

UNITED STATES DISTRICT COURT

for the

District of Nevada

In re Liberty Media Holdings LLC: the Identification of John Does 1-1000 Pursuant to the "DMCA"

Plaintiff

v.

Defendant

2:11-ms-00112

Ci

(If the action is pending in another district, state where: )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Place: Randazza Legal Group 6525 W. Warm Springs Road, Suite 100 Las Vegas, NV 89118 Date and Time:

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: DEC 22 2011

CLERK OF COURT JULIE GIESBRECHT Signature of Clerk of Deputy Clerk

OR Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Liberty Media Holdings LLC, who issues or requests this subpoena, are:

J. Malcolm DeVoy, Randazza Legal Group, 6525 W. Warm Springs Road, Suite 100, Las Vegas, NV 89118 888-667-1113 ex.4 | jmd@randazza.com

RECEIVED  
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LIBERTY

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Attorney for  
*Liberty Media Holdings, LLC*

**2:11-ms-00112**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

In re Liberty Media Holdings LLC: the  
Identification of John Does 1-1,000 Pursuant to  
the Digital Millennium Copyright Act

Case No.

**APPLICATION AND DECLARATION  
IN SUPPORT OF ISSUANCE OF  
SUBPOENA UNDER 17 U.S.C. § 512(h)**

**APPLICATION AND DECLARATION IN SUPPORT OF  
ISSUANCE OF SUBPOENA UNDER 17 U.S.C. § 512(h)**

Pursuant to 17 U.S.C. § 512(h)(2)(C), I, J. Malcolm DeVoy IV, attorney for Liberty Media Holdings LLC ("Liberty"), hereby swear that the purpose for which Liberty seeks the registered subpoenas is to obtain the identity of alleged copyright infringers, and that such information will only be used for the purpose of protecting Liberty's intellectual property rights.


Liberty is aware of precedent concerning the use of Digital Millennium Copyright Act ("DMCA") subpoenas to identify individuals from cable service providers in the Court of Appeals for the District of Columbia Circuit, *Recording Industry Ass'n of America v. Verizon Internet Servs., Inc.*, 351 F.3d 1229 (D.D.C. 2003), as well as the Eighth Circuit Court of Appeals. *In re Charter Comm'ns, Inc.*, 393 F.3d 771 (8th Cir. 2005). This matter of law, however, is unsettled within the Ninth Circuit, and has not been addressed by the Ninth Circuit Court of Appeals.

1 Contrarily, it is the Petitioner's position that the Ninth Circuit Court of Appeals would  
2 find contrary to these courts and would agree with the dissent in *In re Charter*, 393 F.3d at 778.  
3 A plain reading of the DMCA will reveal that "[t]he subpoena power created by Congress in §  
4 512(h) does not limit the type of service provider for whom subpoenas may be issued in the fight  
5 against internet piracy." "The only viable way for copyright owners to vindicate their intellectual  
6 property rights in a timely manner when infringing materials are transmitted across peer to peer  
7 networks is to subpoena the [internet service providers, a/k/a] ISPs for disclosure of the identities  
8 of alleged infringers." *Id.* at 779.

9 The Court's Dissent further noted that "[t]he suggestion that copyright holders should be  
10 left to file John Doe lawsuits to protect themselves from infringement by subscribers of conduit  
11 ISPs like Charter, instead of availing themselves of the mechanism Congress provided in the  
12 DMCA, is impractical and contrary to legislative intent." *Id.* at 782. Indeed, "[n]owhere in the  
13 DMCA did Congress indicate that copyright holders should be relegated to such cumbersome  
14 and expensive measures [as filing individual adversarial lawsuits] against conduit ISPs. The  
15 legislative history shows that the purpose of the subpoena power in the DMCA was to obtain the  
16 assistance of ISPs in an expeditious process to stop infringement." *Id.*

17 On this basis, this Court may properly grant Liberty subpoena power under 17 U.S.C. §  
18 512(h) in order to pursue the infringers of its copyrighted works.

19  
20 Executed under penalty of perjury this 22nd day of December, 2011

21  
22  
23  
24   
25 J. Malcolm DeVoy IV  
26 Attorney for Petitioner,  
27 *Liberty Media Holdings LLC*  
28

**RANDAZZA**

**LEGAL GROUP**

Correspondence from:  
**J. Malcolm DeVoy IV, Esq.**  
jmd@randazza.com

**Reply to Las Vegas Office  
via Email or Fax**

December 22, 2011

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**Clerk's Office, U.S. District Court  
District of Nevada – Las Vegas Division  
333 Las Vegas Boulevard South  
Las Vegas, NV 89101**

*Re: DMCA Subpoena*

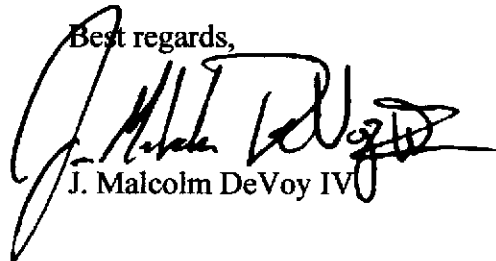
**Dear Clerk of Court:**

Thank you for your employees taking the time to speak with me on Tuesday this week and for looking into your policies concerning the issuance of a DMCA subpoena. Enclosed please find a request for the issuance of three subpoenas by your court pursuant to the Digital Millennium Copyright Act, 17 U.S.C. § 512(h). As required by the statute, the following are enclosed:

1. The Application/Declaration for the DMCA subpoena to be issued;
2. A copy of the proposed subpoena to be signed by the appropriate court officer;
3. A copy of a DMCA notice sent to the subject of the subpoena, as required by the DMCA;

I recognize that DMCA subpoena file requests are rare. Should you have any questions or require any additional items, please feel free to contact me at 888-667-1113 ex. 4.

Best regards,



J. Malcolm DeVoy IV

**Encls.**





GENERAL COUNSEL

10557 SANDHILL BLVD.

EMERYVILLE, CA 94608

SENT VIA US MAIL and FAX  
November 28, 2011

Google, Inc.  
Attn: Google Legal Support, Blogger DMCA Counter Notification  
1600 Amphitheatre Parkway  
Mountain View, CA 94043  
650-618-2680

**RE: DMCA Notice of Claimed Infringement: Repeat Infringer**

Dear Google, Inc.:

**I. Introduction**

I am the General Counsel for Corbin Fisher®. As Corbin Fisher's General Counsel, I am their designated agent for the provision of DMCA complaints.

It has come to my attention that your servers or your services are providing others with access to materials that infringe upon my client's copyrighted works. In particular, you are providing web hosting services to [dvdfilepink.blogspot.com](http://dvdfilepink.blogspot.com).

**II. YOUR COMPANY'S STATUS**

I have reviewed your website and the United States Copyright Office's database of designated agents; it appears your company has complied with the DMCA's designation of agent provision.

**III. COPYRIGHT INFRINGEMENT AND DMCA NOTICE**

You are hereby given notice valid under the Digital Millennium Copyright Act (DMCA) infringement notification requirements as set forth at 17 U.S.C. § 512 of this infringing activity, and this letter shall serve as a formal legal demand that these materials be removed from public display immediately. My client's original audiovisual works are being published, distributed, or otherwise being used in a manner that is not authorized by the copyright owner, any of its lawful agents, or the law.

My client's original works of creative expression are being infringed upon. The Original Works may be found at <http://corbinfisher.com>

The particular infringements, still photographs from copyrighted Corbin Fisher videos, that we have detected, and that we demand be removed from your servers are located here:

<http://dvdfilepink.blogspot.com>



Not only does this site post copyrighted still images, even utilizing one as its background for all pages, it offers copyrighted motion pictures available for sale without license to do so. The particular copyrighted works are as follows:

<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-kellan-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-josh-fuck-jack-jack-and.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-scott-fuck-marc-2011.html>  
[http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-dawson-fuck-kent-2011\\_28.html](http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-dawson-fuck-kent-2011_28.html)  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-ggb-sean-pumps-phillip.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-turner-fuck-austin-2011.htm>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-twins-fuck-travis.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-tevin-fuck-travis-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-tagging-sean-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-tagging-dru.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-strip-poker.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-sean-fuck-russ-first-time.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-cain-and-phillip-tag.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-marc-fuck-trey-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-marc-fuck-travis-first.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-cain-and-lucas-tag-travis.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-lucas-fuck-cody-best.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-cain-fuck-quinn-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-dawson-fuck-kent-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-cain-and-justin-bi-tag.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-elijah-and-travis-bi-tag.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-phillip-fuck-trey-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-ggb-dru-and-kenny-flip.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-jarret-fuck-connor.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-connor-ashley-break-in.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-justin-fuck-trey-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-connor-and-nicholas-bi.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-ggb-ashley-domination.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-halloween-bash-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-connor-and-cain-bi-flip.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-ethan-fuck-preston.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-elijah-fuck-nicholas.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-dru-fuck-turner-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-dru-fuck-jarret-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-dru-fuck-cain.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-dru-fuck-brody.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-double-double-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-dawson-fuck-justin-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-dawson-fuck-brent.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-costarica-unlimited.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-connor-fuck-taylor.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-connor-fuck-ryan.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-colen-fuck-ian.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-connor-fuck-brody.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-colen-fuck-levi.html>

The logo for Corbin Fisher, featuring the name in a stylized, cursive font.

GENERAL COUNSEL

<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-cain-fuck-marc-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-cain-fuck-levi.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-cain-fuck-brody.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-brent-fuck-elijah-part-1.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-six-pack-unlimited-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-kent-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/codefcort-ranting910-hargarp.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-connor-fuck-kent-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-tagging-josh-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-budapest-pop-up-cf.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-aiden-buries-his-cock-in.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-aiden-fuck-travis-connor.html>  
[http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-aiden-fuck-cain-2011\\_24.html](http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-aiden-fuck-cain-2011_24.html)  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-aiden-fuck-dru-2011.html>  
<http://dvdfilepink.blogspot.com/2011/11/corbin-fisher-aiden-fuck-cain-2011.html>

This correspondence places you on actual notice of this repeat and rampant infringement.

On behalf of Corbin Fisher, I demand that upon receipt of this notification, you expeditiously remove or disable access to the above claimed infringing material and any other Corbin Fisher intellectual property, which may be found on your servers.

#### **IV. REPEAT INFRINGER STATUS**

This account holder is a clear repeat infringer, infringing on multiple copyrighted works of ours. Accordingly, we request that you terminate the hosting account or provide us with a reasonable explanation for your decision to continue doing business with this repeat infringer.

#### **V. CERTIFICATION AND CONCLUSION**

I certify under penalty of perjury that I have a good faith belief that the information contained in this notification is accurate to the best of my knowledge and that I am authorized to act on behalf of the owner of the aforementioned copyright protected materials.

Under the subpoena provision of 17 U.S.C. §512(h) or other legal process, Corbin Fisher **will** seek identifying information for the individuals responsible for posting these infringing works, including without limitation billing information and time stamped IP addresses for each of the individuals. Therefore, I demand that you preserve any and all information relating to the publication of this material. You should maintain all files, computer code, and other records relating to the individuals responsible for the infringement and the corresponding forum where the infringements were discovered.

This notice does not constitute a waiver of any of the copyright owner's legal rights or remedies in this or any other matter, all of which are hereby fully and expressly reserved.



*CORBIN FISHER*

GENERAL COUNSEL

Your immediate attention to this matter is expected. Please advise me via email when all Corbin Fisher materials have been removed so that I may re-inspect the site for compliance.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc J. Randazza", with a long horizontal flourish extending to the right.

Marc J. Randazza  
General Counsel, Corbin Fisher