely accusing him of downloading Plaintiff's obscenities, Defendant demands and deserves nothing less than a dismissal with prejudice *on the merits* and a declaration that he is the "prevailing party" and entitled to attorney's fees and costs pursuant to the Copyright Act.

The Court has delayed ruling on Defendant's motion for summary judgment to allow completion of discovery by March 2, 2015,²³ which is in only one week. Plaintiff has had multiple abilities to file a motion to dismiss but instead has chosen to target and embarrass Defendant's father. Defendant asks that this Honorable Court chose to rule on the motion for summary judgment before ruling on Plaintiff's motion to substitute parties and enter a final judgment in favor of Defendant, and declare him the "prevailing party."

WHEREFORE, Defendant, ROBERTO ROLDAN, respectfully requests that this Honorable Court withhold ruling on Plaintiff's motion to substitute parties until after ruling on Defendant's motion for summary judgment (Doc. 36), then DENY Plaintiff's motion to substitute parties and enter a Final Judgment, in Defendant's favor, on the merits, and declare Defendant is "prevailing party" for purposes of fees and costs.

²³ See Order (Doc. 45) holding that Defendant's motion for summary judgment (Doc. 36) "will be ruled upon after March 2, 2015," where the discovery deadline is March 1, 2015.

CERTIFICATE OF SERVICE

I hereby certify that I filed electronically the foregoing with the Clerk of the Court via CM/ECF system which will notify electronically all parties.

Attorney for Defendant:

Cynthia Conlin, P.A.
1643 Hillcrest Street
Orlando, Florida 32803
Tel 407-965-5519
Fax 407-545-4397
www.ConlinPA.com

/s/ Cynthia Conlin, Esq.
CYNTHIA CONLIN, ESQ.
Florida Bar No. 47012
cynthia@cynthiaconlin.com
Jeff@cynthiaconlin.com

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	Civil Case No. 8:13-cv-03007-JSM-TBM
)	
v.)	
)	
ROBERTO ROLDAN,)	
)	
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, ROBERTO ROLDAN (“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: August 6, 2014

Respectfully submitted,

By: /s/ M. Keith Lipscomb
M. Keith Lipscomb (429554)
klipsomb@lebfirm.com
LIPSCOMB, EISENBERG & BAKER, PL
2 South Biscayne Blvd., Penthouse 3800
Miami, FL 33131
Telephone: (786) 431-2228
Facsimile: (786) 431-2229
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2014, a true and correct copy of the foregoing document was served by hand delivery to the following:

Cynthia A. Conlin, Esq.
Cynthia Conlin, PA
1643 Hillcrest Street
Orlando, FL 32803
E-mail: cynthiaconlin@cynthiaconlin.com
Attorneys for Defendant

By: /s/ M. Keith Lipscomb

DEFINITIONS AND INSTRUCTIONS

1. “Period of Recorded Infringement” means from August 17, 2013 to November 17, 2013.

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

3. “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).

4. 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.

5. 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.

6. “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.

7. “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.

8. “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.

9. “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.

10. "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.

11. 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.

12. 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.

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

INTERROGATORIES TO ROBERTO ROLDAN

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 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), and each 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 residing in or routinely visiting your home from August 17, 2013 to November 17, 2013 (the "Period of Recorded Infringement"), and state whether each such person had access to your Computer Device(s), wireless router(s) or modem(s).

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 August 17, 2013 to November 17, 2013.

Response to Interrogatory No. 12:

13. When, how and where did you first learn about BitTorrent and 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 not 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? If so, identify the websites and state how often those websites were visited.

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 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. Have you ever subscribed to an internet company distributing adult content? If so, identify the company and state the period of time that you were a subscriber.

Response to Interrogatory No. 24:

CERTIFICATION / JURAT PAGE

By: _____
Name: Roberto Roldan

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: _____

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	Civil Case No. 8:13-cv-03007-JSM-TBM
)	
v.)	
)	
ROBERTO ROLDAN,)	
)	
Defendant.)	
)	

PLAINTIFF’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Fed.R.Civ.P. 34, Plaintiff, MALIBU MEDIA, LLC (“Plaintiff”), hereby requests Defendant, ROBERTO ROLDAN (“Defendant”) produce for inspection and copying the documents and things set forth on Schedule B, in accordance with the Definitions and Instructions included herein, and to respond within the time prescribed by the applicable Federal Rules of Civil Procedure.

Dated: August 6, 2014

Respectfully submitted,

By: /s/ M. Keith Lipscomb
M. Keith Lipscomb (429554)
klipsomb@lebfirm.com
LIPSCOMB, EISENBERG & BAKER, PL
2 South Biscayne Blvd., Penthouse 3800
Miami, FL 33131
Telephone: (786) 431-2228
Facsimile: (786) 431-2229
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2014, a true and correct copy of the foregoing document was served by hand delivery to the following:

Cynthia A. Conlin, Esq.
Cynthia Conlin, PA
1643 Hillcrest Street
Orlando, FL 32803
E-mail: cynthiaconlin@cynthiaconlin.com
Attorneys for Defendant

By: /s/ M. Keith Lipscomb

SCHEDULE "A"

Definitions

1. "Malibu Media, LLC" refers to Plaintiff, Malibu Media, LLC, including its employees, agents, servants, subsidiaries, parent company, affiliated company and any other person or entity acting or purporting to act on its behalf or under its control.

2. "You" or "Your" refers to the person upon whom this request was propounded and any other person(s) or entity(ies) acting or purporting to act on your behalf or under your control.

3. "Person" means any person or entity, and includes individuals, corporations, partnerships, associations, joint ventures, and other business enterprises, or legal entities and includes both the singular and plural.

4. "Period of Recorded Infringement" means from August 17, 2013 to November 17, 2013.

5. "Documents" shall mean the original or exact copies of any tangible written, typed, printed or other form of recorded or graphic matter of every kind or description, however produced or reproduced, whether mechanically or electronically recorded, draft, final, original, reproduction, signed or unsigned, regardless of whether approved, signed, sent, received, redrafted, or executed, and whether handwritten, typed, printed, photostated, duplicated, carbon or otherwise copies or produced in any other manner whatsoever. Without limiting the generality of the foregoing, "documents" shall include correspondence, letters, telegrams, telexes, mailgrams, memoranda, including interoffice and interoffice memoranda, memoranda for files, memoranda of telephone or other conversations, and including meetings, invoices, reports, receipts and statements of account, ledgers, notes or notations, booklets, books, drawings, graphs, telephone records, video cassettes, electronic tapes, discs or other recordings,

computer programs, hard drives, discs, printouts, data cards, studies, analysis, e-mails, computer files, back-up tapes, hard disks, litigation data bases and other data compilations from which information can be obtained. Copies of documents which are not identical duplications of the originals, or which contain additions to or deletions from the originals, or copies of documents which are identical duplications of the originals if the originals are not available, shall be considered to be separate documents.

6. “Communication” means any oral or written statement, dialog, colloquy, discussion or conversation, and also means any transfer of thoughts or ideas between persons by means of documents and includes any transfer of data from one location to another by electronic or similar means.

7. “Computer Devices” means any computer device, including any computer laptop or desktop, mobile phone, iPad or other tablet computer, mp3 player or electronic device capable of connecting to the internet used by, or within the possession and control of you during the time of infringement.

8. If not expressly stated, “control” means in your possession, custody, or control and includes documents and things in the possession, custody or control of any other person in your house, apartment or dwelling.

9. “File” and “Files” means the complete file, folder, binder, or other filing system, and all documents contained therein as of the date of the deposition, and all documents not physically in the file, folder, binder, or other filing system that are normally kept within the file, folder, binder, or other filing system in the normal course of business.

10. “ISP” means the Internet Service Provider who assigned the IP address to your name and physical address.

11. “Related to” shall mean directly or indirectly, refer to, reflect, describe, pertain to,

arise out of or in connection with, or in any way legally, logically, or factually be connected with the matter discussed.

12. “Time Period” means any time within the last twenty-four (24) months.

13. “Work” or “Works” means the copyrighted movies.

14. The words “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope hereof any responses to interrogatories, documents, or communications, which might otherwise be construed to be outside the scope hereof.

Instructions

Compliance with this Request is requested to be made in accordance with the following:

1. If you at any time had possession, custody or control of a document called for under this request and if such document has been lost, destroyed, purged, or is not presently in your possession, custody or control, you shall describe the document, the date of its loss, destruction, purge, or separation from possession, custody or control and the circumstances surrounding its loss, destruction, purge, or separation from possession, custody or control.

2. If you assert that any document called for by this request is protected against disclosure as a “work product” or by privilege of any kind whatsoever, you shall provide the following information with respect to such document:

- a. The name and capacity of the person or persons who prepared the document.
- b. The name and capacity of all addressees or recipients of the original or copies thereof.
- c. The date, if any, borne by the document.
- d. A brief description of its subject matter and physical size.
- e. The source of the factual information from which such document was prepared, and

f. The nature of the privilege claimed.

3. All documents produced pursuant hereto are to be produced as they are kept in the usual course of business or shall be organized and labeled (without permanently marking the item produced) so as to correspond with the categories of each numbered request hereof.

4. When appropriate, the singular form of a word should be interpreted in the plural as may be necessary to bring within the scope hereof any documents which might otherwise be construed to be outside the scope hereof.

5. All documents to be produced are documents obtained in your possession within the Time Period.

SCHEDULE "B"

Documents Requested

1. A forensically sound copy (a clone) of the hard drive for each of the Computer Devices in your house, apartment or dwelling.

RESPONSE NO. 1:

2. All documents referring, relating to or comprising records of your internet browser's activity.

RESPONSE NO. 2:

3. All documents referring, relating to or comprising records associated with the purchase of a Computer Device.

RESPONSE NO. 3:

4. All documents referring, relating to or comprising records associated with the purchase or installation of a modem or wireless router.

RESPONSE NO. 4:

5. All documents referring, relating to or comprising records associated with your use of a modem or wireless router, including any accompanying user guides, hand books, access codes, passwords, account information, guest account information, warning statements, or other information pertaining to the set up, use, and control of the wireless router or modem.

RESPONSE NO. 5:

6. All documents referring, relating to or comprising records of any computer programs downloaded, uploaded, or placed on any Computer Device in your house, apartment or dwelling.

RESPONSE NO. 6:

7. All documents referring, relating to or comprising written communications between you and your ISP, including all contracts, agreements, usage statements, bills, payments, and Digital Millennium Copyright Act notices.

RESPONSE NO. 7:

8. All documents, including credit card statements, receipts, or other statements referring to or relating to the purchase and installation of anti-virus software for use on a Computer Device in your house, apartment or dwelling.

RESPONSE NO. 8:

9. A complete copy of any external hard drives in your possession, custody or control.

RESPONSE NO. 9:

10. A complete copy of all of the files contained within any electronic storage locker which you or anyone in your house, apartment or dwelling subscribe or use, and all records and documents that refer or relate to any such electronic storage locker, including the contract, and all statements of account and usage.

RESPONSE NO. 10:

11. A complete copy of all of the files contained within any cloud based storage system to which you or anyone in your house, apartment or dwelling subscribe or use, and all records and documents that refer or relate to any such cloud based storage system, including the contract, and all statements of account and usage.

RESPONSE NO. 11:

12. A complete copy of any files stored on any video game consoles in your possession.

RESPONSE NO. 12:

13. All documents that refer, relate to or comprise records of accounts, account activity and network connections between any video game consoles in your possession and third party Computer Device.

RESPONSE NO. 13:

14. Any documents pertaining to records for any wireless and mobile devices including but not limited to all data plans, bills, and payments made for cellular telephones, iPads, or other portable electronic mobile devices that have the ability to connect to the internet or a wireless modem.

RESPONSE NO. 14:

15. Any documents pertaining to receipts of purchases, credit card statements, checks cashed, bank account statements, or travel documents dating two months before and until and including two months after the time of the alleged infringement that would indicate that you were not at your residence or within the control of your IP address at or around the time of infringement.

RESPONSE NO. 15:

16. Any documents or contracts pertaining to ownership of the property, title of the home or apartment, or any existing lease, rental agreements, sublet agreements, or documents relating to any legal notice of tenants or residents authorized to live in the property at the time of the infringement.

RESPONSE NO. 16:

17. All documents pertaining to any electronic correspondence issued from the computer devices to any other device able to connect to the internet including all emails, instant messages, social network postings, chat room comments, and any and all other forms of electronic communication in the last six months that mentions or relates to the “Work”.

RESPONSE NO. 17:

18. All documents pertaining to any forensic software that was used to preserve or delete files, programs, software, or any other type of electronic data in the last six months.

RESPONSE NO. 18:

19. Any documents that contain credit card or bank statements relating to purchases of electronic equipment and computer devices at any and all electronics retail stores in the past 48 months.

RESPONSE NO. 19:

Reply to:
DANIEL C. SHATZ, ESQ.
dshatz@lebfirm.com

December 29, 2014

Via E-Mail

Cynthia Conlin, Esq.
1643 Hillcrest St,
Orlando, FL 32803

Re: Production Responses
Malibu Media, LLC vs. Roberto Roldan
Case No. 8:13-cv-03007-JSM-TBM; LMFL86-1

Cynthia:

Happy holidays! Now that we're both back in the office, please allow this letter to serve as a follow-up to our prior letter (which addressed your responses and objections to our first set of interrogatories). In this letter we focus on your objections to our production requests.

By way of background, our client, Malibu Media, LLC ("Malibu Media" or Plaintiff), has alleged that your client, Mr. Robert Roldan ("Mr. Roldan" or "Defendant") has infringed forty (40) of its copyrighted works between the dates of August 17, 2013 and November 17, 2013 from a residence located at 4690 57th Avenue North, Saint Petersburg, Florida 33714. Following receipt of Mr. Roldan's answer, Malibu Media served nineteen production requests so as to facilitate a resolution of the relevant issues in dispute—whether or not Mr. Roldan unlawfully distributed forty (40) of Malibu Media's copyrighted works between August 17, 2013 and November 17, 2013 from a residence located at 4690 57th Avenue North, Saint Petersburg, Florida 33714. We are in receipt of the objections you have filed on Mr. Roldan's behalf and note that you have lodged an objection to each and every one of our requests. Having reviewed same, and as further set forth below, we stand by three of our requests as phrased, but agree to withdraw three of our requests and to narrow or limit thirteen of our requests.

Please review this letter and confer with your client, and let us know whether or not you will agree to withdraw your objections and produce the requested materials. Having readdressed many of the requests to address your objections, we expect to be able to resolve the remaining issues relatively quickly and without court intervention. Please be mindful, though, that this letter is intended to serve as a good faith attempt (pursuant to Fed. R. Civ. P. 37(a)(1)) to confer with you and obtain the discovery to which we believe we are entitled. If for some reason we are unable to timely resolve these issues, please know that Malibu Media intends to file a motion to compel. In the interim and should you have any questions about this letter or the positions raised herein, please do not hesitate to contact us. Thank you in advance for your prompt attention.

Request No. 1: A forensically sound copy (a clone) of the hard drive for each of the Computer Devices in your house, apartment or dwelling.

Roldan's Response: Objection. This request is overbroad as it is not limited by any timeframe and it seeks documents not relevant to the current lawsuit or reasonably calculated to lead to the discovery of admissible evidence to the discovery of admissible evidence [sic]. Defendant does not live in the house associated with the IP address that is under litigation. Defendant lives in an apartment in Tampa with three other roommates. Therefore, computer devices at Defendant's apartment have no relevancy [sic] to the claims raised in the instant litigation.

Commentary: At issue in this litigation is our contention that your client infringed forty (40) of our client's copyrights between the dates of August 17, 2013 and November 17, 2013 from a residence located at 4690 57th Avenue North, Saint Petersburg, Florida 33714. The fact that Defendant does not live at that residence (and may not have lived there during the period of alleged infringement) is beside the point. In order to address your objection and focus this production on the relevant issues, we agree to narrow/reformulate this request as follows: *"Please produce a forensically sound copy (a clone) of the hard drive for each of the Computer Devices ever utilized by Defendant at the address of 4690 5th Avenue North, Saint Petersburg, Florida between the dates of August 17, 2013 and November 17, 2013, as well as a forensically sound copy (a clone) of the hard drive for Defendant's MacBook."*

Request No. 2: All documents referring, relating to or comprising records of your internet browser's activity.

Roldan's Response: Objection. This request is overbroad in scope because (a) it is not limited to the timeframe of the alleged subject downloads; (b) it is not limited to browser activity within the subject IP address; and (c) it is not limited to browser activity that is reasonably related to Plaintiff's films. Documents outside these limitations are not reasonably reasonably [sic] calculated to lead to the discovery of admissible evidence to the discovery of admissible evidence [sic]. Subject to and without waiving these objections, Defendant states that he has no responsive documents that were (a) generated within the timeframe of the alleged downloads, (b) that related to or comprised browser activity through a connection to the subject IP address, and (c) bear relation to Plaintiff's films.

Commentary: Assuming your anticipated compliance with our first request, we will agree to withdraw this second request as redundant/moot.

Request No. 3: All documents referring, relating to or comprising records associated with the purchase of a Computer Device.

Roldan's Response: Objection. This request is overbroad because it is not limited to Computers that (a) [sic] during the timeframe of the alleged subject downloads; (b) were in the possession of Defendant; (c) and accessed or made any connection to the subject IP address. Subject to and without waiving this objection,

Defendant is providing copies of: Sales invoice for his computer, a MacBook Pro, and AppleCare Protection Plan Certificate.

Commentary: We disagree with your position that this request is overbroad since it seeks information about Computer Devices that may not be in Defendant's possession or that may not have "made any connection to the subject IP address." This request seeks information regarding Defendant's purchase of Computer Devices in the past few years. Such a request is certainly relevant to ascertaining the likelihood that Defendant engaged in the infringements as alleged—e.g., if, upon notification of this lawsuit, Defendant stopped using a Computer Device and immediately purchased a new Computer Device, this would be relevant to the issues in litigation. Moreover, this request has the potential to (and in other cases has yielded) exculpatory evidence that could inure to Defendant's benefit. We do agree, however, that this request should be limited to an appropriate timeframe and agree to narrow the request as follows: *"Please produce all documents referring, relating to or comprising records associated with the purchase of a Computer Device in the past three (3) years. For purposes of this request, the purchase may have been made either by Defendant or for Defendant's benefit."*

Request No. 4: All documents referring, related to or comprising records associated with the purchase or installation of a modem or wireless router.

Roldan's Response: Objection. This request is overbroad in that it is not limited to routers that were connected to or associated with the subject IP address during the period of the alleged downloads. Subject to and without waiving these objections, Defendant states that he has no responsive documents in his possession.

Commentary: As with the above request, we agree to narrow this request per your objection. The request may now read: *"Please produce all documents referring, related to or comprising records associated with the purchase or installation of a modem or wireless router in the past three (3) years. For purposes of this request, the purchase may have been made either by Defendant or for Defendant's benefit."* We note that Defendant previously responded to this request by stating that he "has no responsive documents in his possession." In light of this request's reformulation, please confirm with your client that this is still accurate. If it is, please further indicate that Defendant has made a reasonable effort to locate/obtain any such responsive documents (as lack of possession is an insufficient response in and of itself).

Request No. 5: All documents referring, relating to or comprising records associated with your use of a modem or wireless router, including any accompanying user guides, hand books, access codes, passwords, account information, guest account information, warning statements, or other information pertaining to the set up, use, and control of the wireless router or modem.

Roldan's Response: Objection. This request is grossly overbroad in scope in Objection [sic]. This request is overbroad in that it is not limited to routers that were connected to or associated with the subject IP address during the period of the alleged downloads. Subject to and without waiving these objections, Defendant states that he has no responsive documents in his possession.

Commentary: Your objection is well taken and we agree to revise/limit this request per your objection. Accordingly, this request may now read: *"Please produce all documents referring, relating to or comprising records associated with use of a modem or wireless router at the address of 4690 5th Avenue North, Saint Petersburg, Florida, including any accompanying user guides, hand books, access codes, passwords, account information, guest account information, warning statements, or other information pertaining to the set up, use, and control of such wireless router(s) or modem(s)."*

Request No. 6: All documents referring, relating to or comprising records of any computer programs downloaded, uploaded, or placed on any Computer Device in your house, apartment or dwelling.

Roldan's Response: Objection. This request is grossly overbroad in scope as it is not limited to any timeframe or to any issue currently under litigation. For example, if someone in Defendant's house downloaded Microsoft Word and drafted a book report for class on that Word program, then this would be responsive to this request. Furthermore, Defendant has not lived at the address associated with the IP address for the past two years. Defendant lives at an apartment in Tampa with 3 roommates. Therefore, any computer devices of his roommates would not be relevant to this lawsuit at hand. Furthermore, this request seeks information protected by the work product doctrine and attorney client privilege. Lastly, this request seeks information by the work-product doctrine and attorney client privilege. Subject to and without waiving this [sic] objections Defendant is providing a copy of Sales invoice that is also responsive to Request No. 3 and includes the purchase of software (Microsoft Office).

Commentary: We accept your relevancy-scope objection, and agree to narrow this request accordingly. This request may now read: *"Please produce all documents referring, relating to or comprising records of any computer programs downloaded, uploaded, or placed on any Computer Device that was used at the address of 4690 5th Avenue North, Saint Petersburg, Florida between the dates of August 17, 2013 and November 17, 2013."* As for your objection that some of the documents responsive to this request are protected by the work product doctrine and attorney client privilege, please provide a privilege log or index of the withheld materials as set forth by Rule 26(b)(5), and we will evaluate same.

Request No. 7: All documents referring, relating to or comprising written communications between you and your ISP, including all contracts, agreements, usage statements, bills, payments, and Digital Millennium Copyright Act notices.

Roldan's Response: Objection. This request is grossly overbroad in scope and irrelevant to the lawsuit at hand or reasonably calculated to lead to the discovery of admissible evidence. First, it is not limited by any timeframe. Second, Defendant has not lived at the address associated with the IP address for the past two years. The Defendant lives in an apartment in Tampa. Should Defendant subscribe to Internet service at his Tampa apartment, information relating to this would be irrelevant to the lawsuit at hand because it would have no relation to the IP address that allegedly infringed Plaintiff's copyright.

Commentary: We accept your relevancy-scope objection, and agree to narrow this request accordingly. This request may now read: *"Please produce all documents created in the past three (3) years referring, relating to or comprising written communications between Bright House Networks (or any other Internet Service Provider) and Defendant or any residents of 4690 5th Avenue North, Saint Petersburg, Florida, including all contracts, agreements, usage statements, bills, payments, and Digital Millennium Copyright Act notices."*

Request No. 8: All documents, including credit card statements, receipts, or other statements referring to or relating to the purchase and installation of anti-virus software for use on a Computer Device in your house, apartment or dwelling.

Roldan's Response: Objection. This request is grossly overbroad in scope, not reasonably calculated to lead to the discovery of admissible evidence, and irrelevant to the lawsuit at hand. First, it is not limited by any timeframe. Second, Defendant has not lived at the address associated with the IP address for the past two years. Defendant lives in an apartment in Tampa. Should Defendant or his roommates have anti-virus software at his Tampa apartment, information relating to this would be irrelevant to the lawsuit at hand because it would have no relation to the IP address that allegedly infringed Plaintiff's copyright. Subject to and without waiving these objections, Defendant has no such documents in his possession.

Commentary: Once again, we'll accept your relevancy-scope objection, and agree to narrow this request as follows: *"Please produce all documents created in the past three (3) years, referring to or relating to the purchase and installation of anti-virus software (including credit card statements, receipts, or other statements) for use on a Computer Device that has been located at 4690 5th Avenue North, Saint Petersburg, Florida at any point within the past three (3) years."* We note that Defendant previously responded to this request by stating that he "has no responsive documents in his possession." In light of this request's reformulation, please confirm with your client that this is still accurate. If it is, please further indicate that Defendant has made a reasonable effort to

locate/obtain any such responsive documents (as lack of possession is an insufficient response in and of itself).

Request No. 9: A complete copy of any external hard drives in your possession, custody or control.

Roldan's Response: Objection. This request is grossly overbroad because it is not limited to the issues under litigation. It is not limited to hard drives that connected to the subject IP address during the alleged download period. Subject to and without waiving this objection, Defendant has no external hard drive in his possession or control that was connected to the subject IP address during the alleged download period.

Commentary: We disagree with your objection as framed. Through this request, we are seeking copies of any external hard drives that Defendant has possessed because same might be storing BitTorrent files and possibly files related to our client's copyrights (we believe that this could be the case even if the hard drive itself is not capable of directly accessing BitTorrent). Understood in this light, this request is obviously relevant to a determination of the copyright infringement issues under litigation. Your client's response that he "has no external hard drive in his possession or control that was connected to the subject IP address during the alleged download period" is an inadequate response because (i) the hard drives at issue in this request need not have been connected to the subject IP address during the alleged download period and (ii) Defendant must further certify that he has made a reasonable effort to locate and obtain any otherwise responsive external hard drives. Please confirm with your client and amend your response/produce the requested hard drives.

Request No. 10: A complete copy of all of the files contained within any electronic storage locker which you or anyone in your house, apartment or dwelling subscribe or use, and all records and documents that refer or relate to any such electronic storage locker, including the contract, and all statements of account and usage.

Roldan's Response: Objection. This request is overbroad in that it is not limited to any timeframe or to the issues under litigation. First, Defendant has not lived at the residence associated with the IP address for the past two years. Furthermore, Plaintiff has not defined "electronic storage locker." Subject to and without waiving this objection, Defendant had no electronic storage locker connected to the subject IP address during the alleged download period.

Commentary: We repeat our analysis for request number 9 since this request serves the same purpose. We will, however, revise our request per your objection in order to (i) limit the applicable timeframe; (ii) narrow the scope vis-à-vis residences; and (iii) define the term "electronic storage locker." This request may now read: "*Please produce a complete copy of all of the files contained within any electronic storage locker which you or anyone residing at 4690 57th Avenue North, Saint Petersburg, Florida or*

13404 Village Circle, Apartment 103, Tampa, Florida have subscribed or used within the past three (3) years. For purposes of this request, the requested files include but are not limited to any and all records and documents that refer or relate to any such electronic storage locker, including the contract, and all statements of account and usage. For purposes of this request, the term "electronic storage locker" means any device or drive capable of connecting to a Computer Device and saving/storing information or files." Your client's response that he "had no electronic storage locker connected to the subject IP address during the alleged download period" is an inadequate response because the electronic storage lockers at issue in this request need not have been connected to the subject IP address during the alleged download period.

Request No. 11: A complete copy of all of the files contained within any cloud based storage system to which you or anyone in your house, apartment or dwelling subscribe or use, and all records and documents that refer or relate to any such cloud based storage system, including the contract and all statements of account and usage.

Roldan's Response: Objection. This request is overbroad and not reasonably calculated to lead to the discovery of admissible evidence because it is not limited to storage systems that were accessed by the subject IP address during the subject time period. It is not limited in scope to documents that are related to Plaintiff's films. It is also grossly overbroad as to encompass privileged documents, such as emails to and from Defendant's attorneys, which may be saved in an email storage system. Subject to and without waiving this objection, Defendant had no files that are related to Plaintiff's films in any cloud-based storage system.

Commentary: We repeat our analysis for requests number 9 and 10 since this request serves the same purpose. Because cloud based storage systems have the capacity to store evidence of BitTorrent use and, in particular, evidence regarding our client's copyrighted material, this request is certainly reasonably calculated to lead to the discovery of admissible evidence. Although we thus reject your relevancy objection, we agree to consider your objection that this request encompasses privileged documents. To that end, please amend your privilege objection (if you plan on still objecting) so as to provide a Rule 26(b)(5) privilege log or index of the materials you are withholding as privileged. Please note that Defendant's current response that he "had no files that are related to Plaintiff's films in any cloud-based storage system" is an inadequate response because, in order to be relevant at this discovery stage, the requested files need not necessarily directly relate to Plaintiff's films.

Request No. 12: A complete copy of any files stored on any video game consoles in your possession.

Roldan's Response: Objection. This request is overbroad, not reasonably calculated to lead to the discovery of admissible evidence, and irrelevant to the lawsuit at hand. First, this request is not limited by any timeframe. Second, it is

not limited to consoles that accessed the subject IP address. Defendant has not lived at the address associated with the IP address in the past two years. Defendant lives in an apartment in Tampa with 3 roommates; any game console at the Tampa apartment would not be relevant to the lawsuit at hand because it would not have accessed the IP address under litigation. Subject to and without waiving this objection, Defendant has no video game console that accessed the subject IP address in the time period of the alleged downloads.

Commentary: We repeat our analysis for requests number 9, 10, and 11 since this request serves the same purpose. Because video game consoles have the capacity to store evidence of BitTorrent use and, in particular, evidence regarding our client's copyrighted material, this request is certainly reasonably calculated to lead to the discovery of admissible evidence, and it matters not that any responsive video game consoles never accessed the IP address under litigation and/or are located in Defendant's Tampa residence rather than in the Saint Petersburg residence where the infringements are alleged to have occurred. We will, however, limit our response to an applicable 3-year time frame per your temporal scope objection. This request may now read: "*Please produce a complete copy of any files stored on any video game consoles that you have possessed in the past three (3) years.*" Please note that Defendant's current response that he "has no video game console that accessed the subject IP address in the time period of the alleged downloads" is an inadequate response because the video game consoles at issue in this request need not have ever accessed the subject IP address.

Request No. 13: All documents that refer, relate to or comprise records of accounts, account activity and network connections between any video game consoles in your possession and third party Computer Device.

Roldan's Response: Objection. This request is extremely vague in that it is difficult to understand what it refers [sic] to by "accounts" between any video game consoles and third party computer device. Moreover, this request is overbroad in scope as it is not limited by any timeframe or to the issues under litigation. Defendant has not resided at the house associated with the IP address under litigation for the past two years. Defendant has resided in an apartment in Tampa with 3 roommates. Any video game console at this house would be irrelevant to the lawsuit at hand since it is not connected to the IP address. Lastly, the definition of "Computer Device" defines it as any computer device in the possession and control of Defendant. This is contradictory to the term third party, which modifies the term Computer Device, making it confusing. Subject to and without waiving this objection, Defendant has no video game console that accessed the subject IP address in the time period of the alleged downloads.

Commentary: We will withdraw this request.

Request No. 14: Any documents pertaining to records for any wireless and mobile devices including but not limited to all data plans, bills, and payments made for cellular

telephones, iPads, or other portable electronic mobile devices that have the ability to connect to the internet or a wireless modem.

Roldan's Response: Objection. This request is grossly overbroad in scope as it is not limited by any timeframe and seeks information not reasonably calculated to lead to the discovery of admissible evidence, and is irrelevant to the lawsuit at hand. This request seeks records for any wireless or mobile device, but does not specify whose mobile or wireless device it seeks records on. Also, this request does not define wireless or mobile device, which could refer to the user manual for Defendant's Sony Walkman. It also does not confine itself to relation to wireless devices that connected to the subject IP address, the time frame of the subject download, and the time frames of those connections, if any. As such, it is grossly overbroad and a fishing expedition.

Commentary: We will withdraw this request.

Request No. 15: Any documents pertaining to receipts of purchases, credit card statements, checks cashed, bank account statements, or travel documents dating two months before and until and including two months after the time of the alleged infringement that would indicate that you were not at your residence or within the control of the IP address at or around the time of infringement.

Roldan's Response: Objection. This request is overbroad in scope and not reasonably calculated to lead to the discovery of admissible evidence. Although it does not define which IP address to which it refers, the fact that it says, "your IP address" makes it appear to refer to Defendant's IP address, which is not the IP address in the lawsuit. However, if, on the other hand, it refers to the IP address mentioned in the lawsuit, proving that Defendant was not at his residence does nothing to prove he did not use the IP address. In fact, when Defendant was at his residence, it was impossible for him to access the subject IP address, as they are entirely two different geographic locations. Documents showing that Defendant was away from his Tampa apartment would not be relevant to this suit.

Commentary: We agree to clarify this request to address your overbreadth objection, although we disagree with some of your positions. For example, you suggest that "documents showing that Defendant was away from his Tampa apartment would not be relevant to this suit," but we believe the opposite is true. Documents showing that Defendant was away from his Tampa apartment during the alleged infringement would be relevant to establish that Defendant was actually at the Saint Petersburg residence where the alleged infringement occurred. Plainly, this request seeks documentation pertaining to travel so as to establish whether, during the period of the alleged infringement, Defendant was always or regularly located (a) at the Saint Petersburg residence (which would suggest that he could have been the responsible infringer) or (b) at his Tampa residence or at some other location (which would suggest that he was not the responsible infringer). These issues are obviously relevant at this stage of the litigation. We will rephrase the request to provide this clarification.

The request may now read: *“To the extent you dispute visiting 4690 57th Avenue North, Saint Petersburg, Florida multiple times per week between August 17, 2013 and November 17, 2013 (and, in particular, on the following dates: August 18, 21, 24, 26, 29; September 6, 8, 9, 12, 13, 21, 23, 29, 30; October 5, 6, 9, 11, 12, 18, 19, 20, 21, 23, 25, 27; November 2, 4, 7), please provide documentation of your whereabouts during this time period. More specifically, for the pertinent time period, please provide any and all documents pertaining to receipts of purchases, credit card statements, checks cashed, bank account statements, travel documents, or letters and correspondence sent to you at an address other than 4690 57th Avenue North, Saint Petersburg, Florida. Please note that no documents need be produced if you do not dispute that you were located at 4690 57th Avenue North, Saint Petersburg, Florida and/or utilizing its IP address at or around the time of the alleged infringements.”*

Request No. 16: Any documents or contracts pertaining to ownership of the property, title of the home or apartment, or any existing lease, rental agreements, sublet agreements, or documents relating to any legal notice of tenants or residents authorized to live in the property at the time of the infringement.

Roldan’s Response: Objection. This request is overbroad in that it is not limited to any timeframe or to the subject matter of the complaint. Moreover, Plaintiff has not defined “the property.” If Plaintiff is referring to the property associated with the IP address, Defendant has no such documents. If “the property” refers to Defendant’s residence, Defendant is providing a copy of his 2013–14 Lease.

Commentary: We agree to clarify our request per your objection to include an applicable timeframe of three years, and to focus the request on the two relevant addresses in the litigation (*i.e.*, the Saint Petersburg address where the infringement is alleged to have occurred and the Tampa residence where Defendant claims to have been residing). The request may now read: *“Please produce any documents or contracts from the last three (3) years that pertains to the ownership or title of the residences located at 4690 57th Avenue North, Saint Petersburg, Florida and 13404 Village Circle, Apartment 103, Tampa, Florida, including any leases, rental agreements, sublet agreements, rent payments, or other documents relating to any legal notice of tenants or residents authorized to live at the addresses between August 17, 2013 and November 17, 2013.”* We note that Defendant previously stated that he “has no such documents” with regard to the Saint Petersburg address. To the extent Defendant stands by this response, please confirm that Defendant has made reasonable efforts to obtain responsive documents. With regard to the Tampa residence, Defendant has stated that he is “providing a copy of his 2013–2014 Lease.” We have yet to receive this production. Please produce same along with any other requested information (e.g., documents reflecting Defendant’s rental payments pursuant to the lease).

Request No. 17: Any documents pertaining to any electronic correspondence issued from the computer devices to any other device able to connect to the internet including all emails, instant messages, social network postings, chat room comments, and any and all other forms of electronic communication in the last six months that mentions or relate to the "Work"

Roldan's Response: Objection. This request is overbroad in scope in that it is not limited to the lawsuit at hand because Defendant has not lived at the house associated with the IP address under litigation. Defendant has resided in an apartment in Tampa for the past two years. Any compute device connecting to the internet in his Tampa apartment, in his school, or at his work, would be irrelevant to the lawsuit at hand. Subject to and without waiving these objections, Defendant states: None in Defendant's possession at this time.

Commentary: We disagree with your objections. This request asks for documents pertaining to any electronic correspondence within the last six months that mentions or relates to Plaintiff's copyrighted works, the same works that are at issue in this copyright infringement action. Your objection appears to concede that this request is obviously relevant, but takes issue with the fact that "Defendant has not lived at the house associated with the IP address under litigation." As you see it, because "Defendant has resided in an apartment in Tampa for the past two years, [a]ny computer device connecting to the internet in his Tampa apartment, in his school, or at his work, would be irrelevant to the lawsuit at hand." Respectfully, we disagree and do not quite understand your logic. This objection might carry weight if Defendant had to live at the Saint Petersburg residence in order to commit the alleged infringements, but that is decidedly not the case; Defendant could have still committed the infringements from the Saint Petersburg residence while simultaneously living fulltime in a Tampa apartment. Accordingly, this request, as phrased, remains absolutely relevant to a determination of whether or not Defendant committed the infringements as alleged. We note too that Defendant previously responded to this request by stating: "None in Defendant's possession at this time." To the extent that this response is intended to concede that responsive documents existed at some time in the past six months, please recall that Defendant is under a duty to make reasonable efforts to obtain and produce same (and may not withhold production on the convenient basis that responsive documents are not presently in his possession or under his control). Please review with your client and amend your response/production.

Request No. 18: Any documents pertaining to any forensic software that was used to preserve or delete files, programs, software, or any other type of electronic data in the last six months.

Roldan's Response: Objection. This request is grossly overbroad in scope as it is not limited by any timeframe or to the subject matter of the complaint. This request is not even limited to the Defendant or to computer devices that accessed

the IP address under litigation. Subject to and without waiving these objections, Defendant states: Defendant has no responsive documents.

Commentary: Although you object to our perceived failure to provide a limiting timeframe, we believe this objection may have been an oversight or typographical error, as this request clearly limits the production to a time frame of "the last six months." This notwithstanding, we agree to narrow the request to address the remainder of your overbreadth objection. This request may now read: "*Please produce any documents pertaining to any forensic software that was used to preserve or delete files, programs, software, or any other type of electronic data in the last six months on any Computer Device that has been utilized by Defendant or that has been located at 4690 57th Avenue North, Saint Petersburg, Florida.*" Again, to the extent Defendant stands by his response that he "has no responsive documents," please confer with your client and confirm that he has undertaken reasonable efforts to locate and produce any responsive documents.

Request No. 19: Any documents that contain credit card or bank statements relating to purchases of electronic equipment and computer devices at any and all electronics retail stores in the past 48 months.

Roldan's Response: Objection. This request is grossly overbroad in scope in that it is not limited by any timeframe or to the subject matter of the complaint. This request is simply not reasonably calculated to lead to the discovery of admissible evidence. This request is not even limited to the Defendant or to computer devices that accessed the IP address under litigation. Furthermore, this request could be referring to electronic equipment bought for use in Defendant's Tampa apartment or even bought for use at his place of employment. Subject to and without waiving these objections, Defendant has already provided his receipt for his computer which was responsive to Request No. 3. Any other documents are a fishing expedition and are wholly irrelevant.

Commentary: We disagree with many of your objections. First, although you object to our perceived failure to provide a limiting timeframe, we believe this objection may have been an oversight or typographical error, as this request clearly limits the production to a time frame of "in the past 48 months." Second, we disagree that this request is overbroad simply because it is not limited to "computer devices [or electronic equipment] that accessed the IP address under litigation." We do not believe the request need be confined to the IP address under litigation in order to be relevant. By way of example, if Defendant has ceased using the Computer Devices that he utilized during the alleged period of infringement and, within the past 48 months, has purchased electronic equipment and computer devices so as to have a "fresh start," this information would certainly be relevant to, even if not dispositive of, the issues in litigation. You also object on the basis that this request "could be referring to electronic equipment bought for use in Defendant's Tampa apartment or

even bought for use at his place of employment. □ Once again, though, we do not understand or agree with this objection. If Defendant purchased a computer device or electronic equipment for use in his Tampa apartment, this information would be no less relevant to the issues in litigation than if Defendant purchased a computer device or electronic equipment for use at 4690 57th Avenue North, Saint Petersburg, Florida. This distinction is plainly irrelevant because, in either case, the documents would be relevant to a determination as to whether Defendant was the infringer, as Plaintiff has alleged. And although we concede that Defendant's purchase of electronic equipment at the request of his employer for exclusive use at his place of employment may ultimately prove immaterial to the litigation, that hypothetical circumstance does not somehow render this request fatally overbroad. To be sure, it is often the case that production requests yield the production of documents that turn out to be insignificant to issues in litigation. Ultimately, though, we agree to rephrase this request in order to limit the request to the Defendant, as we believe that particular objection is well-founded. Accordingly, and consistent with the foregoing, this request may now read: *"Please produce any documents, created in the past 48 months, that contain credit card or bank statements relating to purchases of electronic equipment and computer devices at any and all electronics retail stores either by Defendant or for Defendant's use and benefit."*

Thank You,

/s/ Daniel C. Shatz, Esq.

Daniel C. Shatz, Esq.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	Civil Case No. 8:13-cv-03007-JSM-TBM
)	
v.)	
)	
ROBERTO ROLDAN,)	
)	
Defendant.)	
_____)	

STIPULATION OF DISMISSAL WITH PREJUDICE

Plaintiff, Malibu Media, LLC and Defendant, Roberto Roldan by their undersigned counsel, pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, hereby stipulate that **all claims asserted against each other** in this matter are hereby dismissed with prejudice.

WHEREFORE, Plaintiff and Defendant Roberto Roldan respectfully request that this Court enter an order dismissing with prejudice all Plaintiff's **and Defendant Roberto Roldan's claims against each other.**

Dated: February 17, 2015

Respectfully submitted,

/s/ M. Keith Lipscomb
M. Keith Lipscomb, Esq.
Lipscomb, Eisenberg & Baker, PL
2 S. Biscayne Blvd., Penthouse 3800
Miami, FL 33132
Tel.: (786) 431-2228
Fax: (786) 431-2229
E-mail: klipscomb@lebfirm.com
Attorney for Plaintiff, Malibu Media, LLC

/s/
Cynthia Ariel Conlin, Esq.
Cynthia Conlin, PA
1643 Hillcrest St
Orlando, FL 32803
Tel.: (407) 965-5519
Fax: (407) 545-4397
E-mail: cynthiaconlin@cynthiaconlin.com
Attorney for Defendant, Roberto Roldan

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

By: /s/ M. Keith Lipscomb