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9 LIBERTY MEDIA HOLDINGS, LLC

10 UNITED STATES DISTRICT COURT

11 SOUTHERN DISTRICT OF CALIFORNIA, SAN DIEGO DIVISION

12 LIBERTY MEDIA HOLDINGS, LLC )

Case No. 10-CV-1823

13 Plaintiff, )

**FIRST AMENDED COMPLAINT**

14 vs. )

(1) **UNLAWFUL ACCESS TO STORED COMMUNICATIONS - 18 U.S.C. § 2701;**

15 DOES 1- 3, 5, DOES 7-9, CARLOS )  
16 MANCERA (formerly Doe 10), DOE 13, )  
17 JOHN JOHN (formerly Doe 15), DOE 19, )  
18 DOES 21-22, DOE 24, HEATHER LEWIS )  
19 (formerly Doe 25), JOHN RESZKOWSKI )  
20 (formerly Doe 26); CHRISTIAN CIBOTTI )  
21 (formerly Doe 30); DOES 32-40; FRED )  
22 MARTINEZ (formerly Doe 41); ADELINE )  
23 AUGUSTIN (formerly Doe 54); DOE 55, )

(2) **COMPUTER FRAUD AND ABUSE – 18 U.S.C. § 1030**  
(3) **COPYRIGHT INFRINGEMENT – 17 U.S.C. § 501**

24 Defendants )

25 Plaintiff, Liberty Media Holdings (“Liberty” or “Plaintiff”) files this First Amended  
26 Complaint against multiple defendants and alleges as follows:

**INTRODUCTION**

27 1. The Plaintiff produces high quality photographs and motion pictures, which are  
28 published on it’s website, on DVDs and books, as well as licensed to third party publishers for a  
premium fee.

2. The Plaintiff charges a monthly membership fee for access to its website of \$34.95  
per month. However, the defendants each accessed the Plaintiff’s website, [www.corbinfisher.com](http://www.corbinfisher.com),  
by bypassing the necessary payment and login steps required of users. There are multiple  
defendants, some of whose identity is unknown at present, who accessed Plaintiff’s computer

1 system from 29 different states. Plaintiff has all of their internet protocol (IP) addresses, and will  
2 subpoena the Defendants Internet Service Providers (ISPs) in order to ascertain the names and  
addresses of the remaining Doe Defendants.

3 3. The Defendants' actions are a violation of the Plaintiff's copyrights as protected by  
4 Title 17 of the U.S. Code. Additionally, by accessing the Plaintiff's website without payment and  
5 without authorization, Defendants violated 18 U.S.C. § 2701 and 18 U.S.C. § 1030.

6 4. The Defendant's actions were willful in nature, entitling the Plaintiff to enhanced  
7 damages. The Plaintiff seeks statutory damages, actual damages, an award of its attorney's fees  
8 and costs, as well as injunctive relief to ensure that Defendants engage in no future activity of a  
similar nature.

9 **JURISDICTION AND VENUE**

10 5. This Court has subject matter jurisdiction under 38 U.S.C. § 1331 because it is a  
11 civil action arising under the laws of the United States. More specifically, this dispute arises, at  
12 least in part, under the provisions of the Computer Fraud And Abuse Act, 18 U.S.C. § 1030.  
13 Additionally, this Court has subject matter jurisdiction pursuant to the Copyright Act (17 U.S.C. §§  
14 101 et. seq.), and the Digital Millennium Copyright Act 18 U.S.C. §2701.

15 6. This Court has personal jurisdiction over the Defendants as they have all committed  
16 tortious acts within this district and/or aimed their tortuous acts toward this district with the  
knowledge that the negative consequences would be felt in this jurisdiction.

17 7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, as a substantial part of  
18 the events or omissions giving rise to the claims pleaded herein occurred in this district, and thus,  
19 this venue is the most appropriate forum in which this case should be heard.

20 **THE PARTIES**

21 **THE PLAINTIFF, LIBERTY MEDIA HOLDINGS, LLC**

22 8. Liberty is a California corporation with a mailing address of 302 Washington  
Street, Suite 321, San Diego, CA 92103.

23 9. Liberty creates original works of creative expression in the form of gay-themed  
24 adult entertainment films.

25 **DEFENDANT DOE 1**

26 10. The identity of Defendant Doe 1 is currently unknown. The Complaint will be  
27 amended to reflect the true identity once it has been discovered.  
28

1 11. Defendant Doe 1 accessed the Plaintiff's computer servers through the IP address  
2 141.213.170.160.

3 **Defendant Doe 2**

4 12. The identity of Defendant Doe 2 is currently unknown. The Complaint will be  
5 amended to reflect the true identity once it has been discovered.

6 13. Defendant Doe 2 accessed the Plaintiff's computer servers through the IP address  
7 24.24.95.170.

8 **Defendant Doe 3**

9 14. The identity of Defendant Doe 3 is currently unknown. The Complaint will be  
10 amended to reflect the true identity once it has been discovered.

11 15. Defendant Doe 3 accessed the Plaintiff's computer servers through the IP address  
12 207.237.56.190.

13 **Defendant Doe 5**

14 16. The identity of Defendant Doe 5 is currently unknown. The Complaint will be  
15 amended to reflect the true identity once it has been discovered.

16 17. Defendant Doe 5 accessed the Plaintiff's computer servers through the IP address  
17 149.61.136.214.

18 **Defendant Doe 7**

19 18. The identity of Defendant Doe 7 is currently unknown. The Complaint will be  
20 amended to reflect the true identity once it has been discovered.

21 19. Defendant Doe 7 accessed the Plaintiff's computer servers through the IP address  
22 24.184.108.61.

23 **Defendant Doe 8**

24 20. The identity of Defendant Doe 8 is currently unknown. The Complaint will be  
25 amended to reflect the true identity once it has been discovered.

26 21. Defendant Doe 8 accessed the Plaintiff's computer servers through the IP address  
27 74.167.111.167.

28 **Defendant Doe 9**

22. The identity of Defendant Doe 9 is currently unknown. The Complaint will be  
amended to reflect the true identity once it has been discovered.

23. Defendant Doe 9 accessed the Plaintiff's computer servers through the IP address  
76.186.105.143.

**Defendant Carlos Mancera**

1  
2 24. Defendant Carlos Mancera accessed the Plaintiff's computer servers through the IP  
3 address is 70.234.228.208. After gaining unlawful access, Mr. Mancera accessed Plaintiff's  
4 copyrighted works.

**Defendant Doe 13**

5 25. The identity of Defendant Doe 13 is currently unknown. The Complaint will be  
6 amended to reflect the true identity once it has been discovered.

7 26. Defendant Doe 13 accessed the Plaintiff's computer servers through the IP address  
8 76.254.8.174.

**Defendant John John**

9 27. John John, which is believed to be an alias, accessed the Plaintiff's computer servers  
10 through the IP address 69.109.163.109. After gaining unlawful access, Mr. John accessed  
11 Plaintiff's copyrighted works.

**Defendant Doe 19**

12 28. The identity of Defendant Doe 19 is currently unknown. The Complaint will be  
13 amended to reflect the true identity once it has been discovered.

14 29. Defendant Doe 19 accessed the Plaintiff's computer servers through the IP address  
15 144.80.133.123.

**Defendant Doe 21**

16 30. The identity of Defendant Doe 21 is currently unknown. The Complaint will be  
17 amended to reflect the true identity once it has been discovered.

18 31. Defendant Doe 21 accessed the Plaintiff's computer servers through the IP address  
19 76.84.200.40.  
20

**Defendant Doe 22**

21 32. The identity of Defendant Doe 22 is currently unknown. The Complaint will be  
22 amended to reflect the true identity once it has been discovered.

23 33. Defendant Doe 22 accessed the Plaintiff's computer servers through the IP address  
24 24.228.21.211.

**Defendant Doe 24**

25 34. The identity of Defendant Doe 24 is currently unknown. The Complaint will be  
26 amended to reflect the true identity once it has been discovered.  
27  
28

1 35. Defendant Doe 24 accessed the Plaintiff's computer servers through the IP address  
2 67.84.117.149.

3 **Defendant Heather Lewis**

4 36. Heather Lewis accessed the Plaintiff's computer servers through the IP address  
5 71.125.78.26. After gaining unlawful access, Ms. Lewis accessed Plaintiff's copyrighted works.

6 **Defendant John Reszkowski**

7 37. John Reszkowski accessed the Plaintiff's computer servers through the IP address  
8 69.248.127.34. After unlawfully gaining access, Mr. Reszkowski accessed Plaintiff's copyrighted  
9 works.

10 **Defendant Christian Cibotti**

11 38. Defendant Doe 30 accessed the Plaintiff's computer servers through the IP address  
12 24.147.155.202. After unlawfully gaining access, Mr. Cibotti accessed Plaintiff's copyrighted  
13 works.

14 **Defendant Doe 32**

15 39. The identity of Defendant Doe 32 is currently unknown. The Complaint will be  
16 amended to reflect the true identity once it has been discovered.

17 40. Defendant Doe 32 accessed the Plaintiff's computer servers through the IP address  
18 170.223.131.151.

19 **Defendant Doe 33**

20 41. The identity of Defendant Doe 33 is currently unknown. The Complaint will be  
21 amended to reflect the true identity once it has been discovered.

22 42. Defendant Doe 33 accessed the Plaintiff's computer servers through the IP address  
23 74.248.126.187.

24 **Defendant Doe 34**

25 43. The identity of Defendant Doe 34 is currently unknown. The Complaint will be  
26 amended to reflect the true identity once it has been discovered.

27 44. Defendant Doe 34 accessed the Plaintiff's computer servers through the IP address  
28 74.248.120.3.

**Defendant Doe 35**

45. The identity of Defendant Doe 35 is currently unknown. The Complaint will be  
amended to reflect the true identity once it has been discovered.



**Defendant Adeline Augustin**

1 58. Adeline Augustin accessed the Plaintiff’s computer servers through the IP address  
2 71.56.21.161. After unlawfully gaining access, Ms. Augustin accessed Plaintiff’s copyrighted  
3 works.

**Defendant Doe 55**

4  
5 59. The identity of Defendant Doe 55 is currently unknown. The Complaint will be  
6 amended to reflect the true identity once it has been discovered.

7 60. Defendant Doe 55 accessed the Plaintiff’s computer servers through the IP address  
8 96.32.141.135.

**FIRST CAUSE OF ACTION**

**(Unlawful Access to Stored Communications 18 U.S.C. §§ 2701 and 2707)**

9  
10 61. The Plaintiff re-alleges and incorporates by reference as if verbatim Paragraphs 1-  
11 67.

12 62. The Defendants intentionally accessed the Plaintiff’s web servers, which are  
13 facilities where electronic communication services are provided.

14 63. The Defendants committed these unlawful accesses on various dates in April 2010.

15 64. The Defendants, who were not members of the Corbin Fisher website, and thus had  
16 no right to access the Plaintiff’s copyrighted materials, unlawfully did so.

17 65. The Defendants obtained access to Plaintiff’s electronic communications while they  
18 were in electronic storage and thus should be punished under 18 U.S.C. § 2701.

19 66. Pursuant to 18 U.S.C. § 2707, the Defendants are liable to the Plaintiff for damages  
20 and reasonable attorney’s fees.

**SECOND CAUSE OF ACTION**

**(Computer Fraud and Abuse Act 18 U.S.C. § 1030)**

21 67. Plaintiff re-alleges and incorporates by reference as if verbatim, Paragraphs 1-73.

22 68. Defendants did unlawfully enter into a computer server where Plaintiff’s  
23 copyrighted materials were contained, and did unlawfully enter Plaintiff’s computer servers.

24 69. This entry was unauthorized, and through this entry, Defendants did steal the  
25 Plaintiff’s property, the copyrighted materials, the value of which was in excess of \$15,000.

26 70. The Plaintiff’s computer servers constitute a “computer” within the meaning of 18  
27 U.S.C. § 1030(e)(1).  
28

1 71. The “computer” identified above was used in interstate commerce or  
2 communication and was a protected computer within the meaning of 18 U.S.C. § 1030(e)(2)(B).

3 72. Defendants knowingly caused the transmission of a program, information, code, or  
4 command targeted at a protected computer.

5 73. As a result of such conduct, Defendants intentionally caused damage without  
6 authorization, to the Plaintiff and to the relevant computer systems.

7 74. Defendants intentionally accessed a protected computer without authorization, and  
8 as a result of such conduct, has caused damage.

9 75. The damage caused includes a loss aggregating substantially more than the \$5000  
10 amount required under 18 U.S.C. § 1030(a)(5)(B)(i).

11 76. Plaintiff has been damaged, and has suffered losses, due to these past wrongs by  
12 Defendants.

13 **THIRD CAUSE OF ACTION**

14 **(Copyright Infringement 17 U.S.C. § 501)**

15 77. Plaintiff re-alleges and incorporates by reference as if verbatim, Paragraphs 1-84.

16 78. At all times relevant hereto, the Plaintiff has been the owner and producer of the  
17 motion pictures, which were reproduced, distributed, and publicly displayed by the Defendants.

18 79. The Plaintiff holds copyright registration certificates from the United States  
19 Copyright Office that cover the infringed upon motion pictures.

20 80. Without authorization, the Defendants accessed, reproduced and distributed the  
21 Plaintiff’s copyrighted and registered works.

22 81. They did so by accessing the Plaintiff’s computer servers either by hacking into  
23 them directly or by using hacked portals provided by others.

24 82. Once inside the Plaintiff’s computer systems, the Defendants downloaded the  
25 Plaintiff’s copyrighted works, thus creating a copy of the works on the Defendants’ local hard drive  
26 or other storage device.

27 83. The Defendant’s conduct was willful within the meaning given to that term by the  
28 Copyright Act.

84. As a result of their wrongful conduct, the Defendant is liable to the Plaintiff for  
copyright infringement under 17 U.S.C. § 501.

85. Plaintiff is entitled to recover statutory damages under 17 U.S.C. § 504(c).



1 86. In addition, because the Defendant's infringing acts were willful, the award of  
2 statutory damages should be enhanced in accordance with 17 U.S.C. § 504(c)(2).

3 87. Plaintiff is entitled to recover its attorneys' fees and costs of suit pursuant to 17  
4 U.S.C. § 505.

5 **WHEREFORE; PLAINTIFF PRAYS**

- 6 1. Statutory damages pursuant to:
- 7 a. 17 U.S.C. § 504(c) of not less than \$750 per infringement;
  - 8 b. 18 U.S.C. § 2707(b) and (c) of not less than \$1000 per intrusion;
- 9 2. Compensatory Damages in an amount to be proven at trial;
- 10 3. Injunctive relief reversing all actions committed by Defendants and enjoining them  
11 from further violations;
- 12 4. Attorney's fees and costs as authorized by statute;
- 13 5. For any additional and further relief which this Court deems to be just and proper.

14 Date: December 22, 2010.

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