

1 that single copy to an unlimited number of people. Further, Defendants acts of distributing
2 Plaintiff's motion picture support, maintain and further a for-profit exploitation of the works of
3 Plaintiff and others. The Plaintiff now seeks redress for this rampant infringement of its
4 exclusive rights.

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6 **II. JURISDICTION AND VENUE**

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

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

11 4. Venue in this District is proper under 28 U.S.C. § 1391(b) and/or
12 28 U.S.C. §1400(a). Although the identity of each Defendant is unknown to Plaintiff at this time,
13 on information and belief each Defendant may be found in this District and/or a substantial part
14 of the acts of infringement complained of herein occurred in this District. On information and
15 belief, personal jurisdiction in this District is proper because each Defendant, without consent or
16 permission of Plaintiff as exclusive rights owner, distributed and offered to distribute over the
17 Internet copyrighted works for which Plaintiff has exclusive rights.

18 **III. PARTIES**

19 **A. PLAINTIFF AND ITS COPYRIGHT**

20 5. Plaintiff Headhunter, LLC is a Nevada Limited Liability Company with principal
21 offices in Los Angeles, California and an affiliate of Voltage Pictures, a production company
22 with a notable catalog of major award-winning motion pictures. (www.voltagepictures.com).
23 Plaintiff is a developer and producer of the motion picture *A Family Man* for theatrical
24 exhibition, home entertainment and other forms of distribution (herein "motion picture"). The
25 motion picture is set for theatrical release in July 2017.
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1 6. The motion picture is protected by the Copyright Act in motion picture
2 Registration No. PA 2-039-392 effective January 27, 2017. (Exhibit A)

3 7. Under the Copyright Act, Plaintiff is the proprietor of all right, title and interest in
4 the motion picture, including the exclusive rights to reproduce and distribute to the public as well
5 as the right to sue for past infringement.

6 8. The motion picture contains wholly original material that is copyrightable subject
7 matter under the laws of the United States. It is drama starring Alison Brie, Gerard Butler and
8 Willem Dafoe, among others. It is easily discernible as a professional work as it was created
9 using professional performers, directors, cinematographers, lighting technicians, set designers
10 and editors and with professional-grade cameras, lighting and editing equipment. It has
11 significant value and has been created, produced and lawfully distributed at considerable
12 expense. While still anticipating a release in the United States, the motion picture was pirated
13 and trafficked in the BitTorrent network and is being illegally downloaded and distributed
14 countless times worldwide with many confirmed instances of infringing activity traced to this
15 jurisdiction.

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

20 **B. DEFENDANTS**

21 10. Upon information and belief, each Defendant copied and distributed Plaintiff's
22 copyrighted motion picture. The true names of Defendants are unknown to Plaintiff at this time.
23 Each Defendant is known to Plaintiff only by the Internet Protocol ("IP") address assigned by an
24 Internet Service Provider ("ISP") and the date and at the time at which the infringing activity of
25 each Defendant was observed by Plaintiff's investigator Maverickeye (www.maverickeye.de), as
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1 explained in detail below. Through geolocation, the IP address used by each Defendant has been
2 traced to the Western District of Washington. Plaintiff believes that information obtained in
3 discovery will lead to the identification of each Defendant’s true name and location and permit
4 Plaintiff to amend the complaint to state the same.

5 11. In addition, each IP address has also been observed and associated with
6 significant infringing activity and associated with the exchange of other titles on peer-to-peer
7 networks. The volume, titles and persistent observed activity associated with each Defendant’s
8 IP address indicates that each Defendant is not a transitory or occasional guest, but is either the
9 primary subscriber of the IP address or someone who resides with the subscriber and/or is an
10 authorized user of the IP address. The volume of the activity associated with each Defendant’s IP
11 address further indicates that anyone using or observing activity on the IP address would likely
12 be aware of the conduct of Defendant. Also, the volume and titles of the activity associated with
13 each Defendant’s IP address indicates that each Defendant is not a child, but an adult, often with
14 mature distinct tastes.

15 **IV. PEER-TO-PEER NETWORKS AND THE BITTORRENT PROTOCOL**

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

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

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

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

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

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

16 17. This results in evidence logs of infringing transactions and the IP addresses of the
17 users responsible for copying and distributing the audiovisual work. The IP addresses, hash
18 value, dates and times, ISP and geolocation contained in Exhibit B correctly reflect the
19 subscribers using the IP addresses and that they were all part of a “swarm” of users that were
20 reproducing, distributing, displaying or performing the copyrighted work.¹

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23 ¹ In logs kept in the ordinary course of business, ISPs keep track of the IP addresses assigned to their
24 subscribers. Once provided with an IP address, plus the date and time of the detected and documented infringing
25 activity, ISPs can use their subscriber logs to identify the subscriber with more specificity. Only the ISP to whom a
26 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.

VI. JOINDER

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3 18. Each Defendant is alleged to have committed separate violations of
4 17 U.S.C. § 101 *et. seq.* within the same series of transactions or occurrences (e.g. downloading
5 and distribution of the same copyrighted motion picture owned by Plaintiff) and by using the
6 same means (BitTorrent network). The infringed work was included in one file related to the
7 torrent file; in other words, all the infringements alleged in this lawsuit arise from the exact same
8 unique copy of Plaintiff’s movie as evidenced by the cryptographic hash value. The Defendants
9 are all part of the exact same “swarm.” Defendants’ acts occurred in the same series of
10 transactions because each Defendant downloaded and/or distributed, or offered to distribute the
11 motion picture to other infringers on the network, including the Doe Defendants and/or other
12 network users, who in turn downloaded and/or distributed the motion picture. The temporal
13 proximity of the observed acts of each Defendant, together with the known propensity of
14 BitTorrent participants to actively exchange files continuously for hours and even days, makes it
15 possible that Defendants either directly exchanged the motion picture with each other, or did so
16 through intermediaries and each shared in the distribution of the motion picture to others.
17 Therefore, Defendants each conspired with other infringers on the BitTorrent network to copy
18 and/or distribute the motion picture, either in the same transaction or occurrence or a series of
19 transactions or occurrences.

20 19. To use BitTorrent, a user intentionally downloads a program that they then install
21 on their computer called a “client.” The BitTorrent client is the user’s interface during the
22 downloading/uploading process. The client may be free, supported by advertising, offer upgrades
23 or add on services for a fee, or a combination of several options. Users then intentionally visit a
24 “torrent site” or network site to find media or content available for download, often using a
25 standard web browser. A torrent site is often advertising revenue or subscription supported index
26 of media or content being made available by other users on the network and maintains a listing

1 of movies and television programs among other protected content. A user then uses the torrent
2 site to connect with other users and exchange or “share” content though the BitTorrent protocol
3 often with many users at the same time.

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

12 21. A significant element of the BitTorrent economic model is that those who
13 participate and download movies not only share and upload movies with others, but participants
14 are often rewarded through various means based on the volume and availability of content
15 participants in turn provide the network. In sum, there is a feedback incentive for participants as
16 they obtain not only the benefit of their pirated copy of a movie, but they obtain other benefits by
17 increasing the availability of pirated content to others. As such there are a growing number of
18 users that participate in peer-to-peer networks and receive personal gain or compensation in that
19 the networks they use reward those who provide large numbers of files for upload to others.

20 22. The use of BitTorrent does more than cause harm through the theft of intellectual
21 property. The BitTorrent distribution of pirated files is a model of business that profits from theft
22 through sales and advertising and a system of rewards and compensation to the participants, each
23 of whom contribute to and further the enterprise. Each Defendant is a participant in the
24 BitTorrent distribution of pirated files and the substantially similar conduct of each Defendant
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1 furthered a model of business that profits from theft of intellectual property including Plaintiff's
2 motion picture.

3 23. Accordingly, pursuant to Fed.R.Civ.P. 20(a)(2) each of the Defendants is
4 therefore properly joined at least because: (a) the infringement complained of herein by each of
5 the Defendants was part of a series of transactions involving separate acts of infringement of an
6 identical copy of Plaintiff's copyrighted work; (b) the conduct of each Defendant supported and
7 advanced an economic business model of profiting from the piracy of Plaintiff's copyrighted
8 work; (c) there are common questions of law and fact; and (c) each Defendant knowingly and
9 actively participated in a conspiracy to perform a separate but related illegal act and/or injure
10 Plaintiff through use of the BitTorrent protocol to infringe Plaintiff's copyrighted work.

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

17 **VII. CAUSE OF ACTION—COPYRIGHT INFRINGEMENT**

18 25. Plaintiff realleges the substance of the prior paragraphs.

19 26. Plaintiff owns the exclusive rights to the commercially released motion picture,
20 which has significant value and has been acquired, produced and created at considerable
21 expense.

22 27. At all relevant times Plaintiff has been the holder of the pertinent exclusive rights
23 infringed by Defendants to the copyrighted motion picture. The motion picture is the subject of a
24 valid application for and/or Certificate of Copyright Registration.
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28. Plaintiff is informed and believes that each Defendant, without the permission or consent of Plaintiff, has used, and continues to use, an online media distribution system to wrongfully misappropriate, reproduce and distribute to the public, including by making available for distribution to others the motion picture. On information and belief, each Defendant participated in a swarm and/or reproduced and/or distributed the same seed file of the motion picture in digital form either directly with each other. Plaintiff has identified each Defendant by the IP address assigned to that Defendant by his or her ISP and the date and at the time at which the infringing activity of each Defendant was observed.

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

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

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31. The motion picture contains a copyright notice advising the viewer that the motion picture is protected by the copyright laws. Each of the Defendants' actions with respect to copyright infringement and other acts described herein were made with full knowledge of Plaintiff's ownership of the copyrights in the motion picture.

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32. The conduct of each Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause the Plaintiff great and irreparable injury that cannot fully be

1 compensated or measured in money. The Plaintiff has no adequate remedy at law. Pursuant to
2 17 U.S.C. §§ 502 and 503, the Plaintiff is entitled to injunctive relief prohibiting each Defendant
3 from further infringing the Plaintiff's copyright and ordering that each Defendant destroy all
4 copies of the copyrighted motion picture made in violation of the Plaintiff's copyrights.

5 33. By reason of the foregoing separate acts of infringement, if such remedy is elected
6 at trial, Plaintiff is entitled to statutory damages from each Defendant pursuant to 17 USC §504,
7 *et seq.* Alternatively, at Plaintiff's election, Plaintiff is entitled to its actual damages incurred as a
8 result of each Defendant's acts of infringement plus any profits of each Defendant attributable to
9 the infringements.

10 34. The foregoing acts of infringement by each Defendant have been willful,
11 intentional, and in disregard of and with indifference to the rights of Plaintiff.

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

14 VIII. PRAYER FOR RELIEF

15 **WHEREFORE**, Plaintiff prays for judgment separately against each Defendant as
16 follows:

- 17 A. Pursuant to 17 U.S.C. §502, an order preliminarily and permanently enjoining
18 each Defendant from directly or indirectly infringing Plaintiff's rights in any
19 motion picture, whether now in existence or later created, that is owned or
20 controlled by Plaintiff, including without limitation by using the Internet to
21 reproduce or copy, distribute or otherwise make available for distribution to the
22 public Plaintiff's motion pictures, except pursuant to a lawful license or with the
23 express authority of Plaintiff.
- 24 B. Pursuant to 17 U.S.C. § 503, an order that each Defendant destroy all copies of
25 Plaintiff's motion pictures that Defendant has downloaded onto any computer
26 hard drive or server without Plaintiff's authorization and shall destroy all copies
of those motion pictures transferred onto any physical medium or device in each
Defendant's possession, custody, or control.
- C. An order that each Defendant file with this Court and serve on Plaintiff, within
30 days of service of this order, a report in writing under oath setting forth in

1 detail the manner and form in which Defendants have complied with the terms of
2 the ordered relief.

- 3 D. Pursuant to 17 U.S.C. § 504 or other applicable provision, for actual or statutory
4 damages from each separate Defendant, at the election of Plaintiff, and a finding
5 of willful infringement.
- 6 E. Pursuant to 17 U.S.C. § 505, for Plaintiff's reasonable attorney's fees and costs
7 against each separate Defendant.
- 8 F. For such other and further relief as the Court deems proper.

8 RESPECTFULLY SUBMITTED June 30, 2017.

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