

UNITED STATES DISTRICT COURT
for the
District of Massachusetts

LIBERTY MEDIA HOLDINGS, LLC
, plaintiff

v.

SWARM SHARING HASH FILE
AE340D0560129AFEE8D78CE07F2394C7
B5BC9C05 ET AL

, defendant

No. 1:11-cv-10802-WGY

DEFENDANT ANANT PAVIDAPHA'S ANSWER TO COMPLAINT

I. ANSWER

NOW COMES the Defendant in the above entitled action and hereby submits the following answers corresponding with the numbered paragraphs in Plaintiff's complaint:

1. Defendant has insufficient information and neither admits nor denies.
2. Defendant has insufficient information and neither admits nor denies.
3. Denied.
4. Denied.
5. Defendant has insufficient information and neither admits nor denies.
6. Defendant has insufficient information and neither admits nor denies.
7. Admit only so much as states that Defendant resides in the Commonwealth of Massachusetts.
8. Denied.
9. Admit only so much as states that Defendant may be found in this District.
10. Defendant has insufficient information and neither admits nor denies.
11. Denied.
12. Defendant has insufficient information and neither admits nor denies.

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- 13. Denied.
- 14. Denied.
- 15. Defendant has insufficient information and neither admits nor denies.
- 16. Denied.
- 17. Defendant has insufficient information and neither admits nor denies.
- 18. Defendant has insufficient information and neither admits nor denies.
- 19. Defendant has insufficient information and neither admits nor denies.
- 20. Defendant has insufficient information and neither admits nor denies.
- 21. Defendant has insufficient information and neither admits nor denies.
- 22. Defendant has insufficient information and neither admits nor denies.
- 23. Defendant has insufficient information and neither admits nor denies.
- 24. Defendant has insufficient information and neither admits nor denies.
- 25. Defendant has insufficient information and neither admits nor denies.
- 26. Defendant has insufficient information and neither admits nor denies.
- 27. Defendant has insufficient information and neither admits nor denies.
- 28. Defendant has insufficient information and neither admits nor denies.
- 29. Defendant has insufficient information and neither admits nor denies.
- 30. Defendant has insufficient information and neither admits nor denies.
- 31. Defendant has insufficient information and neither admits nor denies.
- 32. Defendant has insufficient information and neither admits nor denies.
- 33. Defendant has insufficient information and neither admits nor denies.
- 34. Defendant has insufficient information and neither admits nor denies.
- 35. Defendant has insufficient information and neither admits nor denies.
- 36. Denied.
- 37. Denied.
- 38. Defendant has insufficient information and neither admits nor denies.
- 39. Defendant has insufficient information and neither admits nor denies.

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- 40. Defendant has insufficient information and neither admits nor denies.
- 41. Defendant has insufficient information and neither admits nor denies.
- 42. Defendant has insufficient information and neither admits nor denies.
- 43. Defendant has insufficient information and neither admits nor denies.
- 44. Admit.
- 45. Defendant has insufficient information and neither admits nor denies.
- 46. Denied
- 47. Defendant has insufficient information and neither admits nor denies.
- 48. Defendant has insufficient information and neither admits nor denies.
- 49. Admit.
- 50. Defendant has insufficient information and neither admits nor denies.
- 51. Denied.
- 52. Defendant has insufficient information and neither admits nor denies.
- 53. Denied.
- 54. Denied.
- 55. Defendant has insufficient information and neither admits nor denies.
- 56. Defendant has insufficient information and neither admits nor denies.
- 57. Denied.
- 58. Denied.
- 59. Denied.
- 60. Denied.
- 61. Denied.
- 62. Denied.
- 63. Admit.
- 64. Denied.
- 65. Denied.
- 66. Denied.

1 67. Denied.

2 68. Denied.

3 69. Denied.

4 70. Denied.

5 71. Defendant neither admits nor denies.

6 72. Defendant has insufficient information and neither admits nor denies.

7 73. Denied.

8 74. Denied.

9 75. Denied.

10 76. Denied.

11 77. Denied.

12 WHEREFORE, Defendant, Avant Pavidapha, respectfully requests this action be
13 dismissed

14 78. Defendant neither admits nor denies.

15 79. Defendant has insufficient information and neither admits nor denies.

16 80. Defendant has insufficient information and neither admits nor denies.

17 81. Denied.

18 82. Denied.

19 83. Denied.

20 84. Defendant has insufficient information and neither admits nor denies.

21 85. Defendant has insufficient information and neither admits nor denies.

22 86. Denied.

23 87. Denied.

24 88. Denied.

25 WHEREFORE, Defendant, Avant Pavidapha, respectfully requests this action be
26 dismissed.

27 89. Defendant neither admits nor denies.

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90. Denied.

91. Denied.

92. Defendant has insufficient information and neither admits nor denies.

93. Defendant has insufficient information and neither admits nor denies.

94. Defendant has insufficient information and neither admits nor denies.

95. Defendant has insufficient information and neither admits nor denies.

96. Defendant has insufficient information and neither admits nor denies.

97. Denied.

98. Denied.

99. Denied.

100. Denied.

101. Defendant has insufficient information and neither admits nor denies.

102. Denied.

103. Denied.

104. Denied.

105. Denied.

106. Denied.

107. Denied.

108. Denied.

109. Denied.

110. Denied.

111. Denied.

WHEREFORE, Defendant, Anant Pavidapha respectfully requests this action be dismissed.

112. Defendant neither admits nor denies.

113. Denied.

114. Denied.

1 115. Denied.

2 116. Denied.

3 117. Denied.

4 118. Denied.

5 119. Denied.

6 WHEREFORE, Defendant Anant Pavidapha, respectfully requests that this action be
7 dismissed.

8 120. Defendant neither admits nor denies.

9 121. Defendant neither admits nor denies.

10 122. Defendant neither admits nor denies.

11 123. Defendant neither admits nor denies.

12 124. Defendant neither admits nor denies.

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14 WHEREFORE, Defendant Anant Pavidapha, respectfully requests that this action be
15 dismissed.

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17 **II. AFFIRMATIVE DEFENSES**

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19 1. Defendant denies each and every material allegation of the complaint not specifically
20 admitted, denied, or controverted above.

21 2. Defendant states that the complaint in the above-entitled matter fails to state a claim
22 upon which relief may be granted.

23 3. Defendant states that if plaintiff has sustained any damages, those damages are
24 attributable to parties for whom Defendant is not legally responsible.

25 4. Defendant asserts that plaintiff's recovery is barred by 17 U.S.C. § 512.

26 5. Defendant states that plaintiff's recovery is barred by the doctrine of collateral
27 estoppel.

1 6. Defendant states that plaintiff's recovery is barred by the doctrine of laches.

2 7. Defendant states that plaintiff's recovery is barred by the doctrine of unclean hands.

3 8. Defendant states that plaintiff's recovery is barred its own waiver.

4 9. Defendant states that plaintiff's recovery is barred by its failure to join necessary
5 parties.

6 10. Defendant states that plaintiff's recovery is barred by defective service of process.

7 11. Defendant states that plaintiff's recovery is barred because the work at issue is not
8 entitled to copyright protection.

9
10 WHEREFORE, Defendant respectfully requests this honorable court dismiss each and
11 every claim asserted by Plaintiff's complaint, and enter judgment for Defendant together with
12 costs, attorney's fees, and such other and further relief as the court deems just and proper.

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14 **III. COUNTERCLAIMS**

15 Defendant hereby states the following counterclaims for damages against Plaintiff:

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17 **COUNTS ONE AND TWO: Violation of Electronic Communications Privacy Act (18 U.S.C. §**
18 **2520)**

19 12. Upon information and belief, Plaintiffs obtained the internet addresses (IP
20 Addresses) associated with Defendant's internet service account.

21 13. Upon information and belief, such IP Addresses were obtained by Plaintiff prior to
22 its engaging in legal action pursuant to 17 U.S.C. § 512.

23 14. Upon information and belief, such IP Addresses were shared among plaintiff and
24 other parties for the purposes of contacting various defendants and procuring settlements.

25 15. Upon information and belief, such IP Addresses were only accessible to plaintiff,
26 under the circumstances, if plaintiff either (a) participated in the conspiracy it alleges, or (b)
27 plaintiff eavesdropped on the communications to which it was not a party.

1 16. Upon information and belief, Plaintiffs intentionally intercepted, endeavored to
2 intercept, or procured another to intercept or endeavor to intercept a wire, oral or electronic
3 communication, in violation of 18 U.S.C. § 2511(1)(a) in its unlawful investigation in this case.

4 17. Upon information and belief, Plaintiffs intentionally disclosed, or endeavored to
5 disclose to another person the contents of a wire, oral, or electronic communication, knowing
6 or having reason to know that the information was obtained through the interception of a wire,
7 oral, or electronic communication in violation of 18 U.S.C. § 2511(1) in its unlawful
8 investigation in this case.

9 18. Upon information and belief, Plaintiffs intentionally used, or endeavored to use, the
10 contents of a wire, oral or electronic communication, knowing or having reason to know that
11 the information was obtained through the interception of a wire, oral, or electronic
12 communication in violation of 18 U.S.C. § 2511(1).

13 19. Such violations occurred on or about December 3, 2010 at 02:51:59 UTC.

14 20. Such violations occurred on or about December 4, 2010 at 05:25:22 UTC.

15
16 **COUNTS THREE AND FOUR: Civil Conspiracy to Violate Electronic Communications**
17 **Privacy Act (18 U.S.C. § 2520)**

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19 21. Defendant re-alleges and incorporates the allegations made in each above
20 paragraph.

21 22. Upon information and belief, Plaintiffs did by concerted action and by agreement
22 with each other and heretofore unnamed parties, commit a tortious act – namely, violate 18
23 U.S.C. § 2520.

24 23. Upon information and belief, Plaintiffs did commit such tortious act in concert with
25 each other and heretofore unnamed parties pursuant to a common design to unlawfully
26 investigate this case.

1 24. Upon information and belief, Plaintiffs did give substantial assistance to each other
2 and heretofore unnamed parties knowing that the other parties' conduct constituted a breach of
3 duty – namely, the duty to act in accordance with the law.

4 25. Upon information and belief Plaintiff's own conduct, in substantial assistance to the
5 other parties, separately considered, constituted a breach of duty – namely, the duty to act in
6 accordance with the law.

7 26. Such violations occurred on or about December 3, 2010 at 02:51:59 UTC.

8 27. Such violations occurred on or about December 4, 2010 at 05:25:22 UTC.

9
10 **COUNT FIVE: Counterclaim for Costs and Attorney Fees Pursuant to 17 U.S.C. § 505**

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12 28. Defendant hereby counterclaims for the recovery of full costs, including reasonable
13 attorney's fees, in the event that Defendant is the prevailing party.

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15 **IV. DEFENDANTS REQUESTED RELIEF**

16 Defendant hereby prays this honorable court enter the following relief for the claims stated
17 above.

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19 29. Statutory damages in an amount to be determined, according to 18 U.S.C. 2520, in
20 the amount of either \$100 a day for each day of violation, or \$10,000 for each violation.

21 30. Recovery of full costs, including reasonable attorney's fees.

22 31. Such other and further relief as the court deems just and proper.

23
24 **V. DEMAND FOR JURY TRIAL**

1 32. Now comes the Defendant in the above entitled matter, and hereby demands a jury
2 trial on each count of the complaint submitted by the plaintiff, and on each of the counterclaims
3 asserted above.

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8 Respectfully submitted,
9 Defendant
10 By his Attorney,

11 _____
12 /S/
13 Edward R. Molari, Esq.
14 BBO#: 675771
15 185 Devonshire St., STE 302
16 Boston, MA 02110
17 Phone: (617) 942-1532
18 Fax: (815) 642-8351
19 Email: edward@molarilaw.com

20 Dated: Friday, February 17, 2012

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22
23 **CERTIFICATE OF SERVICE**

24 I hereby certify that on Friday, February 17, 2012, the foregoing document, together
25 with all documentary exhibits was filed through the ECF system and electronically sent to all
26 registered participants as identified on the Notice of Electronic Filing as of the day and time of
filing.

27 Dated: Friday, February 17, 2012

Signature: _____ /S/ _____