

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No.: 1:15-cv-10707
)	Honorable Rebecca Pallmeyer
NEILL JACOBSON)	
)	
Defendant.)	

DEFENDANT’S FIRST REQUEST FOR PRODUCTION

Defendant, Neill Jacobson, by his attorney, JAMES KELLY LAW FIRM, requests Plaintiff, Malibu Media, LLC, produce documents and things and otherwise respond to this First Request for Production pursuant to Fed.R.Civ.P. Rule 34 within 30 days of service.

DEFINITIONS

The term “defendant,” as used herein, refers to the defendant referenced above.

The term “Plaintiff,” as used herein, refers specifically to the plaintiff named above.

The term “Malibu Media,” as used herein, refers to Malibu Media LLC, its agents acting on its behalf, subsidiaries partially or wholly owned by Malibu Media LLC, and entities that became Malibu Media LLC through name change, mergers, acquisitions, etc.

The terms “include,” “includes” or “including” are used in their broadest sense and encompass “including but not limited to” and “including without limitation.”

The terms “identify,” “identification,” “describe,” “description” and “show,” in relation to people means to give the full name, address, date of birth, telephone number, name and address of present or last known employer, and the person’s prior positions, occupations, titles and employers. With regard to documents, they mean to give the date, author, addressee(s),

subject and its substance, and the type of documents, including but not limited to letters, memoranda, telegrams, chart reproductions, microfilm, microfiche, etc. With regard to verbal communication, they mean to give the date of that communication, the persons who were parties to that communication, whether the communication was face-to-face, in writing and/or over the telephone, and if face-to-face describe and state the location of that communication, the prior positions, occupations, telephone numbers, and addresses of the persons involved in the communication, the identity of all persons who were witnesses, and a brief statement concerning the substance of the communication. With regard to a business or entity, they mean to give its full name, its present or last known address, and its present or last known telephone number.

The terms “person” or “entity” refer to all natural persons, corporations, and any other form of business entity including sole proprietorships, partnerships, joint ventures and associations, and includes its directors, agents, employees, subordinates, attorneys, subsidiaries, affiliates, merged, consolidated, or acquired predecessors, divisions and holding parent companies, including present and former officers, directors, shareholders, agents, employees, accountants, and attorneys.

The terms “document,” “documents,” or “documentation” means every original and all non-identical copies of any handwritten, printed, typed, recorded or other graphic or photographic material of any kind and nature, including all drafts thereof and all mechanical or electronic sound recordings or transcripts thereof, however produced or reproduced, including on computer tapes, disks, ROM, CD-ROM or any other data storage media (whether or not it is in machine-readable form), and including but not limited to: accounting materials, accounts, advertisements, agreements, analyses, appointment blueprints, archived electronic mail messages, archived voice mail messages, books, books of account, brochures, calendars,

catalogs, CD-ROMs, charts, checks, computer data, computer disks, computer generated or stored information, computer processing cards or tapes, computer programming materials, contracts, correspondence customer lists, DATs, date books, diaries discs, diskettes, drawings, DVDs, electronic-mail (“e-mail”) messages, faxes, films, flash memory chips, graphs, guidelines, information that can be retrieved by any process or test analysis, instructions, inter-office communications, invoices, laboratory notebooks, ledgers, letters, licenses, logs, manuals, memoranda, memory media or banks (including but not limited to hard disks, floppy disks, diskettes, high capacity removable storage disks, CD-ROMs, DVDs, DATs and flash memory chips or their functional equivalents), microfilm, minutes, notes, opinions, packaging, pamphlets, payments, photographs, phonorecords, photoboard, plans, proposals, price lists, raw data tests or test results, receipts, recorded recollections, records, regulations, reports, sound recordings, specifications, spreadsheets, statements, studies, surveys, tapes, telegrams, telexes, timesheets, vouchers, word processing materials (however stored or maintained) and working papers, writings and all other means by which information is stored for retrieval in fixed form in your possession, custody or control of your counsel, independent public accountants, evaluation consultants, agents, employees or entities acting on your behalf.

The terms “contact” and “communication” refer to any transmission, transfer or exchange between two or more persons of any information, whether by document, electronic or other verbal mean, including but not limited to documents, conversations, correspondence, telephone calls, e-mails, facsimiles and telegrams, and includes any transmission or exchange of information between two or more persons, whether orally or in writing.

The term “control” means actual possession, constructive possession, beneficially owning, power to obtain or ability to obtain any document.

The term “relating to” means consisting of, comprising, containing, setting forth, showing disclosing, describing, explaining, summarizing, concerning, pertaining to, reflecting or touching upon indirectly or directly any matter logically or factually.

The conjunctions “and,” “or,” and “and/or” shall be interpreted conjunctively and shall not be interpreted disjunctively to exclude any information otherwise within the scope of any interrogatory. Similarly, the singular shall include the plural and the plural shall include the singular. A masculine, feminine, or neutral pronoun or description shall not exclude and shall include all other genders.

1. Every document referenced in Response to Defendant’s First Set of Interrogatories to Plaintiff.

Response to Request No. 1:

2. Proof of copyright for each allegedly infringed work.

Response to Request No. 2:

3. A list of everyone who would have had access or had access to any of the allegedly infringed works prior to publication on a Malibu Media website, e.g. X-Art.com, and until each work’s corresponding “hit date” attached as Exhibit A to Plaintiff’s Amended Complaint.

Response to Request No. 3:

4. Documentation showing Malibu Media’s upload dates and times for each of the works listed in Exhibit A of Plaintiff’s Amended Complaint.

Response to Request No. 4:

5. Records relating to suspected or actual breaches or continuing breaches of Malibu Media’s online properties or physical properties from March 1, 2014 until October 10,

2015, including documentation relating to any Malibu Media work being uploaded to the internet before Malibu Media's planned upload date for the work.

Response to Request No. 5:

6. All studies conducted on the piracy of Plaintiff's works or the effect of piracy on Plaintiff's business, regardless of whether you seek statutory damages or actual damages.

Response to Request No. 6:

7. The complete records of downloads and streams of the works listed in Exhibit A of Plaintiff's Amended Complaint hosted on non-Malibu Media sites with Malibu Media's permission.

Response to Request No. 7:

8. Contracts that were in effect at any point from March 1, 2014 to October 10, 2015 between non-Malibu Media-owned websites that included terms for the other sites' hosting via streaming or download of Malibu Media works.

Response to Request No. 8:

9. Plaintiff's current and former organizational documents that would have been in effect from March 1, 2014 until now, including articles of organization and operating agreement, and current and former organizational documents that would have been in effect from March 1, 2014 until now for Plaintiff's subsidiaries and other entities at least partially owned by Plaintiff.

Response to Request No. 9:

10. Every agreement between Plaintiff and: IPP International UG, Guardaley, Excipio BmbH, and Computer Forensics, LLC.

Response to Request No. 10:

11. Every invoice, statement, or request for payment between Plaintiff and IPP International UG, Excipio BmbH, and Computer Forensics, LLC that involved or could have involved work done related to this case.

Response to Request No. 11:

12. All documentation showing IPP International UG's qualifications to perform investigations in this case.

Response to Request No. 12:

13. Copies of all user manuals, user guides, or any other documents used to aid in the use of the IP address geolocation technology or software.

Response to Request No. 13:

14. All documentation provided to Plaintiff from IPP International UG, Excipio BmbH, and Computer Forensics, LLC involving Defendant.

Response to Request No. 14:

15. The ISP documents "correlating the Defendant to the IP address," as referenced in Plaintiff's 26(A)(ii) disclosure 2.

Response to Request No. 15:

16. The Computer Data "evidencing the TCP/ICP connection and the piece of the subject movies that were sent through BitTorrent [sic] by Defendant – obtained from Excipio," as referenced in Plaintiff's 26(A)(ii) disclosure 3.

Response to Request No. 16:

17. As referenced in Plaintiff's 26(A)(ii) disclosure 6, original copies of the works and copies "as reassembled from the pieces sent by the peer infringers – Plaintiff and IPP limited have original copies of the movies."

Response to Request No. 17:

18. For every work in Exhibit A of Plaintiff's Amended Complaint, provide documents showing information on each work, including the file size, runtime, resolution, and search tags for each work.

Response to Request No. 18:

19. Provide documents showing the annual damages received from Malibu Media's copyright litigation

Response to Request No. 19:

20. Provide documents showing Malibu Media's annual profits, excluding damages received from copyright litigation.

Response to Request No. 20:

21. Provide documents describing Malibu Media's user fees and annual revenue from those fees.

Response to Request No. 21:

NEILL JACOBSON

By: /s/ Patrick J. Rollings
Patrick J. Rollings

Patrick J. Rollings
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CERTIFICATE OF SERVICE

I, Patrick J. Rollings, attorney at James Kelly Law Firm, on behalf of Defendant Neill Jacobson, certify that I served the foregoing document by U.S. Mail and email to:

Mary K. Schulz
1144 E. State Street, Suite A260
Geneva, IL 60134
P: (312) 213-7196
medialitigationfirm@gmail.com

Sincerely,

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