

Marc J. Randazza, Esq., SBN 269535
Randazza Legal Group
3969 Fourth Avenue, Suite 204
San Diego, CA 92103
888-667-1113
305-437-7662 (fax)
MJR@randazza.com

Attorney for Plaintiff,
LIBERTY MEDIA HOLDINGS, LLC

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA, SAN DIEGO DIVISION

LIBERTY MEDIA HOLDINGS, LLC

Plaintiff,

vs.

ALAN PHILLIPS

Defendant

Case No.

Judge:

'11CV0029 JAH JMA

COMPLAINT

**(1) COPYRIGHT INFRINGEMENT –
17 U.S.C. § 501**

Plaintiff, Liberty Media Holdings (“Liberty” or “Plaintiff”) files this complaint against Alan Phillips and alleges as follows:

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the U.S. Copyright Act of 1976, as amended, 17 U.S.C §§ 101 et seq. (the Copyright Act). This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a)

2. Venue in this District is proper pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a).

3. This Court has personal jurisdiction over the Defendant as he has committed tortious acts within this district and/or aimed his tortious acts toward this district with the knowledge that the negative consequences thereof would be felt in this jurisdiction.

11 **THE PARTIES**

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

13 1. Liberty is a California LLC with a mailing address of 302 Washington Street,
14 Suite 321, San Diego, CA 92103.

15 2. Liberty creates and publishes original works of creative expression in the form of
16 gay-themed adult entertainment films.

17 **DEFENDANT ALAN PHILLIPS**

18 3. While some torrent and content theft websites take great pains to protect the
19 anonymity of their users, gaytorrents.ru seems to take little such precautions. After perfunctory
20 inquiries directed at that site, the website provided the plaintiff with adequate information to
21 identify the defendant

22 4. Defendant Phillips was identified through his I.P. address, which is
23 173.181.36.250, and his address was discovered after making inquiries into content on
24 gaytorrents.ru.

25 5. Phillips used this I.P. address to download the Plaintiff's works and illegally
26 republish and illegally distribute the Plaintiff's copyrighted works to thousands of other
27 individuals on the torrent site gaytorrent.ru.

28 **FIRST CAUSE OF ACTION**

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

6. The Plaintiff re-alleges and incorporates by reference as if verbatim contained in
each paragraph above.

7. Plaintiff is, and at all relevant times has been, the copyright owner of certain
copyrighted and audiovisual works (the "Works"). The Works include but are not limited to
"Turner Fucks Austin," and "Keagan," each of which is the subject of a pending application for a
valid Certificate of Copyright Registration issued by the Register of Copyrights.

8. Among the exclusive rights granted to each Plaintiff under the Copyright Act are
the exclusive rights to reproduce the Works and to distribute them—rights which Phillips
maliciously and intentionally infringed upon.

11 9. Plaintiff is informed and believes, and on that basis alleges, that Defendant,
12 without the permission or consent of Plaintiffs, has used, and continue to use, an online media
13 distribution system (Bit Torrent) to distribute the Works to the public, and/or make the Works
14 available for distribution to others. In doing so, Defendant has violated Plaintiff's exclusive
15 rights of reproduction and distribution. Defendant's actions constitute infringement of Plaintiff's
16 copyrights and exclusive rights under the Copyright Act.

17 10. Plaintiff is informed and believes and on that basis alleges that the foregoing acts
18 of infringement have been willful and intentional.

19 11. As a result of Defendant's infringement of Plaintiff's copyrights and exclusive
20 rights under the Copyright Act, Plaintiff is entitled to either actual or statutory damages pursuant
21 to 17 U.S.C. § 504(c).

22 12. The conduct of Defendant is causing and will continue to cause Plaintiff great and
23 irreparable injury that cannot fully be compensated or measured in financial terms and such harm
24 will continue unless the Defendant is enjoined from such conduct by the Honorable Court.
25 Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiff is
26 entitled to injunctive relief prohibited Defendant from further infringing Plaintiff's copyrights,
27 and ordering Defendant to destroy all copies of the Works made in violation of Plaintiff's
28 exclusive rights.

WHEREFORE; PLAINTIFF PRAYS

1. For an injunction providing:

Defendant shall be and hereby is enjoined from directly or indirectly infringing upon the Plaintiff's copyrights in the works listed in Exhibit A or any other works, whether now in existence or later created, that are owned or controlled by Plaintiff (or any parent, subsidiary, or affiliate of Plaintiff), including without limitation by using the Internet or any online media distribution system to reproduce (i.e. download) any of Plaintiff's works, to distribute (i.e. upload) any of Plaintiff's works, or to make any of Plaintiff's works available for distribution to the public, except pursuant to a lawful license or with the Plaintiff's express authority. Defendant also shall destroy all copies of Plaintiff's works that Defendant has downloaded onto any computer hard drive or server and shall destroy all copies of those downloaded works transferred onto any physical medium or device in Defendant's possession, custody, or control.

11 2. For damages for each infringement of each copyrighted work pursuant to 17
12 U.S.C. § 504. These damages may be actual or statutory, and Plaintiff reserves the right to make
13 such an election.

14 3. For Plaintiff's costs in this action.

15 4. For Plaintiff's attorney's fees incurred in bringing this action.

16 5. For such other and further relief, either at law or in equity, general or special, to
17 which the may be entitled.

18 Date: January 6, 2011.

s/ Marc Randazza
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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
Liberty Media Holdings, LLC
(b) County of Residence of First Listed Plaintiff San Diego
(c) Attorney's (Firm Name, Address, and Telephone Number)
Marc Randazza, Randazza Legal Group
969 4th Ave., Ste 204, San Diego, CA 92103

DEFENDANTS
Alan Phillips
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
Attorneys (If Known)

'11CV0029 JAH JMA

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation
PTF DEF
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
17 U.S.C. Section 101 et seq.
Brief description of cause:
Copyright infringement

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$ 200,000
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE January 6 2011
SIGNATURE OF ATTORNEY OF RECORD s/Marc Randazza

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE