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6 **IN THE UNITED STATES DISTRICT COURT**  
 7 **FOR THE DISTRICT OF ARIZONA**

8 PATRICK COLLINS, INC.,

9 Plaintiff.

10 v.

11 JOHN DOES 1-54,

12 Defendants.

Case No.

**COMPLAINT AND  
 DEMAND FOR TRIAL BY JURY**

14 Plaintiff, Patrick Collins, Inc., sues John Does 1-54, and alleges:

15 **Introduction**

16 1. This matter arises under the United States Copyright Act of 1976, as  
 17 amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).

18 2. Through this suit, Plaintiff alleges each Defendant is liable for:

- 19 • Direct copyright infringement in violation of 17 U.S.C. §§ 106 and 501;

20 and

- 21 • Contributory copyright infringement.

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**Jurisdiction And Venue**

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).

4. As set forth on Exhibit A, each of the Defendants’ acts of copyright infringement occurred using an Internet Protocol address (“IP address”) traced to a physical address located within this District, and therefore this Court has personal jurisdiction over each Defendant because each Defendant committed the tortious conduct alleged in this Complaint in the State of Arizona, and (a) each Defendant resides in the State of Arizona, and/or (b) each Defendant has engaged in continuous and systematic business activity, or has contracted anywhere to supply goods or services in the State of Arizona.

5. 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) a Defendant resides (and therefore can be found) in this District and all of the Defendants reside 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 each Defendant’s agent resides or may be found in this District.

**Parties**

6. Plaintiff is a corporation organized and existing under the laws of the State of California and has its principal place of business located at 8015 Deering Avenue,

1 Chatsworth, California 91304.

2 7. Each Defendant is known to Plaintiff only by an IP address.

3 8. An IP address is a number that is assigned by an Internet Service Provider  
4 (an “ISP”) to devices, such as computers, that are connected to the Internet.

5 9. The ISP to which each Defendant subscribes can correlate the Defendant’s  
6 IP address to the Defendant’s true identity.

7  
8 **Joinder**

9 10. Pursuant to Fed. R. Civ. P. 20(a)(2), each of the Defendants was properly  
10 joined because, as set forth in more detail below, Plaintiff asserts that: (a) each of the  
11 Defendants is jointly and severally liable for the infringing activities of each of the other  
12 Defendants, and (b) the infringement complained of herein by each of the Defendants  
13 was part of a series of transactions, involving the exact same piece of Plaintiff’s  
14 copyrighted Work, and was accomplished by the Defendants acting in concert with each  
15 other, and (c) there are common questions of law and fact; indeed, the claims against  
16 each of the Defendants are identical and each of the Defendants used the BitTorrent  
17 protocol to infringe Plaintiff’s copyrighted Work.

18  
19 **Factual Background**

20 I. *Plaintiff Owns the Copyright to a Motion Picture*

21 11. On or about May 26, 2011 Plaintiff submitted an application for Copyright  
22 Registration (Service Request Number 1-603492749) for the motion picture titled  
23 “Cuties 2” (the “Work”).

1           12. A copy of the application for Copyright Registration evidencing, among  
2 other things, Plaintiff's ownership of the Work, application and the application date is  
3 attached as Exhibit B.

4           II. Defendants Used BitTorrent To Infringe Plaintiff's Copyright

5           13. BitTorrent is one of the most common peer-to-peer file sharing protocols  
6 (in other words, set of computer rules) used for distributing large amounts of data;  
7 indeed, it has been estimated that users using the BitTorrent protocol on the internet  
8 account for over a quarter of all internet traffic. The creators and users of BitTorrent  
9 developed their own lexicon for use when talking about BitTorrent; a copy of the  
10 BitTorrent vocabulary list posted on [www.Wikipedia.com](http://www.Wikipedia.com) is attached as Exhibit C.  
11

12           14. The BitTorrent protocol's popularity stems from its ability to distribute a  
13 large file without creating a heavy load on the source computer and network. In short, to  
14 reduce the load on the source computer, rather than downloading a file from a single  
15 source computer (one computer directly connected to another), the BitTorrent protocol  
16 allows users to join a "swarm" of host computers to download and upload from each  
17 other simultaneously (one computer connected to numerous computers).  
18

19           A. Each Defendant Installed a BitTorrent Client onto his or her Computer

20           15. Each Defendant installed a BitTorrent Client onto his or her computer.

21           16. A BitTorrent "Client" is a software program that implements the BitTorrent  
22 protocol. There are numerous such software programs including  $\mu$ Torrent and Vuze,  
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1 both of which can be directly downloaded from the internet. See [www.utorrent.com](http://www.utorrent.com) and  
2 <http://new.vuze-downloads.com/>.

3 17. Once installed on a computer, the BitTorrent “Client” serves as the user’s  
4 interface during the process of uploading and downloading data using the BitTorrent  
5 protocol.

6 B. The Initial Seed, Torrent, Hash and Tracker  
7

8 18. A BitTorrent user that wants to upload a new file, known as an “initial  
9 seeder,” starts by creating a “torrent” descriptor file using the Client he or she installed  
10 onto his or her computer.

11 19. The Client takes the target computer file, the “initial seed,” here the  
12 copyrighted Work, and divides it into identically sized groups of bits known as “pieces.”

13 20. The Client then gives each one of the computer file’s pieces, in this case,  
14 pieces of the copyrighted Work, a random and unique alphanumeric identifier known as  
15 a “hash” and records these hash identifiers in the torrent file.

16 21. When another peer later receives a particular piece, the hash identifier for  
17 that piece is compared to the hash identifier recorded in the torrent file for that piece to  
18 test that the piece is error-free. In this way, the hash identifier works like an electronic  
19 fingerprint to identify the source and origin of the piece and that the piece is authentic  
20 and uncorrupted.  
21

22 22. Torrent files also have an “announce” section, which specifies the URL  
23 (Uniform Resource Locator) of a “tracker,” and an “info” section, containing  
24

1 (suggested) names for the files, their lengths, the piece length used, and the hash  
2 identifier for each piece, all of which are used by Clients on peer computers to verify the  
3 integrity of the data they receive.

4 23. The “tracker” is a computer or set of computers that a torrent file specifies  
5 and to which the torrent file provides peers with the URL address(es).

6 24. The tracker computer or computers direct a peer user’s computer to other  
7 peer user’s computers that have particular pieces of the file, here the copyrighted Work,  
8 on them and facilitates the exchange of data among the computers.

9 25. Depending on the BitTorrent Client, a tracker can either be a dedicated  
10 computer (centralized tracking) or each peer can act as a tracker (decentralized tracking).

11 C. Torrent Sites

12 26. “Torrent sites” are websites that index torrent files that are currently being  
13 made available for copying and distribution by people using the BitTorrent protocol.  
14 There are numerous torrent websites, including [www.TorrentZap.com](http://www.TorrentZap.com),  
15 [www.Btscene.com](http://www.Btscene.com), and [www.ExtraTorrent.com](http://www.ExtraTorrent.com).

16 27. Upon information and belief, each Defendant went to a torrent site to  
17 upload and download Plaintiff’s copyrighted Work.

18 D. Uploading and Downloading a Work Through a BitTorrent Swarm

19 28. Once the initial seeder has created a torrent and uploaded it onto one or  
20 more torrent sites then other peers begin to download and upload the computer file to  
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1 which the torrent is linked (here the copyrighted Work) using the BitTorrent protocol  
2 and BitTorrent Client that the peers installed on their computers.

3           29. The BitTorrent protocol causes the initial seed's computer to send different  
4 pieces of the computer file, here the copyrighted Work, to the peers seeking to download  
5 the computer file.

6           30. Once a peer receives a piece of the computer file, here a piece of the  
7 Copyrighted Work, it starts transmitting that piece to the other peers.

8           31. In this way, all of the peers and seeders are working together in what is  
9 called a "swarm."  
10

11           32. Here, each Defendant peer member participated in the same swarm and  
12 directly interacted and communicated with other members of that swarm through digital  
13 handshakes, the passing along of computer instructions, uploading and downloading,  
14 and by other types of transmissions. A print out of a computer screen illustrating the  
15 type of interactions between and among peers and seeders in a typical swarm is attached  
16 as Exhibit D.  
17

18           33. In this way, and by way of example only, one initial seeder can create a  
19 torrent that breaks a movie up into hundreds or thousands of pieces saved in the form of  
20 a computer file, like the Work here, upload the torrent onto a torrent site, and deliver a  
21 different piece of the copyrighted Work to each of the peers. The recipient peers then  
22 automatically begin delivering the piece they just received to the other peers in the same  
23 swarm.  
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1           34. Once a peer, here a Defendant, has downloaded the full file, the BitTorrent  
2 Client reassembles the pieces and the peer is able to view the movie. Also, once a peer  
3 has downloaded the full file, that peer becomes known as “an additional seed” because it  
4 continues to distribute the torrent file, here the copyrighted Work.

5           E. Plaintiff’s Computer Investigators Identified Each of the Defendants’ IP  
6 Addresses as Participants in a Swarm That Was Distributing Plaintiff’s  
7 Copyrighted Work

8           36. Plaintiff retained IPP, Limited (“IPP”) to identify the IP addresses that are  
9 being used by those people that are using the BitTorrent protocol and the internet to  
10 reproduce, distribute, display or perform Plaintiffs’ copyrighted works.

11           37. IPP used forensic software named INTERNATIONAL IPTRACKER  
12 v1.2.1 and related technology enabling the scanning of peer-to-peer networks for the  
13 presence of infringing transactions.

14           38. IPP extracted the resulting data emanating from the investigation,  
15 reviewed the evidence logs, and isolated the transactions and the IP addresses  
16 associated therewith for the file identified by the SHA-1 hash value of  
17 EE7B1E84B6FD741359D99A0397DF043842BAB4D7 (the “Unique Hash Number”).  
18

19           39. The IP addresses, Unique Hash Number and hit dates contained on Exhibit  
20 A accurately reflect what is contained in the evidence logs, and show:

21           (A) Each Defendant had copied a piece of Plaintiff’s copyrighted Work  
22 identified by the Unique Hash Number; and  
23  
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1 (B) Therefore, each Defendant was part of the same series of  
2 transactions.

3 40. Through each of the transactions, each of the Defendant’s computers used  
4 their identified IP addresses to connect to the investigative server from a computer in  
5 this District in order to transmit a full copy, or a portion thereof, of a digital media file  
6 identified by the Unique Hash Number.  
7

8 41. IPP’s agent analyzed each BitTorrent “piece” distributed by each IP  
9 address listed on Exhibit A and verified that re-assemblage of the pieces using a  
10 BitTorrent Client results in a fully playable digital motion picture of the Work.

11 42. IPP’s agent viewed the Work side-by-side with the digital media file that  
12 correlates to the Unique Hash Number and determined that they were identical,  
13 strikingly similar or substantially similar.  
14

**Miscellaneous**

15 43. All conditions precedent to bringing this action have occurred or been  
16 waived.  
17

18 44. Plaintiff retained counsel to represent it in this matter and is obligated to  
19 pay said counsel a reasonable fee for its services.  
20

**COUNT I**

**Direct Infringement Against Does 1-54.**

21 22 45. The allegations contained in paragraphs 1-44 are hereby re-alleged as if  
23 fully set forth herein.  
24

1           46. Plaintiff is the owner of the Registration for the Work which contains an  
2 original work of authorship.

3           47. By using the BitTorrent protocol and a BitTorrent Client and the processes  
4 described above, each Defendant copied the constituent elements of the registered Work  
5 that are original.

6           48. Plaintiff did not authorize, permit or consent to Defendants' copying of its  
7 Work.

8           49. As a result of the foregoing, each Defendant violated Plaintiff's exclusive  
9 right to:

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

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

15                   (C) Perform the copyrighted Work, in violation of 17 U.S.C. §§ 106(4)  
16 and 501, by showing the Work's images in any sequence and/or by making the sounds  
17 accompanying the Work audible and transmitting said performance of the Work, by  
18 means of a device or process, to members of the public capable of receiving the display  
19 (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform);  
20 and  
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1 (D) Display the copyrighted Work, in violation of 17 U.S.C. §§ 106(5)  
2 and 501, by showing individual images of the Work nonsequentially and transmitting  
3 said display of the Work by means of a device or process to members of the public  
4 capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of  
5 "publically" display).

6 50. Each of the Defendants' infringements was committed "willfully" within  
7 the meaning of 17 U.S.C. § 504(c)(2).  
8

9 51. Plaintiff has suffered actual damages that were proximately caused by each  
10 of the Defendants including lost sales, price erosion and a diminution of the value of its  
11 copyright.

12 WHEREFORE, Plaintiff respectfully requests that the Court:

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

16 (B) Order that each Defendant delete and permanently remove the torrent file  
17 relating to Plaintiff's copyrighted Work from each of the computers under each such  
18 Defendant's possession, custody or control;

19 (C) Order that each Defendant delete and permanently remove the copy of the  
20 Work each Defendant has on the computers under Defendant's possession, custody or  
21 control;  
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1 (D) Award Plaintiff either its actual damages and any additional profits of the  
2 Defendant pursuant to 17 U.S.C. § 504-(a)-(b); or statutory damages in the amount of  
3 \$150,000 per Defendant pursuant to 17 U.S.C. § 504-(a) and (c);

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

6 (F) Grant Plaintiff any other and further relief this Court deems just and  
7 proper.  
8

9 **COUNT II**

10 **Contributory Infringement Against Does 1-54.**

11 52. The allegations contained in paragraphs 1-44 are hereby re-alleged as if  
12 fully set forth herein.

13 53. Plaintiff is the owner of the Registration for the Work which contains an  
14 original work of authorship.

15 54. By using the BitTorrent protocol and a BitTorrent Client and the processes  
16 described above, each Defendant copied the constituent elements of the registered Work  
17 that are original.  
18

19 55. By participating in the BitTorrent swarm with the other Defendants, each  
20 Defendant induced, caused or materially contributed to the infringing conduct of each  
21 other Defendant.

22 56. Plaintiff did not authorize, permit or consent to Defendants' inducing,  
23 causing or materially contributing to the infringing conduct of each other Defendant.  
24

1           57. Each Defendant knew or should have known that other BitTorrent users,  
2 here the other Defendants, would become members of a swarm with Defendant.

3           58. Each Defendant knew or should have known that other BitTorrent users in  
4 a swarm with it, here the other Defendants, were directly infringing Plaintiff's  
5 copyrighted Work by copying constituent elements of the registered Work that are  
6 original.

7  
8           59. Indeed, each Defendant directly participated in and therefore materially  
9 contributed to each other Defendant's infringing activities.

10           60. Each of the Defendants' contributory infringements were committed  
11 "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

12           61. Plaintiff has suffered actual damages that were proximately caused by each  
13 of the Defendants including lost sales, price erosion, and a diminution of the value of its  
14 copyright.

15           WHEREFORE, Plaintiff respectfully requests that the Court:

16  
17           (A) Permanently enjoin each Defendant and all other persons who are in active  
18 concert or participation with each Defendant from continuing to infringe Plaintiff's  
19 copyrighted Work;

20           (B) Order that each Defendant delete and permanently remove the torrent file  
21 relating to Plaintiff's copyrighted Work from each of the computers under each such  
22 Defendant's possession, custody or control;

23  
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1 (C) Order that each Defendant delete and permanently remove the copy of the  
2 Work each Defendant has on the computers under Defendant's possession, custody or  
3 control;

4 (D) Find that each Defendant is jointly and severally liable for the direct  
5 infringement of each other Defendant;

6 (E) Award Plaintiff either its actual damages and any additional profits made  
7 by each Defendant pursuant to 17 U.S.C. § 504-(a)-(b); or statutory damages in the  
8 amount of \$150,000 per Defendant pursuant to 17 U.S.C. § 504-(a) and (c);  
9

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

12 (G) Grant Plaintiff any other and further relief this Court deems just and  
13 proper.

14 **DEMAND FOR A JURY TRIAL**

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

16 DATED this 15th day of August, 2011.

17  
18 Respectfully submitted,

19 /s/ Ryan J. Stevens  
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