

1 Steven James Goodhue (#029288)
Law Offices of Steven James Goodhue
2 9375 East Shea Blvd., Suite 100
Scottsdale, AZ 85260
3 Telephone: (480) 214-9500
Facsimile: (480) 214-9501
4 E-Mail: sjg@sjgoodlaw.com

5 *Attorney for Plaintiff*
CP Productions, Inc.

6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**

9
10 CP PRODUCTIONS, INC., an Arizona
corporation,
11
12 Plaintiff,
v.
13 JOHN DOE,
14 Defendant.

CASE NO.:

COMPLAINT AND JURY DEMAND

15
16 Plaintiff CP Productions, Inc., through its undersigned counsel, hereby files this Complaint
17 requesting damages and injunctive relief, and alleges as follows:

18 **NATURE OF THE CASE**

19 1. Plaintiff files this action for copyright infringement under the United States Copyright
20 Act and related common law claims of civil conspiracy and contributory infringement to combat the
21 willful and intentional infringement of one of its creative works. John Doe and his joint tortfeasors,
22 whose names Plaintiff expects to ascertain during discovery, knowingly and illegally, reproduced
23 and distributed Plaintiff's copyrighted creative work, and materially contributed to the infringing
24 conduct of one another by acting in concert via the BitTorrent file sharing protocol and, upon

1 information and belief, continue to do the same. Plaintiff seeks a permanent injunction, statutory or
2 actual damages, an award of costs and attorney's fees, and other relief.

3 **THE PARTIES**

4 2. Plaintiff CP Productions, Inc. is a corporation organized and existing under the laws
5 of the State of Arizona. Plaintiff is the exclusive holder of the relevant rights with respect to the
6 copyrighted creative work that is the subject of this Complaint.

7 3. Plaintiff produces adult entertainment content. Plaintiff formed its business in 2008
8 and has since become a leading producer within its niche. Plaintiff invests significant capital in
9 producing the content associated with its brand and has produced a substantial number of videos.
10 The copyrighted work at issue here is one of these adult videos, "GH Hustlers - Paige's First Visit"
11 (the "Video").

12 4. John Doe has been identified by Plaintiff's agents as a serial infringer of Plaintiff's
13 works. Plaintiff's agents have located John Doe in several swarms specific to Plaintiff's works
14 where, on information and belief, John Doe has distributed Plaintiff's works to thousands of third
15 parties. John Doe and his joint tortfeasors' actual names are unknown to Plaintiff. Instead, they are
16 known to Plaintiff only by an Internet Protocol ("IP") address, which is a number assigned to
17 devices, such as computers, connected to the Internet. In the course of monitoring Internet-based
18 infringement of its copyrighted content, Plaintiff's agents observed unlawful reproduction and
19 distribution occurring among the IP addresses listed on **Exhibit A**, attached hereto and incorporated
20 herein by his reference, via the BitTorrent protocol. John Doe's IP address, identified as
21 68.227.231.105 (with his time of infringement indicated as March 12, 2012, 10:03:02 (UTC)) is
22 listed in **Exhibit A** along with IP addresses of his joint tortfeasors.

23 5. Plaintiff cannot ascertain John Doe's or his joint tortfeasors' actual identities without
24 information from their Internet Service Providers ("ISPs").

JURISDICTION AND VENUE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

6. This Court has subject matter jurisdiction over the copyright infringement claim under 17 U.S.C. §§ 101, *et seq.*, (the Copyright Act), 28 U.S.C. § 1331 (actions arising under the laws of the United States), and 28 U.S.C. § 1338(a) (actions arising under an Act of Congress relating to copyrights). This Court has supplemental jurisdiction over the civil conspiracy claim and the contributory infringement claim under 28 U.S.C. § 1367(a) because they are so related to Plaintiff’s copyright infringement claim, which is within this Court’s original jurisdiction, that these three claims form part of the same case and controversy under Article III of the United States Constitution.

7. This Court has personal jurisdiction because upon information and belief, John Doe either resides in or committed copyright infringement in the State of Arizona. Plaintiff used geolocation technology to trace the IP address of John Doe to a point of origin within the State of Arizona. Geolocation is a method for ascertaining the likely geographic region associated with a given IP address at a given date and time. Although not a litmus test for personal jurisdiction, geolocation suggests that John Doe resides in Arizona.

8. Venue is properly founded in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1400(a) because John Doe resides in this District, may be found in this District, or a substantial part of the events giving rise to the claims in this action occurred within this District.

BACKGROUND

9. BitTorrent is a modern file sharing method (“protocol”) used for distributing data via the Internet.

10. Traditional file transfer protocols involve a central server, which distributes data directly to individual users. This method is prone to collapse when large numbers of users request data from the central server, in which case the server can become overburdened and the rate of data

1 transmission can slow considerably or cease altogether. In addition, the reliability of access to the
2 data stored on a server is largely dependent on the server's ability to continue functioning for
3 prolonged periods of time under high resource demands.

4 11. Standard peer-to-peer ("P2P") protocols involve a one-to-one transfer of whole files
5 between a single uploader and single downloader. Although standard P2P protocols solve some of
6 the issues associated with traditional file transfer protocols, these protocols still suffer from such
7 issues as scalability. For example, when a popular file is released (e.g. an illegal copy of the latest
8 blockbuster movie) the initial source of the file performs a one-to-one whole file transfer to a third
9 party, who then performs similar transfers. The one-to-one whole file transfer method can
10 significantly delay the spread of a file across the world because the initial spread is so limited.

11 12. In contrast, the BitTorrent protocol is a decentralized method of distributing data.
12 Instead of relying on a central server to distribute data directly to individual users, the BitTorrent
13 protocol allows individual users to distribute data among themselves. Further, the BitTorrent
14 protocol involves breaking a single large file into many small pieces, which can be transferred much
15 more quickly than a single large file and in turn redistributed much more quickly than a single large
16 file. Moreover, each peer can download missing pieces of the file from multiple sources—often
17 simultaneously—which causes transfers to be fast and reliable. After downloading a piece, a peer
18 automatically becomes a source for the piece. This distribution method contrasts sharply with a one-
19 to-one whole file transfer method.

20 13. In BitTorrent vernacular, individual downloaders/distributors of a particular file are
21 called peers. The group of peers involved in downloading/distributing a particular file is called a
22 swarm. A server which stores a list of peers in a swarm is called a tracker. A computer program that
23 implements the BitTorrent protocol is called a BitTorrent client. Each swarm is unique to a particular
24 file.

1 14. The BitTorrent protocol operates as follows. First, a user locates a small “torrent” file.
2 This file contains information about the files to be shared and about the tracker, the computer that
3 coordinates the file distribution. Second, the user loads the torrent file into a BitTorrent client, which
4 automatically attempts to connect to the tracker listed in the torrent file. Third, the tracker responds
5 with a list of peers and the BitTorrent client connects to those peers to begin downloading data from
6 and distributing data to the other peers in the swarm. When the download is complete, the BitTorrent
7 client continues distributing data to other peers in the swarm until the user manually disconnects
8 from the swarm or the BitTorrent client otherwise does the same.

9 15. The degree of anonymity provided by the BitTorrent protocol is extremely low.
10 Because the protocol is based on peers connecting to one another, a peer must broadcast identifying
11 information (i.e. an IP address) before it can receive data. Nevertheless, the actual names of peers in
12 a swarm are unknown, as the users are allowed to download and distribute under the cover of their
13 IP addresses.

14 16. The BitTorrent protocol is an extremely popular method for transferring data. The
15 size of swarms for popular files can reach into the tens of thousands of unique peers. A swarm will
16 commonly have peers from many, if not every, state in the United States and several countries
17 around the world. And every peer in the swarm participates in distributing the file to dozens,
18 hundreds, or even thousands of other peers.

19 17. The BitTorrent protocol is also an extremely popular method for unlawfully copying,
20 reproducing, and distributing files in violation of the copyright laws of the United States. A broad
21 range of copyrighted albums, audiovisual files, photographs, software, and other forms of media are
22 available for illegal reproduction and distribution via the BitTorrent protocol.

23 18. Efforts at combating BitTorrent-based copyright infringement have been stymied by
24 BitTorrent’s decentralized nature. Because there are no central servers to enjoin from unlawfully

1 distributing copyrighted content, there is no primary target on which to focus anti-piracy efforts.
2 Indeed, the same decentralization that makes the BitTorrent protocol an extremely robust and
3 efficient means of transferring enormous quantities of data also acts to insulate it from anti-piracy
4 measures. This lawsuit is Plaintiff's only practical means of combating BitTorrent-based
5 infringement of the Video.

6 **ALLEGATIONS COMMON TO ALL COUNTS**

7 19. Plaintiff owns the copyright to the Video.

8 20. Plaintiff has applied for a certificate of copyright registration for the Video from the
9 United States Copyright Office, and that application is currently pending (Application No. 1-
10 740497710).

11 21. The torrent file used to access the copyrighted material was named in a manner that
12 would have provided an ordinary individual with notice that the Video was protected under the
13 copyright laws of the United States.

14 22. Plaintiff employs proprietary P2P network forensic software to perform exhaustive
15 real time monitoring of the BitTorrent-based swarm involved in distributing the Video. This
16 software is effective in capturing data about the activity of peers in a swarm and their infringing
17 conduct.

18 23. John Doe and his joint tortfeasors, without Plaintiff's authorization or license,
19 intentionally downloaded a torrent file particular to Plaintiff's Video, purposefully loaded that
20 torrent file into their BitTorrent clients, entered a BitTorrent swarm particular to Plaintiff's Video,
21 and reproduced and distributed the Video to numerous third parties.

22 24. By willfully entering a BitTorrent swarm with the intent to download an unlawful
23 copy of the Plaintiff's Video, John Doe and his joint tortfeasors, each and individually, automatically
24 became an uploader as well as a downloader. John Doe and his joint tortfeasors thereby provided

1 pieces of the Video to other infringing peers in the swarm for them to exchange and distribute, with
2 the overarching purpose that the ever-growing swarm will jointly contribute to the complete
3 download of the Video for all individuals that enter the swarm at any given moment.

4 25. Plaintiff observed John Doe's and his joint tortfeasors' activities in the torrent swarm
5 specific to the Video and created a log identifying John Doe and his joint tortfeasors by their IP
6 address and the date and time of their unlawful activity. This log is submitted as **Exhibit A**.

7 **FIRST CLAIM FOR RELIEF**

8 **COPYRIGHT INFRINGEMENT**

9 26. Plaintiff hereby incorporates by reference each and every allegation contained in the
10 preceding paragraphs as if set forth fully herein.

11 27. John Doe's and his joint tortfeasors' conduct infringes upon Plaintiff's exclusive
12 rights of reproduction and distribution that are protected under the Copyright Act.

13 28. John Doe and his joint tortfeasors knew or had constructive knowledge that their acts
14 constituted copyright infringement.

15 29. John Doe's and his joint tortfeasors' conduct was willful within the meaning of the
16 Copyright Act: intentional, and with indifference to the Plaintiff's rights.

17 30. Plaintiff has been damaged by John Doe's and his joint tortfeasors' conduct,
18 including but not limited to economic and reputation losses. Plaintiff continues to be damaged by
19 such conduct, and has no adequate remedy at law to compensate the Plaintiff for all of the possible
20 damages stemming from the John Doe's and his joint tortfeasors' conduct.

21 31. Plaintiff hereby reserves the right, pursuant to 17 U.S.C. § 504(c), to elect to recover
22 statutory damages for each infringement, in lieu of seeking recovery of actual damages.

23

24

1 32. As John Doe’s and his joint tortfeasors’ infringement was intentional and willful, the
2 Plaintiff is entitled to an award of statutory damages, exemplary damages, attorneys’ fees, and the
3 costs of the suit.

4 SECOND CLAIM FOR RELIEF

5 CIVIL CONSPIRACY

6 33. Plaintiff hereby incorporates by reference each and every allegation contained in the
7 preceding paragraphs as if set forth fully herein.

8 34. In using the peer-to-peer BitTorrent file distribution method, John Doe and his joint
9 tortfeasors engaged in a concerted action with other yet unnamed individuals to reproduce and
10 distribute Plaintiff’s Video by exchanging pieces of the Video file in the torrent swarm with their
11 peers.

12 35. John Doe and his joint tortfeasors downloaded a torrent file, opened it using a
13 BitTorrent client, and then entered a torrent swarm comprised of other individuals distributing and
14 reproducing Plaintiff’s Video.

15 36. Participants in the torrent swarm have conspired to provide other individuals with
16 pieces of the Video in exchange for receiving other pieces of the same Video to eventually obtain a
17 complete copy of the file.

18 37. In furtherance of this civil conspiracy, John Doe and his joint tortfeasors committed
19 overt tortious and unlawful acts by using BitTorrent software to download the Video from and
20 distribute it to others, and were willful participants in this joint activity.

21 38. As a proximate result of this conspiracy, Plaintiff has been damaged, as is more fully
22 alleged above.

23
24

THIRD CLAIM FOR RELIEF

CONTRIBUTORY INFRINGEMENT

1
2
3 39. Plaintiff hereby incorporates by reference each and every allegation contained in the
4 preceding paragraphs as if set forth fully herein.

5 40. Each peer in a unique swarm possesses the same infringing work with the same exact
6 hash value. Therefore, each infringer possesses an exact digital copy, containing the exact bits and
7 pieces unique to that specific file of Plaintiff's original copyrighted work. This happens in a
8 BitTorrent swarm through the sharing of bits and pieces of an identical unique file between the users
9 in the swarm. In essence, although hundreds of users may be uploading the copyrighted work, a
10 single user will receive only the exact parts of a singular upload through that exact swarm, not a
11 compilation of available pieces from various uploads.

12 41. John Doe and his joint tortfeasors downloaded, uploaded and distributed the Video to
13 other BitTorrent users through use of the protocol in the unique swarm.

14 42. The people who illegally downloaded the Video accessed this illegal distribution and
15 derived portions of their illegal replication of the file from multiple persons, including, but not
16 limited to, John Doe and his joint tortfeasors.

17 43. John Doe and his joint tortfeasors knew of the infringement, were each conscious of
18 their own infringement, and John Doe and his joint tortfeasors were fully conscious that their actions
19 resulted in multiple other persons derivatively downloading the file containing Plaintiff's Video.

20 44. The infringement by the other BitTorrent users who received pieces of the file from
21 John Doe and his joint tortfeasors would not have occurred without John Doe's and his joint
22 tortfeasors' participation in uploading Plaintiff's copyrighted works. As such, John Doe's and his
23 joint tortfeasors' participation in the infringing activities of others is substantial and it contributed to
24 the infringing activity of thousands of other peers over the Internet across the world.

1 45. John Doe’s and his joint tortfeasors’ acts of infringement have been willful,
2 intentional, and purposeful, in disregard of, and indifferent to, the rights of Plaintiffs.

3 46. As a result of the contributory infringement of the Video by John Doe and his joint
4 tortfeasors, Plaintiff has been damaged, as is more fully alleged in Count I.

5 **JURY DEMAND**

6 47. Plaintiff hereby demands a jury trial as provided by FRCP 38(a).

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff respectfully requests Judgment and relief as follows:

9 a. Judgment against John Doe that he has: (i) willfully infringed Plaintiff’s rights in
10 federally registered copyrights pursuant to 17 U.S.C. §501; and (ii) otherwise injured the business
11 reputation and business of Plaintiff by his acts and conduct set forth in this Complaint;

12 b. Judgment in favor of the Plaintiff against John Doe for actual damages or statutory
13 damages pursuant to 17 U.S.C. § 504, at the election of Plaintiff, in an amount to be ascertained at
14 trial;

15 c. Order of impoundment under 17 U.S.C. §§503 & 509(a) impounding all infringing
16 copies of Plaintiff’s audiovisual works, photographs or other materials, which are in John Doe’s
17 possession or under their control;

18 d. On Plaintiff’s SECOND CLAIM FOR RELIEF, an order that John Doe is jointly and
19 severally liable to Plaintiff in the full amount of the Judgment on the basis of a common law claim
20 for civil conspiracy to commit copyright infringement; for an award of compensatory damages in
21 favor of the Plaintiff and against John Doe, jointly and severally, in an amount to be determined at
22 trial;

23 e. On Plaintiff’s THIRD CLAIM FOR RELIEF, an order that John Doe is jointly and
24 severally liable to the Plaintiff in the full amount of Judgment on the basis of a common law claim

1 for contributory infringement of copyright; for an award of compensatory damages in favor of the
2 Plaintiff and against John Doe, jointly and severally, in an amount to be determined at trial;

3 f. Judgment in favor of Plaintiff against John Doe, awarding the Plaintiff attorneys’
4 fees, litigation expenses (including fees and costs of expert witnesses), and other costs of this action;
5 and

6 g. Judgment in favor of the Plaintiff against John Doe, awarding Plaintiff declaratory
7 and injunctive or other equitable relief as may be just and warranted under the circumstances.

8 Dated this 4th day of June, 2012

9 Law Offices of Steven James Goodhue

10
11 By: /s/ Steven James Goodhue
12 Steven James Goodhue (#029288)
13 9375 East Shea Blvd., Suite 100
14 Scottsdale, AZ 85260
15 *Attorney for Plaintiff*
16 *CP Productions, Inc*
17
18
19
20
21
22
23
24