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VERIZON ONLINE LLC

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

MALIBU MEDIA, LLC,

Plaintiff,

v.

WILLIAM SHARP,

Defendant.

Civil Action No.  
8:14-cv-02138-VMC-MAP

**OBECTIONS TO MALIBU MEDIA  
LLC'S SUBPOENA TO VERIZON**

**TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:**

Verizon Online LLC, identified erroneously by Plaintiff as Verizon Internet Services ("Verizon"), responds and objects as follows to the subpoena for records from Malibu Media, LLC in the above-captioned action:

**GENERAL OBJECTIONS**

1. Verizon objects to the subpoena and to each request therein on the grounds that the subpoena fails to provide sufficient time for Verizon to process and respond to the subpoena, nor does it provide even the minimum notice customarily provided under the Federal Rules; the

subpoena provides insufficient notice for Verizon to conduct an investigation of the facts alleged in the complaint and the topics identified and materials sought in the subpoena.

2. Verizon objects to the location of the deposition, which was set unilaterally and without Verizon's counsel's prior consultation. Under the Fed. R. Civ. P. 45(c), "[a] subpoena may command a person to attend a . . . deposition . . . within 100 miles of where the person resides, is employed, or regularly transacts business in person." Fed. R. Civ. P. 45(c)(1)(A). Moreover, "[a] subpoena may command production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person." Fed. R. Civ. P. 45(c)(2)(A). The proposed location for the deposition is San Angelo, Texas. Verizon's employees who are likely to have knowledge of the topics identified in the subpoena are located near Verizon's offices in Arlington, Virginia. Verizon therefore objects on the grounds that a subpoena may not command Verizon or its employees to attend a deposition more than 100 miles away of its residence, employment, or usual place of business.

3. Verizon further objects to the subpoena in its entirety on the grounds that a deposition subpoena to a third party is unnecessary, nor is it the efficient for the litigants in light of the availability of other means of discovery that are available. The information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party.

4. Verizon further objects to the subpoena to the extent it seeks information that is not relevant to the underlying litigation. The subpoena poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery.

5. Verizon further objects to the subpoena to the extent it seeks information that is protected from disclosure by the Cable Communications Policy Act, third parties' rights of privacy, and protections guaranteed by the First Amendment and applicable state privacy laws.

6. Verizon further objects to the subpoena to the extent it seeks to impose on Verizon obligations different from, or greater than, those required by the Federal Rules of Civil Procedure or applicable Local Rules.

7. Each of the foregoing objections is incorporated into each of the responses to the document requests and deposition topics below.

## **OBJECTIONS TO THE REQUEST FOR DOCUMENTS**

### **SCHEDULE A**

#### **DOCUMENT REQUEST (a):**

Any and all document(s) that refers, relates to or comprises a record that the Defendant received a DMCA notice, pursuant to 17 U.S.C. 512(c)(1)(C), including but not limited to the DMCA record.

#### **OBJECTION TO DOCUMENT REQUEST (a):**

Verizon incorporates its general objections by reference. Verizon objects to this Request on the basis that the use of the terms “Defendant,” “DMCA notice,” and “DMCA record” in this context renders the Request vague and ambiguous. Verizon further objects to this Request on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Request on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Request poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon further objects to this Request on the grounds that the information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party.

**DOCUMENT REQUEST (b):**

Any and all document(s) that refers, relates to or comprises a record that the Defendant received a copyright infringement notice forwarded by Verizon, pursuant to any copyright infringement alert system or any other internal procedure which Verizon follows.

**OBJECTION TO DOCUMENT REQUEST (b):**

Verizon incorporates its general objections by reference. Verizon objects to this Request on the basis that the use of the terms “Defendant,” “copyright infringement notice,” and “any other internal procedure” in this context renders the Request vague and ambiguous. Verizon further objects to this Request on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Request on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Request poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon further objects to this Request on the grounds that the information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the timing of the Request, which provides insufficient notice for Verizon to process and respond to the subpoena.

**DOCUMENT REQUEST (c):**

Any and all document(s) that refers, relates to or comprises a record of Verizon’s lease or rental of any electronic devices to Defendant. This includes any documentation which state the make, model number, and serial numbers of any and all modems and routers which Verizon leased to Defendant.

**OBJECTION TO DOCUMENT REQUEST (c):**

Verizon incorporates its general objections by reference. Verizon objects to this Request on the basis that the use of the term “Defendant” renders the Request vague and ambiguous. Verizon further objects to this Request on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Request on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Request poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon further objects to this Request on the basis that it seeks information that is equally available to a party in this action as it is to Verizon. The information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the timing of the Request, which provides insufficient notice for Verizon to process and respond to the subpoena.

**DOCUMENT REQUEST (d):**

Any and all document(s) that refers, relates to or comprises a record of Verizon’s policies and procedures regarding the installation and maintenance of passwords on a subscriber’s modem or router.

**OBJECTION TO DOCUMENT REQUEST (d):**

Verizon incorporates its general objections by reference. Verizon objects to this Request on the basis that it is overly broad and unduly burdensome. Verizon further objects to this Request on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Request on the basis that

it seeks confidential or proprietary documents belonging to Verizon. Verizon further objects to this Request on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Request poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon further objects to this Request on the grounds that the information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the timing of the Request, which provides insufficient notice for Verizon to process and respond to the subpoena.

**DOCUMENT REQUEST (e):**

Any and all document(s) that refers, relates to or comprises a record of Verizon's policies and procedures of correlating internet subscribers to IP addresses, and any information regarding the accuracy of such correlations.

**OBJECTION TO DOCUMENT REQUEST (e):**

Verizon incorporates its general objections by reference. Verizon objects to this Request on the basis that it is overly broad and unduly burdensome. Verizon further objects to this Request on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Request on the basis that it seeks confidential or proprietary documents belonging to Verizon. Verizon further objects to this Request on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Request poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of

permissible discovery. Verizon further objects to this Request on the grounds that the information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the timing of the Request, which provides insufficient notice for Verizon to process and respond to the subpoena.

**DOCUMENT REQUEST (f):**

Any and all document(s) that refers, relates to or comprises a record that the Defendant was the internet subscriber assigned IP address 96.252.235.193 on July 30, 2014 at 18:23:16 UTC.

**OBJECTION TO DOCUMENT REQUEST (f):**

Verizon incorporates its general objections by reference. Verizon objects to this Request on the basis that the use of the term “Defendant” renders the Request vague and ambiguous. Verizon further objects to this Request on the basis that it is overly broad and unduly burdensome. Verizon further objects to this Request on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Request on the basis that it seeks confidential or proprietary documents belonging to Verizon. Verizon further objects to this Request on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. Verizon further objects to this Request on the basis that Verizon is not authorized to release the information sought, to the extent a court order is required. *See* 47 U.S.C. § 551. The Request poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon further objects to this Request on the grounds that the information sought by Plaintiff can and should be sought

from parties to the litigation, not from a third party. Verizon further specifically objects to the timing of the Request, which provides insufficient notice for Verizon to process and respond to the subpoena.

## **OBJECTIONS TO THE DEPOSITION TOPICS**

### **SCHEDULE B**

#### **DEPOSITION TOPIC (a):**

Discussion of any and all document(s) Verizon produced in response to Schedule A of this Subpoena, including all information necessary to lay the foundation for each document to be introduced into evidence.

#### **OBJECTION TO DEPOSITION TOPIC (a):**

Verizon incorporates its general objections by reference. Verizon objects to this Topic on the basis that it is overly broad and unduly burdensome. Verizon further objects to this Topic on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Topic on the basis that it implicates third parties' rights to privacy. Verizon further objects to this Topic on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Topic poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon objects to this Topic on the grounds that the information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the proposed location and the timing of the deposition, which do not



comply with the Federal Rules, provide insufficient notice to Verizon, and create and undue burden on Verizon by seeking testimony in Texas.

**DEPOSITION TOPIC (b):**

Discussion of any DMCA notice Verizon forwarded to Defendant.

**OBJECTION TO DEPOSITION TOPIC (b):**

Verizon incorporates its general objections by reference. Verizon objects to this Topic on the basis that the use of the terms “Defendant” and “DMCA notice” in this context renders the Topic vague and ambiguous. Verizon further objects to this Topic on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Topic on the basis that it implicates third parties’ rights to privacy. Verizon further objects to this Topic on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Topic poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon further objects to this Topic on the basis that it seeks information that is equally available to a party in this action as it is to Verizon. The information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the proposed location and the timing of the deposition, which do not comply with the Federal Rules, provide insufficient notice to Verizon, and create and undue burden on Verizon by seeking testimony in Texas.

**DEPOSITION TOPIC (c):**

Discussion of any notice of copyright infringement Verizon forwarded to Defendant.

**OBJECTION TO DEPOSITION TOPIC (c):**

Verizon incorporates its general objections by reference. Verizon objects to this Topic on the basis that the use of the terms “Defendant” and “any notice” renders the Topic vague and ambiguous. Verizon further objects to this Topic on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Topic on the basis that it implicates third parties’ rights to privacy. Verizon further objects to this Topic on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Topic poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon further objects to this Topic on the basis that it seeks information that is equally available to a party in this action as it is to Verizon. The information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the proposed location and the timing of the deposition, which do not comply with the Federal Rules, provide insufficient notice to Verizon, and create an undue burden on Verizon by seeking testimony in Texas.

**DEPOSITION TOPIC (d):**

Discussion of any devices Verizon leased to Defendant, including but not limited to modems and routers.

**OBJECTION TO DEPOSITION TOPIC (d):**

Verizon incorporates its general objections by reference. Verizon objects to this Topic on the basis that the use of the term “Defendant” renders the Topic vague and ambiguous. Verizon

further objects to this Topic on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Topic on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Topic poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon objects to this Topic on the grounds that the information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the proposed location and the timing of the deposition, which do not comply with the Federal Rules, provide insufficient notice to Verizon, and create and undue burden on Verizon by seeking testimony in Texas.

**DEPOSITION TOPIC (e):**

Discussion of Verizon's policies and procedures regarding the installation and maintenance of passwords on a subscriber's modem or router.

**OBJECTION TO DEPOSITION TOPIC (e):**

Verizon incorporates its general objections by reference. Verizon objects to this Topic on the basis that it is overly broad and unduly burdensome. Verizon further objects to this Topic on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Topic on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Topic poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery.

Verizon further objects to this Topic on the basis that it seeks confidential or proprietary documents belonging to Verizon. Verizon objects to this Topic on the grounds that the information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the proposed location and the timing of the deposition, which do not comply with the Federal Rules, provide insufficient notice to Verizon, and create an undue burden on Verizon by seeking testimony in Texas.

**DEPOSITION TOPIC (g):**

Discussion of the records proving that the Defendant was the internet subscriber assigned IP address 96.252.235.193 on July 30, 2014 at 18:23:16 UTC.

**OBJECTION TO DEPOSITION TOPIC (g):**

Verizon incorporates its general objections by reference. Verizon objects to this Topic on the basis that the use of the terms “records” and “Defendant” in this context renders the Topic vague and ambiguous. Verizon further objects to this Topic on the basis that it is overly broad and unduly burdensome. Verizon further objects to this Topic on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Topic on the basis that it seeks confidential or proprietary documents belonging to Verizon. Verizon further objects to this Topic on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. Verizon further objects to this Topic on the basis that Verizon is not authorized to discuss the information sought, to the extent a court order is required. *See* 47 U.S.C. § 551. The Topic poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon

objects to this Topic on the grounds that the information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the proposed location and the timing of the deposition, which do not comply with the Federal Rules, provide insufficient notice to Verizon, and create an undue burden on Verizon by seeking testimony in Texas.

**DEPOSITION TOPIC (f):**

Explanation of the process Verizon used to correlate the IP address, 96.252.235.193 with the Defendant in the instant matter.

**OBJECTION TO DEPOSITION TOPIC (f):**


Verizon incorporates its general objections by reference. Verizon objects to this Topic on the basis that the use of the term “Defendant” renders the Topic vague and ambiguous. Verizon further objects to this Topic on the basis that it is overly broad and unduly burdensome. Verizon further objects to this Topic on the basis that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon further objects to this Topic on the basis it seeks information that is not relevant to the underlying litigation, and seeks information that is protected from disclosure by the Cable Communications Policy Act. The Topic poses a burden that outweighs any minimal probative value of third-party discovery and seeks to impose an obligation on Verizon that is beyond obligations required by the scope of permissible discovery. Verizon further objects to this Topic on the basis that it seeks confidential or proprietary information belonging to Verizon. Verizon objects to this Topic on the grounds that the information sought by Plaintiff can and should be sought from parties to the litigation, not from a third party. Verizon further specifically objects to the proposed location and the timing of the deposition, which do not comply with the Federal Rules, provide

insufficient notice to Verizon, and create an undue burden on Verizon by seeking testimony in Texas.

Dated: September 28, 2015

MORRISON & FOERSTER LLP

By:



Soo J. Park


Attorneys for  
VERIZON ONLINE LLC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the 28th day of September, 2015 by email and U.S. Mail upon the following:

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Dated: September 28, 2015

  
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 Soo J. Park