



has personal jurisdiction over the Defendant because (a) Defendant committed the tortious conduct alleged in this Amended Complaint in this State, and (i) Defendant resides in this State and/or (ii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because each Defendant or Defendant's agent resides or may be found in this District.

### **Parties**

7. Plaintiff, Malibu Media, LLC, is a corporation organized and existing under the laws of the State of California and has its principal place of business located at 31356 Broad Beach Road, Malibu, California, 90265.

8. Defendant, Richard J. Dembowski, is an individual who is a resident of the state of Pennsylvania. As set forth on Exhibit A, Defendant's IP address is 71.225.167.206.

9. Defendant's Internet Service Provider, set forth on Exhibit A, can identify the Defendant.

### **Factual Background**

#### *1. Defendant Used BitTorrent To Infringe Plaintiff's Copyrights*

10. BitTorrent is one of the most common peer-to-peer file sharing protocols used for distributing large amounts of data.

11. The BitTorrent protocol's popularity stems from its ability to distribute a large file without creating a heavy load on the source computer and network. In short, to reduce the load on the source computer, rather than downloading a file from a single source computer (one computer directly connected to another), the BitTorrent protocol allows users to join a "swarm" of host computers to download and upload from each other simultaneously (one computer connected to numerous computers).

12. Each of the peers in a BitTorrent swarm distributes pieces of the file to each other.

13. After a peer receives all of the pieces of a file, the peer's BitTorrent software program reassembles the pieces so that the file may be opened and used or played.

14. Each piece of BitTorrent file is assigned a unique cryptographic hash value.

15. The cryptographic hash value acts as a unique digital fingerprint to ensure a piece of the data belongs in a particular BitTorrent file.

16. Plaintiff's investigator, IPP Limited, established a direct TCP/IP connection with the IP address set forth on Exhibit A on each of the hit dates set forth on Exhibit A.

17. Each of the pieces of data received by IPP Limited, as set forth on Exhibit A, contains a unique cryptographic hash value.

18. Cryptographic hash values act as digital fingerprints to ensure that data belongs to a particular BitTorrent file.

19. Each of the cryptographic hash values set forth on a row of Exhibit A correlates to that certain copyrighted movie owned by Plaintiff identified on that row of Exhibit A, and the Copyright Registration Number on that row.

20. Each of the pieces of data distributed by Defendant to IPP Limited as set forth on Exhibit A is part of a computer file containing a copy of a movie covered by a Copyright-In-Suit which is identical (or alternatively, strikingly similar or substantially similar) to the movie covered by the Copyright-In-Suit. Indeed, the infringement was verified by viewing the copy of the movie contained in the computer file associated with the cryptographic hash value to the movie that was registered.

21. For each Copyright-in-Suit, the most recent date and time (the "hit date"), (in undersigned's possession when this Complaint was drafted), on which IPP recorded Defendant's IP Address being used to distribute to IPP Limited a piece of a computer file containing the infringing movie is set forth on Exhibit A.

22. As the subscriber of the Internet service being used to distribute Plaintiff's copyrighted movies, Defendant is the most likely infringer. Consequently, Plaintiff hereby alleges Defendant is the infringer.

23. Defendant is the only person who can be identified as the infringer at this time.

**Miscellaneous**

24. All conditions precedent to bringing this action have occurred or been waived.

25. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

**COUNT I**

**Direct Infringement Against Defendant**

26. The allegations contained in paragraphs 1-25 are hereby re-alleged as if fully set forth herein.

27. Plaintiff is the owner of the Copyrights-in-Suit, each of which covers an original work of authorship.

28. By using the BitTorrent protocol, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

29. Plaintiff did not authorize, permit or consent to Defendant's copying of its works.

30. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a

device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

31. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

32. Plaintiff has suffered actual damages that were proximately caused by Defendant including lost sales, price erosion and a diminution of the value of its copyright.

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the torrent files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

(D) Award Plaintiff the greater of: (a) Plaintiff's actual damages and any additional profits of the Defendant pursuant to 17 U.S.C. § 504-(a)-(b); or (b) statutory damages in the amount of \$150,000 per infringed Work pursuant to 17 U.S.C. § 504-(a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

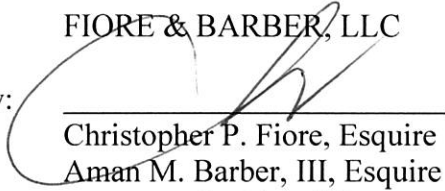
**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully Submitted,

FIORE & BARBER, LLC

By:



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## Defendant #8: Rick Dembowski

IP: 71.225.167.206

ISP: Comcast Cable

Location: Holland, PA

Title	Hash	Date First Pub	Regis Date	Hit Date
Veronica Wet Orgasm	59448198C43090645093E37289900D8EBB4D4D04	10/5/2011	11/23/2011	11/29/2011 18:57
The Rich Girl Part #2	AF4FEA9577B0B1C6C617B7CD3C048BB0283C2448	11/16/2011	11/30/2011	11/29/2011 19:13
Girls Night Out	3B39460ABF5377A5830F532935B590D40086B834	11/14/2011	11/23/2011	11/29/2011 19:21
Anneli Dream Girl	A7C1BE145D41C2AB53CA46B0C71C446FCAF14753	12/19/2011	1/4/2012	1/9/2012 23:54
Angel Journey To The East	B42EA198025C67799C196CB3BB7DF171C9B78103	12/22/2011	1/4/2012	1/11/2012 22:51
Anneli Leila Menage A Trois	7AE244DF1D01586304027C12C7C010299830FEA0	1/13/2012	1/17/2012	1/15/2012 18:10
Veronika Coming Home	FDA166688F0C01B464E716460F22A96E7D40A27C	1/25/2012	2/3/2012	1/28/2012 12:27
MaryJane Young Love	5C30F05B0EF0F99BBF43E716A0EB53D31C179D7F	8/15/2011	11/23/2011	1/28/2012 12:48
Angel Seaside Romp	EFAB0E91538B8BB08E6E234D73401C0B4BE0081A	1/4/2012	1/6/2012	2/1/2012 21:29
Carmen An Afternoon to Remember	56CE512C0B0AD8028A6DA534A824692BE3229864	2/13/2012	2/17/2012	3/10/2012 20:38
Lunchtime Fantasy	DC01C9734D05EC1F58F0F17E72AB2F363F0017A4	3/19/2012	3/19/2012	3/23/2012 12:43

Total Statutory Copyright Infringements for Defendant #8 Rick Dembowski : 11