

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_ X

K-BEECH, INC., :

Plaintiff, :

**UNSWORN  
DECLARATION OF  
HARRY D. LEWIS  
IN SUPPORT OF  
ANONYMOUS  
NON-PARTY  
UNDISCLOSED  
PRINCIPAL'S  
MOTION TO QUASH  
SUBPOENA DIRECTED  
TO VERIZON INTERNET  
SERVICES LEGAL  
COMPLIANCE  
FOR LACK OF SUBJECT  
MATTER JURISDICTION**

**ECF CASE**

-vs- :

JOHN DOES 1-21, :

Defendants. :

Civil Action No.  
11-CV-04777-GBD

\_\_\_\_\_ X

Pursuant to 28 U.S.C. §1746, Harry D. Lewis, as attorney and agent for an Anonymous Non-Party Undisclosed Principal who is a son of defendant John Doe 19 (“son of John Doe 19” or “Anonymous”), declares as follows under penalty of perjury:

1. Anonymous Non-Party Undisclosed Principal is proceeding anonymously because the subject matter of the complaint is the alleged infringement of the alleged copyright in a pornographic motion picture titled “Virgins #4” or “Virgins 4”. For obvious reasons, a complaint alleging that John Doe 19 and others viewed

a pornographic motion picture, and also infringed plaintiff's alleged copyright in doing so, is sensitive for social, reputational, and cultural reasons beyond the bare allegations in the complaint that defendant John Doe 19 violated the law. In fact, plaintiff's implicit threat to publicly expose the name, address, and telephone number of John Doe 19 to public ridicule or disgrace gives it leverage unrelated to the merits of the litigation.

2. On or about September 6, 2011, plaintiff, through Evan J. White, Esq. and the law firm of DiSanto LLP, issued a subpoena out of the U.S. District Court for the Northern District of Texas in the above-styled case addressed to Non-Party Verizon Internet Services, Legal Compliance, P.O. Box 1001, San Angelo, TX 76902 ("Verizon") demanding "documents identifying the name, address, and telephone number of the defendant John Does listed in the below chart", which chart refers to defendants John Does 19, 20, and 21. A true and exact copy of the subpoena is annexed hereto as Exhibit 1.
3. Attached to the subpoena is a document from Verizon dated September 30, 2011 entitled "Read at Once: Court-directed notice regarding issuance of subpoena seeking disclosure of your identity" and stating in part "Information about you has not yet been disclosed, but it will be disclosed in 30 days if you do not challenge the subpoena". A true and exact copy of the notice from Verizon, which I have redacted to preserve the confidentiality of the name and address of John Doe 19 at the bottom of page 2, is annexed hereto as Exhibit 2.
4. I redacted the name and address of John Doe 19 from Exhibit 2 to preserve the confidentiality of this information, because Anonymous has represented to me

that he viewed “Virgins #4”, the pornographic motion picture described in the complaint, online without the knowledge or consent of his father on his father’s computer.

5. Anonymous also represented to me that he later purchased a DVD copy of “Virgins #4”. A copy of the front cover of the DVD, which is soft-core pornography depicting female nudity but not explicit sex acts, is annexed hereto as Exhibit 3. The back cover of the DVD depicts hard-core pornographic photos of explicit sex acts, and undersigned counsel is withholding those images unless production is required by the court.
6. Given that Anonymous has represented to me that his father, John Doe 19, is a frail and vulnerable senior citizen who knows nothing of the factual or legal allegations in the complaint, and engaged in no conduct which even arguably gave rise to the alleged cause of action stated in the complaint, preservation of his confidentiality is essential to spare him the unwarranted shock, embarrassment, publicity, stress, and expense of defending litigation which is, as to him, frivolous and baseless.
7. Plaintiff’s subpoena seeks evidence supporting its complaint that defendant John Doe 19 has infringed plaintiff’s alleged copyright in a pornographic motion picture entitled “Virgins #4” or “Virgins 4”.
8. I have used the search engine on the website of the U.S. Copyright Office to search for any registration of copyright for the motion picture titled “Virgins #4” or “Virgins 4”, and also in the name of plaintiff K-Beech, Inc. as registered owner

of such a copyright. A printout of my search results is annexed hereto as Exhibit 4.

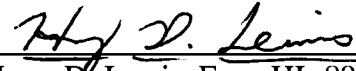
9. As reflected in the printout, as of October 23, 2011, no copyright is registered to any person for any motion picture entitled “Virgins #4” or “Virgins 4”, and plaintiff K-Beech, Inc. holds only one registered copyright for a motion picture entitled “The Vampire Sex Diaries”.
10. Under these circumstances, it is clear that despite allegedly having filed its alleged application for registration of copyright on April 22, 2011, and having filed its complaint on July 11, 2011, and despite having the expedited registration process of the U.S. Copyright Office available to it, plaintiff still has failed to preregister or register any copyright for the motion picture titled “Virgins #4” or “Virgins 4”.
11. 17 U.S.C. §411(a) requires that a copyright be preregistered or registered with the U.S. Copyright Office to confer subject matter jurisdiction over the alleged infringement on a federal court. In a copyright infringement action, compliance with 17 U.S.C. §411(a) normally is specifically pleaded, and a certificate of registration issued by the U.S. Copyright Office is annexed to the complaint to prove registration of the copyright at issue prior to commencing the litigation. Paragraphs 11 and 12 of the complaint are defective in failing to plead or prove plaintiff’s compliance with 17 U.S.C. §411(a), because plaintiff failed to comply with 17 U.S.C. §411(a) prior to filing its complaint, a defect fatal to the subject matter jurisdiction of this court.

12. Given that this court lacks subject matter jurisdiction over plaintiff's claims of copyright infringement, the subpoena against John Doe 19 must be quashed, and the complaint dismissed for lack of subject matter jurisdiction.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 24, 2011

Respectfully submitted,



Harry D. Lewis, Esq., HL-8975  
Attorney for Anonymous, Non-Party  
Undisclosed Principal  
275 Madison Avenue, Suite 1400  
New York, N.Y. 10016  
Phone: (212)-813-8393  
Fax: (718)-874-4421  
e-mail: hlewis888 at optimum.net

# **EXHIBIT 1**

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the Northern District of Texas

K-Beech, Inc.,  <p align="center"><i>Plaintiff</i></p> <p align="center">v.</p> John Does 1 - 21,  <p align="center"><i>Defendants.</i></p>	Civil Action No. <b>11-CV-4777</b>  UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK
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**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Verizon Internet Services  
Legal Compliance  
P.O. Box 1001  
San Angelo, TX 76902  
Via Facsimile: (325) 949-6916

*Production:* YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Please produce documents identifying the name, address, and telephone number of the defendant John Does listed in the below chart:

<b>Doe#</b>	<b>IP Address</b>	<b>Date/Time UTC</b>
19	71.183.92.178	4/22/2011 4:58
20	72.89.118.139	4/14/2011 6:43
21	74.101.97.121	5/23/2011 11:51

Place: Evan J. White, Esq. DiSanto LLP 15 Maiden Lane, Suite 1208 New York, NY 10038	Date and Time: September 30, 2011 @ 9:30 a.m.
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*Inspection of Premises:* YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

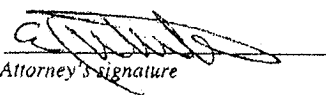
Place:	Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 9/6/11 CLERK OF COURT

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

OR

  
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing Plaintiff, who issues or requests this subpoena, are:

Evan J. White, Esq., DiSanto LLP, 15 Maiden Lane, New York, NY 10038,  
Telephone: (212) 766-2468, Email: [ewhite@evanwhitelaw.com](mailto:ewhite@evanwhitelaw.com)



# **EXHIBIT 2**

**READ AT ONCE**

**COURT-DIRECTED NOTICE  
REGARDING ISSUANCE OF SUBPOENA  
SEEKING DISCLOSURE OF YOUR IDENTITY**

Verizon Online, as your Internet Service Provider, recently received a legal document called a subpoena. Absent action by you, the subpoena requires us to disclose your name, address and other information. The subpoena was issued pursuant to a Court Order in a lawsuit pending in the United States District Court for the Southern District of New York.

The Plaintiffs have filed a lawsuit alleging that various people have perhaps infringed their copyrights by illegally downloading and/or distributing a movie. However, the Plaintiffs do not know the actual names or addresses of these people – only the Internet Protocol address (“IP address”) of the computer associated with the allegedly illegal activity.

Accordingly, Plaintiffs have filed lawsuits against so-called anonymous “John Doe” defendants and issued subpoenas to determine the identity of these people (the so-called “John Does.” The Plaintiffs have asked us to disclose your identification information to them, including your name, current (and permanent) addresses, and your email address and Media Access Control number. Enclosed is a copy of the subpoena seeking information and please find the IP address at the end of this letter that has been associated with your computer and showing the date and time you are alleged to have used the Internet to download or upload the (The plaintiffs will have to prove that you illegally used the internet to download or upload the particular movie. We do not have records that would prove or disprove that fact; we simply have records that show that an IP address was assigned to a specific customer at a specific time. It may be that someone else, for a variety of reasons, was using the IP address).

This is a civil lawsuit, not a criminal case. You have not been charged with any crime. If the Plaintiffs receive your information from your Internet Service Provider, you will likely be added as a named defendant to their lawsuit.

**INFORMATION ABOUT YOU HAS NOT YET BEEN DISCLOSED.  
BUT IT WILL BE DISCLOSED IN 30 DAYS IF YOU DO NOT  
CHALLENGE THE SUBPOENA.**

Your identifying information has not yet been disclosed to the Plaintiffs.

This notice is intended to inform you of some of your rights and options. It does not provide legal advice. We cannot advise you about what grounds exist, if any, to challenge this subpoena. If you would like legal advice you should consult an attorney. Within this notice you will find a list of resources that may help you locate an attorney and decide how to respond to the subpoena or lawsuit

If you want to prevent being identified, you have 30 days from the date of this notice to file a motion to quash or vacate the subpoena and notify Verizon Online that you have done so. If you need more than 30 days to file such a motion or find a lawyer to assist you, you can file a motion asking for an extension of time; you should notify Verizon Online if you file a motion asking for more time.

The appropriate address to send such notices to Verizon is:

Verizon Legal Compliance  
Custodian of Records  
P.O. Box 1001  
San Angelo, TX 76902

Fax Number: 325-949-6916

Please provide us with a copy of the filed motion to quash the subpoena, your identity will not be disclosed until the court makes a decision on your motion. If you do nothing, then after 30 days we are compelled to send the Plaintiff your name, address, email address, telephone number, and your modem's Media Access Control number.

You may wish to obtain an attorney to advise you on these issues or to help you take action.

To help you find a lawyer, the American Bar Association's attorney locator can be found on the Internet at <http://www.abanet.org/lawyerlocator/searchlawyer.html>

The Electronic Frontier Foundation is an organization that seeks to protect the rights of Internet users. They have created a website that lists attorneys who information about the lawsuit that has been filed against you as well as similar lawsuits:

<https://www.eff.org/issues/file-sharing/subpoena-defense>

If you are interested in discussing this matter with the Plaintiff's attorneys, you may contact them by email at [ewhite@disantolaw.com](mailto:ewhite@disantolaw.com).

But please understand that these lawyers represent the company that is trying to sue you. They can speak with you about settling the lawsuit, if you wish to consider that. At the same time, you must be aware that if you contact them they may learn your identity, and that anything you say to them can later be used against you in court.

You should not call the Court.

Again, you may wish to retain an attorney to discuss these issues and your options.

[REDACTED]

# **EXHIBIT 3**

# Virgins!

4

FEATURING  
**MARLEY  
VALLY**  
SHE TAKES A  
HEAVY LOAD  
NATURALLY  
SITTING!



# **EXHIBIT 4**

# Copyright

United States Copyright Office

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## Public Catalog

Copyright Catalog (1978 to present)

**Your search found no results. Refer to search examples, check spelling or try another search type.**

[Basic Search](#)
[Other Search Options](#)

Search for:

Search by:

Scroll down for Search Hints

Name (Crichton Michael; Walt Disney Company)  
 Keyword  
 Registration Number (for VAu 598-675 type vau000598675)  
 Document Number (for V2606 P87 type v2606p087)  
 Command Keyword

25 records per page

### Search Hints

- Works registered prior to 1978 may be found only in the [Copyright Public Records Reading Room](#).
- Can't find what you're looking for? Try our "Other Search Options".
- Search terms are not case sensitive.
- Search limits can be used with all "Search by:" options.

Search Type	Hint
<u>Title</u>	- Omit initial articles (A, An, The, El, La, Das): <b>King and I</b> - Type the entire title, or the first few words of the title, starting with the first word
<u>Name</u>	- For personal names, type last name first name: <b>Hillerman Tony</b> - For corporate names, type in order: <b>Sony Music Entertainment; Walt Disney Company</b>  For Claimant names, go to <b>Other Search Options</b> and select "Name: Claimant (KLCN)" from the <i>Search by</i> box. For personal names, type first name last name: James Michener. For corporate names, type in order: Metro Goldwyn Mayer  For Document names, go to <b>Other Search Options</b> and select either "Docs: Party1 Statement (K291)" or "Docs: Party2 (K292)", or "Docs Party1/2 (KPTY)" from the <i>Search by</i> box. For personal names, type first name last name: Stephen King. For corporate names, type in order: Warner Brother Pictures
<u>Keyword</u>	- Searches word(s) anywhere in the record - Retrieves records with at least one of your search words - Use + before words that <b>must</b> appear in every record retrieved - Use ! before words that <b>must not</b> appear in any record retrieved - Use ? for truncation: <b>photo?</b> finds <b>photograph, photographic, photographer</b> - Use "" to surround exact phrases: <b>"war of the worlds"</b>

<b><u>Registration Number</u></b>	<ul style="list-style-type: none"><li>- Omit spaces and hyphens</li><li>- Registration numbers must be 12 characters long. Type 2 letters followed by 10 digits, or 3 letters followed by 9 digits; add zeroes before the number: <b>VAu-598-764</b> is typed <b>VAU000598764</b>, <b>SR-320-918</b> is typed <b>SR0000320918</b></li></ul>
<b><u>Document Number</u></b>	<ul style="list-style-type: none"><li>- Omit spaces and hyphens</li><li>- The number after the "v" is always 4 digits; the number after the "p" or "d" is always 3 digits</li><li>- <b>V2606 P87</b> is typed <b>V2606P087</b></li></ul>
<b><u>Command Keyword</u></b>	<ul style="list-style-type: none"><li>- Use index codes and Boolean operators</li><li>- Use ? for truncation: <b>photo?</b> finds <b>photograph, photographic, photographer</b></li><li>- Use "" to surround exact phrases: <b>"war of the worlds"</b></li></ul>

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# Copyright

United States Copyright Office

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## Public Catalog

Copyright Catalog (1978 to present)

Your search found no results. Refer to search examples, check spelling or try another search type.

**Basic Search**    **Other Search Options**

Search for:

Search by:

Scroll down for Search Hints

Name (Crichton Michael; Walt Disney Company)

Keyword

Registration Number (for VAu 598-675 type vau000598675)

Document Number (for V2606 P87 type v2606p087)

Command Keyword

25 records per page

Begin Search

Clear Search

Set Search Limits

## Search Hints

- Works registered prior to 1978 may be found only in the [Copyright Public Records Reading Room](#).
- Can't find what you're looking for? Try our "Other Search Options".
- Search terms are not case sensitive.
- Search limits can be used with all "Search by:" options.

Search Type	Hint
<u>Title</u>	<ul style="list-style-type: none"> <li>- Omit initial articles (A, An, The, El, La, Das): <b>King and I</b></li> <li>- Type the entire title, or the first few words of the title, starting with the first word</li> </ul>
<u>Name</u>	<ul style="list-style-type: none"> <li>- For personal names, type last name first name: <b>Hillerman Tony</b></li> <li>- For corporate names, type in order: <b>Sony Music Entertainment; Walt Disney Company</b></li> </ul> <p>For Claimant names, go to <b>Other Search Options</b> and select "Name: Claimant (KLCN)" from the <i>Search by</i> box. For personal names, type first name last name: James Michener. For corporate names, type in order: Metro Goldwyn Mayer</p> <p>For Document names, go to <b>Other Search Options</b> and select either "Docs: Party1 Statement (K291)" or "Docs: Party2 (K292)", or "Docs Party1/2 (KPTY)" from the <i>Search by</i> box. For personal names, type first name last name: Stephen King. For corporate names, type in order: Warner Brother Pictures</p>
<u>Keyword</u>	<ul style="list-style-type: none"> <li>- Searches word(s) anywhere in the record</li> <li>- Retrieves records with at least one of your search words</li> <li>- Use + before words that <b>must</b> appear in every record retrieved</li> <li>- Use ! before words that <b>must not</b> appear in any record retrieved</li> <li>- Use ? for truncation: <b>photo?</b> finds <b>photograph, photographic, photographer</b></li> <li>- Use "" to surround exact phrases: <b>"war of the worlds"</b></li> </ul>

<b><u>Registration Number</u></b>	<ul style="list-style-type: none"><li>- Omit spaces and hyphens</li><li>- Registration numbers must be 12 characters long. Type 2 letters followed by 10 digits, or 3 letters followed by 9 digits; add zeroes before the number: <b>VAu-598-764</b> is typed <b>VAU000598764</b>, <b>SR-320-918</b> is typed <b>SR0000320918</b></li></ul>
<b><u>Document Number</u></b>	<ul style="list-style-type: none"><li>- Omit spaces and hyphens</li><li>- The number after the "v" is always 4 digits; the number after the "p" or "d" is always 3 digits</li><li>- <b>V2606 P87</b> is typed <b>V2606P087</b></li></ul>
<b><u>Command Keyword</u></b>	<ul style="list-style-type: none"><li>- Use index codes and Boolean operators</li><li>- Use ? for truncation: <b>photo?</b> finds <b>photograph, photographic, photographer</b></li><li>- Use "" to surround exact phrases: <b>"war of the worlds"</b></li></ul>

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# Copyright

United States Copyright Office

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## Public Catalog

Copyright Catalog (1978 to present)

Search Request: Left Anchored Name = K-Beech, Inc.

Search Results: Displaying 1 of 1 entries



### *The Vampire Sex Diaries.*

**Type of Work:** Motion Picture

**Registration Number / Date:** PA0001724503 / 2011-03-02

**Application Title:** The Vampire Sex Diaries.

**Title:** The Vampire Sex Diaries.

**Description:** Videodisc (DVD)

**Copyright Claimant:** K-Beech, Inc. d.b.a. Sex Line Sinema. Address: 9601 Mason Ave., Unit B, Chatsworth, CA, 91311, United States.

**Date of Creation:** 2009

**Date of Publication:** 2010-01-29

**Nation of First Publication:** United States

**Authorship on Application:** K-Beech, Inc. d.b.a. Sex Line Sinema, employer for hire; Domicile: United States; Citizenship: United States. Authorship: entire motion picture.

**Rights and Permissions:** Kevin Beechum, K-Beech, Inc., 9601 Mason Ave., Unit B, Chatsworth, CA, 91311, United States, (818) 772-4201, kevin@kbeech.com

**Names:** K-Beech, Inc.

Sex Line Sinema



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