

Honorable Thomas S. Zilly

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

COBBLER NEVADA, LLC,  
  
Plaintiff,

v.

KAMALJIT LIDDER, an individual;  
CASSANDRA WALLACE, an individual;  
DANIEL RUEDA, an individual;  
EMILY CROWE-GOLDBERG, an individual;  
SANDRA L. GROVES, an individual; and  
ERIC FURGESON, an individual,  
  
Defendants.

Civil Action No. 15-cv-1408TSZ  
  
FIRST AMENDED COMPLAINT FOR  
COPYRIGHT INFRINGEMENT

JURY TRIAL REQUESTED

Plaintiff Cobbler Nevada, LLC, pursuant to Fed. R. Civ. Proc. 15(a)(1), hereby submits its first amended complaint against Defendants:

**I. INTRODUCTION**

1. Plaintiff Cobbler Nevada, LLC is a developer and producer of the motion picture *The Cobbler* (“motion picture”). Plaintiff brings this action in an effort to stop Defendants and others from copying and distributing to others unauthorized copies of the Plaintiff’s copyrighted motion picture through the BitTorrent file sharing protocol. Defendants’ infringements allow them and others to unlawfully obtain and distribute unauthorized copyrighted works that the Plaintiff

1 expended significant resources to create. Each time a Defendant unlawfully distributes an  
2 unauthorized copy of the Plaintiff's copyrighted motion picture to others over the Internet, each  
3 person who copies that motion picture can then distribute that unlawful copy to others without any  
4 significant degradation in sound and picture quality. Thus, a Defendant's distribution of even a  
5 part of an unlawful copy of a motion picture can further the nearly instantaneous worldwide  
6 distribution of that single copy to an unlimited number of people. Further, Defendants acts of  
7 distributing Plaintiff's motion picture support, maintain and further a for-profit exploitation of the  
8 works of Plaintiff and others. The Plaintiff now seeks redress for this rampant infringement of its  
9 exclusive rights.

## 10 II. JURISDICTION AND VENUE

11 2. This is a civil action seeking damages and injunctive relief for copyright  
12 infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).

13 3. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal  
14 question); and 28 U.S.C. § 1338(a) (copyright).

15 4. Venue in this District is proper under 28 U.S.C. § 1391(b) and/or  
16 28 U.S.C. §1400(a). Although the true identity of each Defendant is unknown to Plaintiff at this  
17 time, on information and belief each Defendant may be found in this District and/or a substantial  
18 part of the acts of infringement complained of herein occurred in this District. On information and  
19 belief, personal jurisdiction in this District is proper because each Defendant, without consent or  
20 permission of Plaintiff as exclusive rights owner, distributed and offered to distribute over the  
21 Internet copyrighted works for which Plaintiff has exclusive rights.

## 22 III. PARTIES

### 23 A. PLAINTIFF COBBLER NEVADA, LLC AND ITS COPYRIGHT

24 5. Plaintiff is a limited liability company. Plaintiff is engaged in the production of the  
25 motion picture known as and entitled "*The Cobbler*" for theatrical exhibition, home entertainment  
26 and other forms of distribution.

1           6.       Plaintiff is the owner of the exclusive rights under copyright in the United States in  
2 *The Cobbler*. *The Cobbler* been registered with the United States Copyright Office by the author,  
3 Cobbler Nevada, LLC, effective October 22, 2014, and assigned Registration No. Pau 3-744-688.  
4 (Exhibit A)

5           7.       Under the Copyright Act, Plaintiff is the proprietor of all right, title, and interest in  
6 *The Cobbler*, including the exclusive rights to reproduce and distribute to the public as well as the  
7 right to sue for past infringement.

8           8.       *The Cobbler* contains wholly original material that is copyrightable subject matter  
9 under the laws of the United States. It is easily discernible as a professional work as it was created  
10 using professional performers, directors, cinematographers, lighting technicians, set designers and  
11 editors and with professional-grade cameras, lighting and editing equipment. It has significant  
12 value and has been created, produced and lawfully distributed at considerable expense. *The*  
13 *Cobbler* is currently offered for sale in commerce, playing in theaters and available for rental  
14 and/or purchase from Amazon, iTunes and Netflix, among others.

15           9.       Defendants have notice of Plaintiff's rights through general publication and  
16 advertising and more specifically as identified in the content of the motion picture, advertising  
17 associated with the motion picture, and all packaging and copies, each of which bore a proper  
18 copyright notice.

19 **B.       DEFENDANTS**

20           10.      On information and belief, each Defendant copied and distributed Plaintiff's  
21 copyrighted motion picture *The Cobbler*. When originally filed, the true names of Defendants were  
22 unknown to Plaintiff. Rather, each Defendant was known to Plaintiff only by the Internet Protocol  
23 ("IP") address assigned by an Internet Service Provider ("ISP") and the date and at the time at  
24 which the infringing activity of each Defendant was observed, as explained in detail below. On  
25 information and belief, ISP's such as Comcast or CenturyLink, generally assign an IP address to a  
26 single party for extended periods of time, often for months or even years. As such it is likely that

1 for all relevant times each Defendant was the sole party responsible for and in control of IP address.  
2 As explained in further detail below, through geolocation, the IP address used by each Defendant  
3 was traced to the Western District of Washington. The IP addresses, hash value, dates and times,  
4 ISP and geolocation contained in Exhibit B correctly reflect the subscribers using the IP addresses  
5 and that they were all part of a “swarm” of users that were reproducing, distributing, displaying or  
6 performing the copyrighted work

7 11. The Court authorized Plaintiff to conduct expedited discovery with the ISP that  
8 assigned the IP addresses to each Defendant in this case. Plaintiff promptly served the subpoena  
9 on the ISP. The ISP subsequently responded to the subpoena providing the identity of each  
10 Defendant, where available.

11 12. After receipt of the identity of each Defendant, Plaintiff engaged in further due  
12 diligence in a good faith effort to confirm, on information and belief, that the identified subscriber  
13 was the person responsible for the infringing conduct or, in the alternative, that another party with  
14 access to the IP address of the subscriber was responsible. For example, each IP address has been  
15 observed associated with significant BitTorrent activity and with the exchange of multiple other  
16 titles on peer-to-peer networks apart from but in some instances close in time to that of *The*  
17 *Cobbler*. The volume, titles and persistent observed BitTorrent activity associated with each  
18 Defendant’s IP address indicate (a) that each Defendant is not a transitory or occasional guest, but  
19 either the primary subscriber of the IP address or someone who resides with the subscriber and is  
20 an authorized user of the IP address; (b) that any user of the IP address would likely have been  
21 aware of the bandwidth devoted to this activity through general service slowdown throughout the  
22 observed period of activity as residential data services typically have limited capacity; (c) that such  
23 subscriber or resident of the location is likely to have been aware of at least some of the infringing  
24 activity throughout the observed period of activity; and/or (d) that each Defendant is not a child,  
25 but an adult, often with mature distinct tastes.  
26

1           13.     In certain instances, the pattern of BitTorrent activity associated with the IP address  
2 was observed to cease on or near dates coinciding with notices sent by the ISP or Plaintiff,  
3 providing a further indication that the subscriber either was the infringer or was aware of the  
4 ongoing infringement utilizing the IP address assigned to the subscriber, and was in a position to  
5 control ongoing BitTorrent activity.

6           14.     Google address mapping and county records were investigated to confirm  
7 ownership/rental status of and residence at the property associated with the IP address, as well as  
8 observe the physical makeup and layout of the house and neighborhood to anticipate possible  
9 claims that a wireless signal was high jacked by someone outside of the residence. Further, given  
10 the standard security measures imposed by the ISP to prevent unauthorized use of an IP address,  
11 the volume of piracy demonstrated over the extended observation period could not be the result of  
12 someone driving by, a temporary houseguest or a hacker sitting in a car on the street

13           15.     In some instances, social media sites such as Facebook and LinkedIn were used to  
14 obtain further information on the subscriber.

15           16.     Finally, in an exercise of caution, multiple letters were sent to the identified  
16 individual, or their counsel to the extent Plaintiff was made aware thereof, informally requesting  
17 their voluntary participation in identifying the actual infringer, to the extent that is different from  
18 the subscriber. Where responses were received, Plaintiff attempted further informal follow-up with  
19 the subscriber or their attorney, again in an effort to ensure, as much as possible short of formal  
20 litigation proceedings, that each Doe Defendant was properly named.

21           17.     Based on the investigation to date, and on information and belief, Plaintiff identifies  
22 the Does remaining in this case on information and belief as follows:

23           18.     ISP Comcast assigned the IP address 50.181.218.92 to Doe 1, Defendant Kamaljit  
24 Lidder, 1429 Blackberry Dr., Mount Vernon, WA 98273, for a period of time, including but not  
25 limited to on 6/15/15 08:20:15 PM UTC, and Defendant's IP address was observed infringing  
26

1 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted  
2 location.

3 19. ISP Comcast assigned the IP address 73.181.191.215 to Doe 2, Defendant  
4 Cassandra Wallace, 27124 SE 416th St., Enumclaw, WA 98022, for a period of time, including  
5 but not limited to on 6/7/15 07:44:51 AM UTC, and Defendant's IP address was observed  
6 infringing Plaintiff's motion picture at that time. On information and belief, Defendant resides at  
7 the noted location.

8 20. ISP Comcast assigned the IP address 73.221.214.220 to Doe 3, Defendant Daniel  
9 Rueda, 821 E. Road of Tralee, Shelton, WA 98584, for a period of time, including but not limited  
10 to on 5/25/15 05:19:39 AM UTC, and Defendant's IP address was observed infringing Plaintiff's  
11 motion picture at that time. On information and belief, Defendant resides at the noted location.

12 21. ISP Comcast assigned the IP address 24.17.91.246 to Doe 6, Defendant Emily  
13 Crowe-Goldberg, 3208 Lombard Ave, Unit B, Everett, WA 98201, for a period of time, including  
14 but not limited to on 6/9/15 02:13:11 AM UTC, and Defendant's IP address was observed  
15 infringing Plaintiff's motion picture at that time. On information and belief, Defendant resides at  
16 the noted location.

17 22. ISP Comcast assigned the IP address 73.193.108.231 to Doe 7, Defendant Sandra  
18 L. Groves, 7818 63rd St. NE, Marysville, WA 98270, for a period of time, including but not limited  
19 to on 6/4/15 05:00:59 PM UTC, and Defendant's IP address was observed infringing Plaintiff's  
20 motion picture at that time. On information and belief, Defendant resides at the noted location.

21 23. ISP Comcast assigned the IP address 50.159.36.121 to Doe 8, Defendant Eric  
22 Furgeson, 6652 Homestead Ave, Tacoma, WA 98404, for a period of time, including but not  
23 limited to on 6/1/15 01:45:26 AM UTC, and Defendant's IP address was observed infringing  
24 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted  
25 location.  
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#### IV. PEER-TO-PEER NETWORKS AND THE BITTORRENT PROTOCOL

1  
2 24. Defendants are each participants in a peer-to-peer (“P2P”) network using the  
3 BitTorrent protocol. The BitTorrent protocol makes even small computers with low bandwidth  
4 capable of participating in large data transfers across a P2P network. To begin an exchange, the  
5 initial file-provider intentionally elects to share a file with a torrent network. This initial file is  
6 called a seed. Other users (“peers”) connect to the network and connect to the seed file to  
7 download. As yet additional peers request the same file each additional user becomes a part of the  
8 network from where the file can be downloaded. However, unlike a traditional peer-to-peer  
9 network, each new file downloader is receiving a different piece of the data from users who have  
10 already downloaded the file that together comprises the whole. This piecemeal system with  
11 multiple pieces of data coming from peer members is usually referred to as a “swarm.” The effect  
12 of this technology makes every downloader also an uploader of the illegally transferred file(s).  
13 This means that every “node” or peer user who has a copy of the infringing copyrighted material  
14 on a torrent network can also be a source of download, and thus distributor for that infringing file.

15 25. This distributed nature of BitTorrent leads to a rapid viral spreading of a file  
16 throughout peer users. As more peers join the swarm, the likelihood of a successful download  
17 increases. Essentially, because of the nature of the swarm downloads as described above, every  
18 infringer is sharing copyrighted material with other infringers.

19 26. Defendants actions are part of a common design, intention and purpose to hide  
20 behind the apparent anonymity provided by the Internet and the BitTorrent technology to  
21 download pieces of the copyrighted motion picture in a manner that, but for the investigative  
22 technology used by Plaintiff, would be untraceable, leaving the Plaintiff without the ability to  
23 enforce its copyright rights. By participating in the “swarm” to download Plaintiff’s copyright  
24 motion picture, the Defendants agreed with one another to use the Internet and BitTorrent  
25 technology to engage in violation of federal statute to accomplish and unlawful objective.  
26

1           **V.       COMPUTER FORENSIC IDENTIFICATION OF BITTORRENT INFRINGEMENT**

2           27.     Plaintiff has identified each Defendant by the IP address assigned by the ISP used  
3 by each Defendant and the date and at the time at which the infringing activity of each Defendant  
4 was observed. This is accomplished using forensic software to collect, identify and record the IP  
5 addresses in use by those people that employ the BitTorrent protocol to share, copy, reproduce and  
6 distribute copyrighted works.

7           28.     More specifically, forensic software is used to scan peer-to-peer networks for the  
8 presence of infringing transactions with respect to a particular audiovisual work. Any digital copy  
9 of an audiovisual work may be uniquely identified by a unique, coded, string of characters called  
10 a “hash checksum.” The hash checksum is a string of alphanumeric characters generated by a  
11 mathematical algorithm known as US Secure Hash Algorithm 1 or “SHA-1.” This software  
12 facilitates the identification of computers that are used to transmit a copy or a part of a copy of a  
13 digital media file identified by a particular hash value by their IP address at a particular date and  
14 time. To overcome concerns with spoofing or the like, a direct TCP connection is made to each  
15 defendant’s computer. Additional software using geolocation functionality is then used to confirm  
16 the geographical location of the computer used in the infringement. Though an IP address alone  
17 does not reveal the name or contact information of the account holder, in this case the Doe  
18 Defendant, it does reveal the likely general location of the Defendant. IP addresses are distributed  
19 to ISPs by public, nonprofit organizations called Regional Internet Registries. These registries  
20 assign blocks of IP addresses to ISPs by geographic region. In the United States, these blocks are  
21 assigned and tracked by the American Registry of Internet Numbers. Master tables correlating the  
22 IP addresses with local regions are maintained by these organizations in a publicly available and  
23 searchable format. An IP address’ geographic location can be further narrowed by cross-  
24 referencing this information with secondary sources such as data contributed to commercial  
25 databases by ISPs.





1 distribution of the motion picture to others. Therefore, Defendants each conspired with other  
2 infringers on the BitTorrent network to copy and/or distribute *The Cobbler*, either in the same  
3 transaction or occurrence or a series of transactions or occurrences.

4 31. To use BitTorrent, a user intentionally downloads a program that they then install  
5 on their computer called a “client.” The BitTorrent client is the user’s interface during the  
6 downloading/uploading process. The client may be free, supported by advertising, offer upgrades  
7 or add on services for a fee, or a combination of several options. Users then intentionally visit a  
8 “torrent site” or network site to find media or content available for download, often using a  
9 standard web browser. A torrent site is often advertising revenue or subscription supported index  
10 of media or content being made available by other users on the network and maintains a listing of  
11 movies and television programs among other protected content. A user then uses the torrent site to  
12 connect with other users and exchange or “share” content though the BitTorrent protocol often  
13 with many users at the same time.

14 32. Internet piracy, and in particular BitTorrent piracy, though known as peer-to-peer  
15 file sharing, is often a for-profit business as many software clients, torrent sites and networks  
16 generate millions of dollars in revenue through sales and advertising. To increase the value of the  
17 advertising and sometimes subscription access sold by torrent sites, many torrent sites work to  
18 expand the pool of available titles and speed of downloads through increasing the number of  
19 member peers and thus the desirability of their clients and networks. To accomplish this they  
20 reward participants who contribute by giving them faster download speeds, greater access, or other  
21 benefits.

22 33. A significant element of the BitTorrent economic model is that those who  
23 participate and download movies not only share and upload movies with others, but participants  
24 are often rewarded through various means based on the volume and availability of content  
25 participants in turn provide the network. In sum, there is a feedback incentive for participants as  
26 they obtain not only the benefit of their pirated copy of a movie, but they obtain other benefits by



1 increasing the availability of pirated content to others. As such there are a growing number of users  
2 that participate in peer-to-peer networks and receive personal gain or compensation in that the  
3 networks they use reward those who provide large numbers of files for upload to others.

4 34. The use of BitTorrent does more than cause harm through the theft of intellectual  
5 property. The BitTorrent distribution of pirated files is a model of business that profits from theft  
6 through sales and advertising and a system of rewards and compensation to the participants, each  
7 of whom contribute to and further the enterprise. Each Defendant is a participant in the BitTorrent  
8 distribution of pirated files and the substantially similar conduct of each Defendant furthered a  
9 model of business that profits from theft of intellectual property including Plaintiff's motion  
10 picture.

11 35. Accordingly, pursuant to Fed.R.Civ.P. 20(a)(2) each of the Defendants is therefore  
12 properly joined at least because: (a) the infringement complained of herein by each of the  
13 Defendants was part of a series of transactions involving an identical copy of Plaintiff's  
14 copyrighted work; (b) the conduct of each Defendant jointly and collectively supported and  
15 advanced an economic business model of profiting from the piracy of Plaintiff's copyrighted work;  
16 (c) there are common questions of law and fact; and (c) each Defendant knowingly and actively  
17 participated in a conspiracy to perform an illegal act and/or injure Plaintiff through use of the  
18 BitTorrent protocol to infringe Plaintiff's copyrighted work.

19 36. Permissive joinder in the instant case is to permit a more efficient management of  
20 Plaintiff's claims against the several Defendants and to reduce the costs to Plaintiff and Defendants  
21 and to reduce the costs and burdens on the Court. Notice is provided, that on being specifically  
22 identified and on request from an identified Defendant, Plaintiff agrees to sever any Defendant  
23 that claims prejudice in being joined in this matter and to proceed against each such Defendant  
24 individually.

## 25 VII. CAUSE OF ACTION—COPYRIGHT INFRINGEMENT

26 37. Plaintiff realleges the substance of the prior paragraphs.

1 38. Plaintiff owns the exclusive rights to the commercially released motion picture *The*  
2 *Cobbler*, which has significant value and has been acquired, produced and created at considerable  
3 expense.

4 39. At all relevant times Plaintiff has been the holder of the pertinent exclusive rights  
5 infringed by Defendants to the copyrighted motion picture *The Cobbler*. The motion picture is the  
6 subject of a valid Certificate of Copyright Registration.

7 40. Plaintiff is informed and believes that each Defendant, without the permission or  
8 consent of Plaintiff, has used, and continues to use, an online media distribution system to  
9 wrongfully misappropriate, reproduce and distribute to the public, including by making available  
10 for distribution to others, *The Cobbler*. On information and belief, each Defendant participated in  
11 a swarm and/or reproduced and/or distributed the same seed file of *The Cobbler* in digital form  
12 either directly with each other. Plaintiff has identified each Defendant by the IP address assigned  
13 to that Defendant by his or her ISP and the date and at the time at which the infringing activity of  
14 each Defendant was observed.

15 41. In addition or in the alternative, Defendants obtained Internet access through an ISP  
16 and permitted, facilitated and materially contributed to the extensive use of the Internet through  
17 his ISP for infringing Plaintiff's exclusive rights under The Copyright Act by others. Defendants,  
18 with knowledge of the infringing conduct, failed to reasonably secure, police and protect the use  
19 of his Internet service against use for improper purposes such as piracy, including the downloading  
20 and sharing of Plaintiff's motion picture by others. Defendants had the right and ability to supervise  
21 and control the activity constituting the infringement.

22 42. In doing so, each Defendant has directly, indirectly and/or contributorily violated  
23 Plaintiff's exclusive rights of at least reproduction, preparation derivative works and distribution.  
24 Each Defendant's actions constitute infringement of Plaintiff's exclusive rights protected under  
25 17 U.S.C. § 101 et seq.  
26

1 43. *The Cobbler* contains a copyright notice advising the viewer that the motion picture  
 2 is protected by the copyright laws. Each of the Defendants’ actions with respect to copyright  
 3 infringement and other acts described herein were made with full knowledge of Plaintiff’s  
 4 ownership of the copyrights in the motion picture.

5 44. The conduct of each Defendant is causing and, unless enjoined and restrained by  
 6 this Court, will continue to cause the Plaintiff great and irreparable injury that cannot fully be  
 7 compensated or measured in money. The Plaintiff has no adequate remedy at law. Pursuant to  
 8 17 U.S.C. §§ 502 and 503, the Plaintiff is entitled to injunctive relief prohibiting each Defendant  
 9 from further infringing the Plaintiff’s copyright and ordering that each Defendant destroy all copies  
 10 of the copyrighted motion picture made in violation of the Plaintiff’s copyrights.

11 45. By reason of the foregoing acts, if such remedy is elected at trial, Plaintiff is entitled  
 12 to statutory damages from Defendants pursuant to 17 USC §504, *et seq.* Alternatively, at Plaintiff’s  
 13 election, Plaintiff is entitled to its actual damages incurred as a result of Defendants’ acts of  
 14 infringement plus any profits of Defendants attributable to the infringements.

15 46. The foregoing acts of infringement have been willful, intentional, and in disregard  
 16 of and with indifference to the rights of Plaintiff.

17 47. As a result of each Defendant’s infringement of Plaintiff’s exclusive rights under  
 18 copyright, Plaintiff is entitled to its attorneys’ fees and costs pursuant to 17 U.S.C. § 505.

19 **VIII. PRAYER FOR RELIEF**

20 **WHEREFORE**, Plaintiff prays for judgment against each Defendant as follows:

- 21 A. Pursuant to 17 U.S.C. §502, an order preliminarily and permanently enjoining each  
 22 Defendant from directly or indirectly infringing Plaintiff’s rights in *The Cobbler*  
 23 and any motion picture, whether now in existence or later created, that is owned or  
 24 controlled by Plaintiff (“Plaintiff’s motion pictures”), including without limitation  
 25 by using the Internet to reproduce or copy, distribute or otherwise make available  
 26

1 for distribution to the public Plaintiff's motion pictures, except pursuant to a lawful  
license or with the express authority of Plaintiff.

- 2 B. Pursuant to 17 U.S.C. § 503, an order that each Defendant destroy all copies of  
3 Plaintiff's motion pictures that Defendant has downloaded onto any computer hard  
4 drive or server without Plaintiff's authorization and shall destroy all copies of those  
5 motion pictures transferred onto any physical medium or device in each  
6 Defendant's possession, custody, or control.
- 7 C. An order that each Defendant file with this Court and serve on Plaintiff, within  
8 30 days of service of this order, a report in writing under oath setting forth in detail  
9 the manner and form in which Defendants have complied with the terms of the  
10 ordered relief.
- 11 D. Pursuant to 17 U.S.C. § 504 or other applicable provision, for actual or statutory  
damages, at the election of Plaintiff, and a finding of willful infringement.
- 12 E. Pursuant to 17 U.S.C. § 505, for Plaintiff's reasonable attorney's fees and costs.
- 13 F. For such other and further relief as the Court deems proper.

14 RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of March, 2016.

15 s/David A. Lowe, WSBA No. 24,453

16 [Lowe@LoweGrahamJones.com](mailto:Lowe@LoweGrahamJones.com)

17 LOWE GRAHAM JONES<sup>PLLC</sup>

18 701 Fifth Avenue, Suite 4800

19 Seattle, WA 98104

20 T: 206.381.3300

21 F: 206.381.3301

22 Attorneys for Cobbler Nevada, LLC