

Honorable Richard A. Jones

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DALLAS BUYERS CLUB, LLC,  
  
Plaintiff,

v.

JI LEE, an individual;  
CORY HANGER, an individual;  
BRIAN JAMES, an individual;  
MICHAEL MASTIN, an individual; and  
STUART HIRSHHORN, an individual,  
  
Defendants.

Civil Action No. 15-cv-579RAJ  
  
FIRST AMENDED COMPLAINT FOR  
COPYRIGHT INFRINGEMENT

JURY TRIAL REQUESTED

Plaintiff Dallas Buyers Club, pursuant to Fed. R. Civ. Proc. 15(a)(1), hereby submits its first amended complaint against Defendants:

**I. INTRODUCTION**

1. Plaintiff Dallas Buyers Club, LLC is a developer and producer of the motion pictures *Dallas Buyers Club* (“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 expended significant resources to create. Each time a Defendant unlawfully

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

## 9 II. JURISDICTION AND VENUE

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

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

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

## 21 III. PARTIES

### 22 A. PLAINTIFF DALLAS BUYERS CLUB, LLC AND ITS COPYRIGHT

23 5. Plaintiff is a limited liability company having a place of business at  
24 2170 Buckthorne Place, Suite 400, The Woodlands, TX 77380. Plaintiff is engaged in the  
25 production of the motion picture known as and entitled "*Dallas Buyers Club*" for theatrical  
26 exhibition, home entertainment, and other forms of distribution.

1           6.       Plaintiff is the owner of the exclusive rights under copyright in the United States in  
2 *Dallas Buyers Club*. *Dallas Buyers Club* been registered with the United States Copyright Office  
3 by the author, Dallas Buyers Club, LLC, effective November 13, 2013, and assigned Registration  
4 No. PA 1-873-195. (Exhibit A)

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

8           8.       *Dallas Buyers Club* contains wholly original material that is copyrightable subject  
9 matter under the laws of the United States. It is easily discernible as a professional work as it was  
10 created using professional performers, directors, cinematographers, lighting technicians, set  
11 designers and editors and with professional-grade cameras, lighting and editing equipment. *Dallas*  
12 *Buyers Club* received six Academy Award nominations including Best Motion Picture of the Year  
13 and was awarded Best Performance by an Actor in a Leading Role, Best Performance by an Actor  
14 in a Supporting Role and Best Achievement in Makeup and Hairstyling. Prior to its Oscar  
15 nominations, the motion picture won two Golden Globe awards for Best Performance by an Actor  
16 in a Motion Picture and Best Performance by an Actor in a Supporting Role in a Motion Picture.  
17 To date, *Dallas Buyers Club* has received worldwide critical acclaim and has won at least 67  
18 awards and garnered an additional 33 nominations. (Exhibit B) It has significant value and has  
19 been created, produced and lawfully distributed at considerable expense. *Dallas Buyers Club* is  
20 currently offered for sale in commerce, playing in theaters and available for rental and/or purchase  
21 from Amazon, iTunes, Netflix and Blockbuster On Demand, among others.

22           9.       Defendants have notice of Plaintiff's rights through general publication and  
23 advertising and more specifically as identified in the content of the motion picture, advertising  
24 associated with the motion picture, and all packaging and copies, each of which bore a proper  
25 copyright notice.  
26

1 **B. DEFENDANTS**

2 10. On information and belief, each Defendant copied and distributed Plaintiff's  
3 copyrighted motion picture *Dallas Buyers Club*. When originally filed, the true names of  
4 Defendants were unknown to Plaintiff. Rather, each Defendant was known to Plaintiff only by the  
5 Internet Protocol ("IP") address assigned by an Internet Service Provider ("ISP") and the date and  
6 at the time at which the infringing activity of each Defendant was observed, as explained in detail  
7 below. On information and belief, ISP's such as Comcast or CenturyLink, generally assign an IP  
8 address to a single party for extended periods of time, often for months or even years. As such it  
9 is likely that for all relevant times each Defendant was the sole party responsible for and in control  
10 of IP address. As explained in further detail below, through geolocation, the IP address used by  
11 each Defendant was traced to the Western District of Washington. The IP addresses, hash value,  
12 dates and times, ISP and geolocation contained in Exhibit C correctly reflect the subscribers using  
13 the IP addresses and that they were all part of a "swarm" of users that were reproducing,  
14 distributing, displaying or performing the copyrighted work.

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

19 12. After receipt of the identity of each Defendant, Plaintiff engaged in further due  
20 diligence in a good faith effort to confirm, on information and belief, that the identified subscriber  
21 was the person responsible for the infringing conduct or, in the alternative, that another party with  
22 access to the IP address of the subscriber was responsible. For example, each IP address had been  
23 observed associated with significant infringing activity and with the exchange of multiple other  
24 titles on peer-to-peer networks apart from but in some instances close in time to that of *Dallas*  
25 *Buyers Club*. The volume, titles and persistent observed BitTorrent activity associated with each  
26 Defendant's IP address indicate (a) that each Defendant is not a transitory or occasional guest, but

1 either the primary subscriber of the IP address or someone who resides with the subscriber and is  
2 an authorized user of the IP address; (b) that any user of the IP address would likely have been  
3 aware of the bandwidth devoted to this activity through general service slowdown throughout the  
4 observed period of activity as residential data services typically have limited capacity; (c) that such  
5 subscriber or resident of the location is likely to have been aware of at least some of the infringing  
6 activity throughout the observed period of activity; and (d) that each Defendant is not a child, but  
7 an adult, often with mature distinct tastes.

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

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

20 15. Where possible, social media sites such as Facebook and LinkedIn were used to  
21 obtain further information on the subscriber.

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

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

5 18. ISP Comcast assigned the IP address 73.181.209.225 to Doe 1, Defendant Ji Lee,  
6 28710 47th Pl S., Auburn, WA 98001, for a period of time, including but not limited to on 12/25/14  
7 at 11:13:17 AM UTC, and Defendant's IP address was observed infringing Plaintiff's motion  
8 picture at that time. On information and belief, Defendant resides at the noted location.

9 19. ISP Comcast assigned the IP address 71.231.184.62 to a subscriber that confirmed  
10 that the IP address was shared during the relevant time with Doe 4, Defendant Cory Hanger,  
11 615 220th St. SW, Bothell, WA 98021, and that Defendant was the responsible party. On  
12 information and belief, Defendant resides at the noted location.

13 20. ISP Comcast assigned the IP address 71.231.67.200 to Doe 9, Defendant Brian  
14 James, 6156 Pacific Heights Dr., Ferndale, WA 98248, for a period of time, including but not  
15 limited to on 3/2/15 at 01:54:18 AM UTC, and Defendant's IP address was observed infringing  
16 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted  
17 location.

18 21. ISP Comcast assigned the IP address 73.35.164.211 to Doe 11, Defendant Michael  
19 Mastin, 7865 NE Seawind Ave, Poulsbo, WA 98370, for a period of time, including but not limited  
20 to on 2/17/15 at 10:09:51 PM UTC, and Defendant's IP address was observed infringing Plaintiff's  
21 motion picture at that time. On information and belief, Defendant resides at the noted location.

22 22. ISP Comcast assigned the IP address 67.183.85.209 to Doe 17, Defendant Stuart  
23 Hirshhorn, 1617 Yale Ave, Apt 7, Seattle, WA 98101, for a period of time, including but not  
24 limited to on 3/10/15 at 03:26:55 AM UTC, and Defendant's IP address was observed infringing  
25 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted  
26 location.

#### IV. PEER-TO-PEER NETWORKS AND THE BITTORRENT PROTOCOL

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

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

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



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

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

7           27.     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.  
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4 28. The end result are evidence logs of infringing transactions and the IP addresses of  
5 the users responsible for copying and distributing the audiovisual work, here *Dallas Buyers Club*.  
6 The IP addresses, hash value, dates and times, ISP and geolocation obtained correctly reflect the  
7 subscribers using the IP addresses and that they were all part of a “swarm” of users that were  
8 reproducing, distributing, displaying or performing the copyrighted work.<sup>1</sup> As noted above,  
9 through early discovery authorized by the Court, Plaintiff was able to identify the Does associated  
10 with the IP addresses observed infringing *Dallas Buyers Club* in this case.

## 11 VI. JOINDER

12 29. Each Defendant is alleged to have committed violations of 17 U.S.C. § 101 *et. seq.*  
13 within the same series of transactions or occurrences (e.g. downloading and distribution of the  
14 same copyrighted motion picture owned by Plaintiff) and by using the same means (BitTorrent  
15 network). The infringed work was included in one file related to the torrent file; in other words,  
16 all of the infringements alleged in this lawsuit arise from the exact same unique copy of Plaintiff’s  
17 movie as evidenced by the cryptographic hash value. The Defendants are all part of the exact same  
18 “swarm.” Defendants’ acts occurred in the same series of transactions because each Defendant  
19 downloaded and/or distributed, or offered to distribute *Dallas Buyers Club* to other infringers on  
20 the network, including the Doe Defendants and/or other network users, who in turn downloaded  
21 and/or distributed the motion picture. The temporal proximity of the observed acts of each  
22 Defendant, together with the known propensity of BitTorrent participants to actively exchange  
23 files continuously for hours and even days, makes it possible that Defendants either directly  
24 exchanged the motion picture with each other, or did so through intermediaries and each shared in

25  
26 <sup>1</sup> In logs kept in the ordinary course of business, ISPs keep track of the IP addresses assigned to their subscribers. Once provided with an IP address, plus the date and time of the detected and documented infringing activity, ISPs can use their subscriber logs to identify the subscriber with more specificity. Only the ISP to whom a particular IP address has been assigned for use by its subscribers can correlate that IP address to a particular subscriber. From time to time, a subscriber of Internet services may be assigned different IP addresses from their ISP. Thus, to correlate a subscriber with an IP address, the ISP also needs to know when the IP address was being used. Unfortunately, many ISPs only retain for a very limited amount of time the information necessary to correlate an IP address to a particular subscriber, making early discovery important.

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

4 30. 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 31. 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 32. 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 33. 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 34. 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 35. 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 36. Plaintiff realleges the substance of the prior paragraphs.

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

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

7           39. 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, *Dallas Buyers Club*. On information and belief, each Defendant  
11 participated in a swarm and/or reproduced and/or distributed the same seed file of *Dallas Buyers*  
12 *Club* in digital form either directly with each other. Plaintiff has identified each Defendant by the  
13 IP address assigned to that Defendant by his or her ISP and the date and at the time at which the  
14 infringing activity of each Defendant was observed.

15           40. 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           41. In doing so, each Defendant has directly and/or contributorily violated Plaintiff's  
23 exclusive rights of at least reproduction, preparation derivative works and distribution. Each  
24 Defendant's actions constitute infringement of Plaintiff's exclusive rights protected under  
25 17 U.S.C. § 101 et seq.  
26



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

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

16 RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of March, 2016.

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

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