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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

GLACIER FILMS (USA), INC.,

Plaintiff,

v.

**Doe-24.20.141.220, Doe-73.11.11.201,
Doe-76.115.52.58, Doe-73.25.54.220,
Doe-67.160.141.20, Doe-98.246.176.32,
Doe-24.21.222.117, and Doe-67.171.177.212,**

Defendants.

Case No.: 3:15-cv-02139

COMPLAINT

COPYRIGHT INFRINGEMENT

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff Glacier Films (USA), Inc. complains and alleges as follows:

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under 17 U.S.C. §§ 101 et seq. (“The Copyright Act”).
2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a) as the defendants are believed to reside in this district.

PARTIES

PLAINTIFFS

4. Plaintiff Glacier Films (USA), Inc., is a Delaware Corporation, a producer of motion pictures and a producer of *American Heist*.

5. Plaintiff comes to court seeking relief as the motion picture *American Heist* is currently one of the top downloaded movies through BitTorrent with over 100,000 confirmed infringing Internet Protocol (“IP”) addresses observed in the United States and thousands of those IP addresses believed to be traced to individuals in Oregon.

The Rights of Glacier

6. *American Heist* is a notable motion picture that was scheduled for widespread theatrical release in North American in January of 2015, but was wrongfully released on BitTorrent and is now being widely pirated limiting its ability to gain access to and benefit from conventional market outlets.

7. Glacier Films (USA), Inc. is the registered copyright holder of the completed motion picture *American Heist*, which has been registered with the United States Copyright Office, Registration No. PA 1-938-638, 2015.

8. The motion picture contains original material that is copyrightable subject matter under the laws of the United States.

9. Under The Copyright Act, plaintiff is the proprietor of copyrights and interests necessary to being suit.

10. The motion picture is currently offered for sale in commerce.

11. Defendants had notice of plaintiff's rights through general publication and advertising and more specifically as identified in the content of the motion picture, advertising associated with the motion picture, and all packaging and copies, each of which bore a proper copyright notice.

THE DEFENDANTS

12. The defendants identified herein as Doe-24.20.141.220, Doe-73.11.11.201, Doe-76.115.52.58, Doe-73.25.54.220, Doe-67.160.141.20, Doe-98.246.176.32, Doe-24.21.222.117, and Doe-67.171.177.212 are currently known only by their Internet Protocol ("IP") addresses and time of observed infringement by plaintiff's investigators, Maverickeye.

13. Through geolocation, the IP addresses used by the defendants have been traced to the State of Oregon.

14. Defendants' IP addresses have been observed as associated with the peer-to-peer exchange of hundreds of copyrighted titles through the BitTorrent network.

15. The volume and titles of the activity associated with each of the defendants IP addresses indicates that the defendants is likely the primary subscriber of each IP address or someone who resides with the subscriber, as such activity indicates the defendants are authorized users of the IP addresses with consistent and permissive access.

16. The volume and titles of the activity associated with defendants' IP addresses indicates that the defendants are not young children.

17. Each of the defendants' IP addresses were observed distributing plaintiff's motion picture multiple times over multiple days making each defendant an active distributor of plaintiff's motion picture.

18. The defendant's IP address were at that time of observed infringement managed by Internet Service Provider ("ISP") Comcast, who on information and belief, generally assigns an

IP address to a single party for extended periods of time, often for months, and provides Wi-Fi systems with notable pre-installed security and passwords.

19. The records maintained by Comcast should be able to identify either the defendants, or the subscribers who contracted with Comcast for service who in turn is likely to have knowledge that will lead to the identity of the defendants.

20. Plaintiff intends to seek initial discovery to subpoena records from Comcast to ascertain the true identity of each defendant.

BACKGROUND

PEER-TO-PEER INTERNET PIRACY

21. As stated by Congressman Lamar Smith, “Illegal counterfeiting and piracy costs the U.S. economy \$100 billion and thousands of jobs every year.”

22. As noted by Senator Levin in Congressional hearings on peer-to-peer Internet piracy, “In the world of copyright law, taking someone’s intellectual property is a serious offense, punishable by large fines. In the real world, violations of copyright law over the Internet are so widespread and easy to accomplish that many participants seem to consider it equivalent to jaywalking – illegal but no big deal. But it is a big deal. Under U.S. law, stealing intellectual property is just that – stealing. It hurts artists, the music industry, the movie industry, and others involved in creative work. And it is unfortunate that the software being used – called ‘file sharing’ as if it were simply enabling friends to share recipes, is helping create a generation of Americans who don’t see the harm.”

23. In 2013, in recognition of the growing problems and challenges with counterfeiting and piracy, The Oregon House of Representatives passed House Memorial 2, which made the following findings:

Whereas the United States and other nations share the challenge of combating intellectual piracy and the counterfeiting of intellectual property such as ... films... and technologies that affect the quality of life; and

Whereas intellectual piracy and counterfeiting have a significant impact on Oregon's economy, and the economies of other states and of nations around the world, which results in job and earnings losses, reduced tax revenues and increased threats to public health and safety; and

...

Whereas protecting and enforcing intellectual property rights is crucial to the future of our innovation-based economy; and

Whereas industries that use intellectual property extensively generate nearly \$7.7 trillion in gross output and account for more than 60 percent of total exports from our nation; and

Whereas industries that use intellectual property extensively ... employ more than 19 million Americans, whose salaries average about 60 percent higher than salaries in industries that do not make extensive use of intellectual property; and

Whereas intellectual property infringement can undermine the nation's economic security; and

Whereas violations of intellectual property rights, ambiguities in the law and a lack of enforcement create uncertainty in the marketplace and in the legal system and undermine consumer trust; and

Whereas intellectual property, including trademarks, [are] essential ...; and

...

Whereas failing to adequately protect and enforce intellectual property rights will increase counterfeiting and illicit trade;

...

24. As such it is clear that giving effect to 17 U.S.C. §§ 101 et seq., and the enforcement of intellectual property rights, and in particular the fight against counterfeiting and piracy are critical issues of importance to the both the United States of America and the State of Oregon.

25. Internet piracy, and in particular BitTorrent piracy, though known as peer-to-peer file sharing, is often a for-profit business as many software clients, torrent sites and networks which promote and facilitate piracy generate millions of dollars in revenue through sales and advertising.

26. To increase the value of the advertising and sometimes subscription access sold by torrent sites, many parties work to expand the pool of available titles and speed of downloads available by increasing the number of member peers and thus the desirability of their clients and

networks. To accomplish this they often reward participants who contribute by giving them faster download speeds, greater access, or other benefits.

27. Defendants' participation in the BitTorrent exchange of plaintiff's motion picture is the type of activity that torrent sites use to promote their business and likely directly furthered the for-profit business of at least one torrent site.

28. Many parties, and possibly defendants have been compensated for their participation in expanding the availability of pirated content to others through BitTorrent networks, including plaintiff's movie.

29. The use of BitTorrent does more than cause harm through the simple theft of intellectual property. The BitTorrent distribution of pirated files is a model of business that profits from theft through sales and advertising and provides a system of rewards and compensation to the participants such as the defendants and those working with the defendants, each of whom contribute to and further the enterprise.

30. Based on activity observed associated with defendants' IP addresses, defendants are prolific proponents of the BitTorrent distribution system advancing the BitTorrent economy of piracy and causing harm to plaintiff.

JOINDER

31. Plaintiff acknowledges that joinder in this action under FRCP 20(a)(2) is permissive in that plaintiff's claims arise out of the same occurrences or transactions, or series of occurrences or transactions and that there are questions of law and fact common to each of the defendants.

32. All the defendants have collectively acted through the willful and intentional use of BitTorrent with the express purpose of committing intellectual property theft, damaging plaintiff.

33. All of the defendants have collectively acted with notice that their individual and collective conduct facilitated intellectual property theft being committed by others.

34. Each of the defendants willfully joined in the collective conspiracy of using BitTorrent for an illegal purpose and willfully acted to cause harm to plaintiff and to assist others in causing harm to plaintiff through their use of and support of the BitTorrent distribution of motion pictures.

35. The plaintiff's rights to relief, as stated below, ultimately arise out of the same series of related transactions and occurrences.

36. This action also raises substantial questions of law and fact common to all defendants.

37. Permissive joinder in the instant case is to permit a more efficient management of the claims of plaintiff against the several defendants and to reduce the costs to plaintiff and defendants and to reduce the costs and burdens on the Court.

38. Notice is provided, that on being specifically identified and on request from an identified defendant, plaintiff agrees to sever any defendant that claims prejudice in being joined in this matter and proceed against each such defendant individually.

39. Plaintiff intends to provide updates to the court on the status of this action and the status of each defendant on a regular basis.

FIRST CLAIM FOR RELIEF

COPYRIGHT INFRINGEMENT

40. Defendants, without the permission or consent of plaintiff, copied and distributed plaintiff's motion picture through a public BitTorrent network.

41. Each defendants' actions infringed plaintiff's exclusive rights under The Copyright Act.

42. Each defendants' conduct has been willful, intentional, in disregard of and indifferent to plaintiff's rights with the intent to deprive plaintiff of income and cause plaintiff harm.

43. As a direct and proximate result of each defendants' conduct, plaintiff's exclusive rights under 17 U.S.C. § 106 have been violated.

44. Plaintiff is entitled to damages pursuant to 17 U.S.C. § 504 and attorney fees and costs pursuant to 17 U.S.C. § 505.

45. The conduct of each defendant is causing and, unless enjoined and restrained by this Court, will continue to cause plaintiff great and irreparable injury.

46. Pursuant to 17 U.S.C. §§ 502 and 503, plaintiff is entitled to injunctive relief prohibiting each defendant from further contributing to the infringement of plaintiff's copyrights and ordering defendants to destroy all copies of any motion picture made in violation of plaintiff's rights.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment against defendants as follows:

- A. For entry of permanent injunction enjoining defendants from directly, indirectly or contributory infringing plaintiff's rights, including without limitation by using the internet to reproduce or copy plaintiff's motion picture, to distribute plaintiff's motion picture, or to make plaintiff's motion picture available for distribution to the public, except pursuant to a lawful license or with the express authority of plaintiff. And further directing defendants to destroy all unauthorized copies of plaintiff's motion picture;
- B. For entry of permanent injunction enjoining defendants from using the BitTorrent network to distribute unlicensed copyrighted content;
- C. Statutory damages pursuant to 17 U.S.C. § 504;

- D. For plaintiff's reasonable costs and attorney fees pursuant to 17 U.S.C. § 505; and
- E. For such other and further relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiff demands a trial by jury.

DATED: November 14, 2015.

Respectfully submitted,

CROWELL LAW

/s/ Carl D. Crowell _____

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