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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

VENICE PI, LLC,

Plaintiff,

v.

DOES 1-11,

Defendants.

Civil Action No. 17-cv-988

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

JURY TRIAL REQUESTED

Plaintiff alleges the following causes of action against Defendants:

I. INTRODUCTION

1. 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 distributes an unauthorized copy of the Plaintiff’s copyrighted motion picture to others over the Internet, each person who copies that motion picture can then distribute that unlawful copy to others without any significant degradation in sound and picture quality. Thus, a Defendant’s distribution of even a part of an unlawful copy of a motion picture can further the nearly instantaneous worldwide distribution of

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.

5 II. JURISDICTION AND VENUE

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

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

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

17 III. PARTIES

18 A. PLAINTIFF AND ITS COPYRIGHT

19 5. Plaintiff Venice PI, LLC is a California limited liability company with principal
20 offices in Los Angeles, California and an affiliate of Voltage Pictures, a production company
21 with a notable catalog of major award-winning motion pictures. (www.voltagepictures.com).
22 Plaintiff is a developer and producer of the motion picture *Once Upon a Time in Venice* for
23 theatrical exhibition, home entertainment and other forms of distribution (herein "motion
24 picture"). The motion picture had a theatrical release in June 2017.
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1 6. The motion picture is protected by the Copyright Act in motion picture
2 Registration No. PA 2-039-391 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 Bruce Willis, John Goodman and
8 Jason Momoa, 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. The motion picture is currently offered for sale in commerce, playing in theaters and/or
13 available or scheduled to be available for rental and/or purchase from Amazon, iTunes and
14 Netflix, among others. While in theatrical release in the United States, the motion picture was
15 pirated and trafficked in the BitTorrent network and is being illegally downloaded and
16 distributed countless times worldwide with many confirmed instances of infringing activity
17 traced to this jurisdiction.

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

22 **B. DEFENDANTS**

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

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

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

19 12. Defendants are participants in a peer-to-peer (“P2P”) network using the
20 BitTorrent protocol. The BitTorrent protocol makes even small computers with low bandwidth
21 capable of participating in large data transfers across a P2P network. To begin an exchange, the
22 initial file-provider intentionally elects to share a file with a torrent network. This initial file is
23 called a seed. Other users (“peers”) connect to the network and connect to the seed file to
24 download. As yet additional peers request the same file each additional user becomes a part of
25 the network from where the file can be downloaded. However, unlike a traditional peer-to-peer
26 network, each new file downloader is receiving a different piece of the data from users who have

1 already downloaded the file that together comprises the whole. This piecemeal system with
2 multiple pieces of data coming from peer members is usually referred to as a “swarm.” The
3 effect of this technology makes every downloader also an uploader of the illegally transferred
4 file(s). This means that every “node” or peer user who has a copy of the infringing copyrighted
5 material on a torrent network can also be a source of download, and thus distributor for that
6 infringing file.

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

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

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

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

25 16. More specifically, forensic software is used to scan peer-to-peer networks for the
26 presence of infringing transactions with respect to a particular audiovisual work. Any digital

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

18 17. This results in evidence logs of infringing transactions and the IP addresses of the
19 users responsible for copying and distributing the audiovisual work. The IP addresses, hash
20 value, dates and times, ISP and geolocation contained in Exhibit B correctly reflect the
21 subscribers using the IP addresses and that they were all part of a “swarm” of users that were
22 reproducing, distributing, displaying or performing the copyrighted work.¹
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24 _____
25 ¹ In logs kept in the ordinary course of business, ISPs keep track of the IP addresses assigned to their
26 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

VI. JOINDER

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

19. To use BitTorrent, a user intentionally downloads a program that they then install on their computer called a "client." The BitTorrent client is the user's interface during the downloading/uploading process. The client may be free, supported by advertising, offer upgrades or add on services for a fee, or a combination of several options. Users then intentionally visit a "torrent site" or network site to find media or content available for download, often using a

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 standard web browser. A torrent site is often advertising revenue or subscription supported index
2 of media or content being made available by other users on the network and maintains a listing
3 of movies and television programs among other protected content. A user then uses the torrent
4 site to connect with other users and exchange or “share” content though the BitTorrent protocol
5 often with many users at the same time.

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

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

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

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

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

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

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

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

23 27. At all relevant times Plaintiff has been the holder of the pertinent exclusive rights
24 infringed by Defendants to the copyrighted motion picture. The motion picture is the subject of a
25 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.

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

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