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Attorney for Plaintiff
LIBERTY MEDIA HOLDINGS, LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA, SAN DIEGO DIVISION

Liberty Media Holdings, LLC
A California Corporation

Plaintiff,

vs.

Cary Tabora

Defendant.

Case No. **'11CV0651 IEG JMA**

COMPLAINT

1) Copyright Infringement

Plaintiff, Liberty Media Holdings (“Liberty” or “Plaintiff”) files this complaint against Cary Tabora (“Defendant”) 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. Furthermore, the Defendant contractually consented to jurisdiction in this jurisdiction and venue.

1 **THE PARTIES**

2 **PLAINTIFF**

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

5 5. Liberty creates and publishes original works of creative expression in the form of
6 adult entertainment films.

7 6. Liberty operates a number of websites offering monthly memberships in order to
8 gain access to its films.

9 7. Additionally, a number of Plaintiff's films are available on DVD for purchase.

10 **DEFENDANT**

11 8. Defendant was identified through his I.P. address as uploading or "seeding" the
12 Plaintiff's copyrighted work, "Down on the Farm," which is available in DVD format only and
13 which has never been licensed to any party for online distribution.

14 **FIRST CAUSE OF ACTION**

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

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

18 10. Plaintiff is, and at all relevant times has been, the copyright owner of certain
19 copyrighted and audiovisual works, including but are not limited to "Down on the Farm" (the
20 Work), which is the subject of a valid Certificate of Copyright Registration. Exh. 1.

21 11. Among the exclusive rights granted to each Plaintiff under the Copyright Act are
22 the exclusive rights to reproduce the Works and to distribute them—rights which Defendant
23 maliciously and intentionally infringed upon.

24 12. Plaintiff is informed and believes, and on that basis alleges, that Defendant,
25 without the permission or consent of Plaintiffs, has used, and continued to use, an online media
26 distribution system (Bit Torrent) to distribute the Works to the public, and/or make the Works
27 available for distribution to others.

28 13. In doing so, Defendant has violated Plaintiff's exclusive rights of reproduction
and distribution. Defendant's actions constitute infringement of Plaintiff's copyrights and
exclusive rights under the Copyright Act.

1 14. Plaintiff is informed and believes and on that basis alleges that the foregoing acts
2 of infringement have been willful and intentional.

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

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

13 **WHEREFORE; PLAINTIFF PRAYS**

14 1. For an injunction providing:

15 Defendant shall be and hereby is enjoined from directly or indirectly infringing
16 upon the Plaintiff's copyrights in the works, whether now in existence or later
17 created, that are owned or controlled by Plaintiff (or any parent, subsidiary, or
18 affiliate of Plaintiff), including without limitation by using the Internet or any
19 online media distribution system to reproduce (i.e. download) any of Plaintiff's
20 works, to distribute (i.e. upload) any of Plaintiff's works, or to make any of
21 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.

22 2. For damages for each infringement of each copyrighted work pursuant to 17
23 U.S.C. § 504.

24 3. Since Defendant's actions were willful and malicious in nature, the Plaintiff seeks
25 the maximum statutory damages of \$150,000 per infringement. At this time, that would equal
26 \$150,000, but Plaintiff reserves the right to amend this complaint if, and when, other
27 circumstances of infringement are discovered.

28 4. For Plaintiff's costs in this action.

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

1 6. For such other and further relief, either at law or in equity, general or special, to
2 which the may be entitled.

3 Dated: March 31, 2011

Respectfully submitted,

4 s/ Marc Randazza

Marc J. Randazza, SBN 269535

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6 Attorney for Plaintiff, Liberty Media Holdings
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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

DEFENDANTS

Cary Tabora

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant unknown (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number) Marc Randazza, Randazza Legal Group 3969 4th Ave., #204, San Diego, CA 92103 888-667-1113

Attorneys (If Known)

'11CV0651 IEG 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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 501

Brief description of cause: Copyright Infringement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 150,000

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

3/31/11 s/ Marc Randazza

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFF JUDGE MAG. JUDGE