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7 Specially Appearing for Respondent  
BRETT L. GIBBS

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10

11 INGENUITY 13 LLC,  
12 Plaintiff,  
13 vs.  
14 JOHN DOE,  
15 Defendant.  
16

Case No. 2:12-CV-8333-ODW (JCx)  
[Assigned to Judge Otis D. Wright, II ]  
**BRETT L. GIBBS' OBJECTIONS  
TO THE REPLY DECLARATION  
OF MORGAN E. PIETZ AND  
EXHIBITS THERETO AND THE  
TRANSCRIPT OF THE  
DEPOSITION OF AF HOLDINGS,  
LLC TAKEN ON FEBRUARY 19,  
2013**

[OSC Filed: August 1, 2012]

Trial date: None set

21 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:**

22 Respondent Brett L. Gibbs submits the following objections to the Reply  
23 Declaration of Morgan E. Pietz and Exhibits thereto and the Deposition Transcript  
24 of the deposition of AF Holdings LLC taken on February 19, 2013 submitted in  
25 response to the Court's February 7, 2013 Order to Show Cause. Mr. Gibbs asserts  
26 the following objections:  
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**OBJECTIONS TO DECLARATION OF MORGAN E. PIETZ**

<b><u>Material Objected to:</u></b>	<b><u>Grounds for Objection:</u></b>
<p>1. Declaration of Morgan E. Pietz, pg. 2 ¶ 2, as follows: I represent ISP subscribers who have been targeted by Ingenuity 13, LLC, through its counsel Prenda Law, Inc. f/k/a Hansemeier PLLC (“Prenda”) in copyright infringement cases Ingenuity 13 filed in both the Central District of California, and the Northern District of California.</p>	<p>1. Irrelevant (<i>FRE</i> §§401, 402); Lacks Foundation and/or Personal Knowledge (<i>FRE</i> §602); Improper Opinion (<i>FRE</i> § 701); Speculation (<i>FRE</i> §602); Argumentative; Assumes Facts Not In Evidence; Improper Characterization of Evidence.</p>
<p>2. Declaration of Morgan E. Pietz, pg. 2 ¶ 2, as follows: I also represent other clients in other cases brought by Prenda on behalf of other entities, sometimes along with local counsel, in other courts.</p>	<p>2. Irrelevant (<i>FRE</i> §§401, 402).</p>
<p>3. Declaration of Morgan E. Pietz, pg. 2 ¶ 4, as follows: My clients in the Prenda cases, including this case, each received letters from their ISPs informing them that Prenda was attempting to subpoena their identity as part of a lawsuit.</p>	<p>3. Irrelevant (<i>FRE</i> §§401, 402); Lacks Foundation and/or Personal Knowledge (<i>FRE</i> §602); Assumes Facts Not In Evidence; Improper Characterization of Evidence.</p>
<p>4. Declaration of Morgan E. Pietz, pg. 2 ¶ 4, as follows: Generally, my clients are people who happen to pay the Internet bill for their household, not necessarily the people who actually committed the</p>	<p>4. Irrelevant (<i>FRE</i> §§401, 402); Lacks Foundation and/or Personal Knowledge (<i>FRE</i> §602); Argumentative; Assumes Facts Not In Evidence; Improper</p>

<u>Material Objected to:</u>	<u>Grounds for Objection:</u>
alleged infringement or other wrongful conduct.	Characterization of Evidence.
<p>5. Declaration of Morgan E. Pietz, pg. 2 ¶ 4, as follows: However, Prenda constructs its lawsuits so as to make it unclear what exactly is the status of my clients.</p>	<p>5. Irrelevant (<i>FRE</i> §§401, 402); Lacks Foundation and/or Personal Knowledge (<i>FRE</i> §602); Improper Opinion (<i>FRE</i> § 701); Speculation (<i>FRE</i> §602); Argumentative; Assumes Facts Not In Evidence; Improper Characterization of Evidence.</p>
<p>6. Declaration of Morgan E. Pietz, pg. 2 ¶ 4, as follows: The complaint does not exactly come out and say that the ISP subscriber equals the John Doe defendant.</p>	<p>6. Irrelevant (<i>FRE</i> §§401, 402); Lacks Foundation and/or Personal Knowledge (<i>FRE</i> §602); Improper Opinion (<i>FRE</i> § 701); Speculation (<i>FRE</i> §602); Argumentative; Assumes Facts Not In Evidence; Improper Characterization of Evidence.</p>
<p>7. Declaration of Morgan E. Pietz, pg. 2 ¶ 4, as follows: However the requests for early discovery seeking leave to issue ISP subpoenas, generally tend to conflate ISP subscriber with Doe defendant.</p>	<p>7. Irrelevant (<i>FRE</i> §§401, 402); Lacks Foundation and/or Personal Knowledge (<i>FRE</i> §602); Improper Opinion (<i>FRE</i> §§701; Speculation (<i>FRE</i> §602); Argumentative; Assumes Facts Not In Evidence; Improper Characterization of Evidence.</p>

<u>Material Objected to:</u>	<u>Grounds for Objection:</u>
<p>1</p> <p>2 <b>8.</b> Declaration of Morgan E. Pietz, pg.</p> <p>3 3 ¶ 6, as follows: Exhibit EE - Attached</p> <p>4 as <u>Exhibit EE</u> hereto is a true and correct</p> <p>5 copy of the [Amended] “Motion for</p> <p>6 Withdrawal and Substitution of Counsel”</p> <p>7 filed by Mr. Gibbs in <i>AF Holdings, LLC v.</i></p> <p>8 <i>Andrew Magsumnol</i>, N.D. Cal. No. 3:12-</p> <p>9 cv-4221-SC ECF No. 22, 1/30/13.</p>	<p>8. Irrelevant (<i>FRE</i> §§401, 402);</p> <p>Lacks Foundation and/or Personal</p> <p>Knowledge (<i>FRE</i> §602); Hearsay</p> <p>(<i>FRE</i> §§801(c), 802); Speculation</p> <p>(<i>FRE</i> §602); Improper</p> <p>Characterization of Evidence;</p> <p>Improper Authentication of</p> <p>Document (<i>FRE</i> §901).</p>
<p>10 <b>9.</b> Declaration of Morgan E. Pietz, pg.</p> <p>11 3 ¶ 6, as follows: On page 2, Mr. Gibbs</p> <p>12 lists himself as “In-House Counsel, AF</p> <p>13 Holdings LLC”.</p> <p>14</p> <p>15</p> <p>16</p>	<p>9. Irrelevant (<i>FRE</i> §§401, 402);</p> <p>Lacks Foundation and/or Personal</p> <p>Knowledge (<i>FRE</i> §602); Hearsay</p> <p>(<i>FRE</i> §§801(c), 802); Speculation</p> <p>(<i>FRE</i> §602); Argumentative;</p> <p>Improper Characterization of</p> <p>Evidence.</p>
<p>17 <b>10.</b> Declaration of Morgan E. Pietz, pg.</p> <p>18 3 ¶ 6, as follows: The prior day, January</p> <p>19 29, 2013, Mr. Gibbs had filed a different</p> <p>20 version of the same motion (<i>id.</i> at ECF</p> <p>21 No. 21).</p> <p>22</p> <p>23</p> <p>24</p>	<p>10. Irrelevant (<i>FRE</i> §§401, 402);</p> <p>Lacks Foundation and/or Personal</p> <p>Knowledge (<i>FRE</i> §602); Hearsay</p> <p>(<i>FRE</i> §§801(c), 802); Speculation</p> <p>(<i>FRE</i> §602); Argumentative;</p> <p>Improper Characterization of</p> <p>Evidence; Improper Authentication</p> <p>of Document (<i>FRE</i> §901).</p>
<p>25 <b>11.</b> Declaration of Morgan E. Pietz, pg.</p> <p>26 3 ¶ 6, as follows: The only apparent</p> <p>27 difference between the two substitution</p> <p>28</p>	<p>11. Irrelevant (<i>FRE</i> §§401, 402);</p> <p>Lacks Foundation and/or Personal</p> <p>Knowledge (<i>FRE</i> §602); Hearsay</p>

<b><u>Material Objected to:</u></b>	<b><u>Grounds for Objection:</u></b>
<p>1 motions was the addition of the line where  2 Mr. Gibbs signed for AF Holdings, as in  3 house counsel, in the amended motion.  4  5</p>	<p>(FRE §§801(c), 802); Speculation  (FRE §602); Argumentative;  Improper Characterization of  Evidence.</p>
<p>6 <b>12.</b> Declaration of Morgan E. Pietz, pg.  7 3 ¶ 7, as follows: Exhibit FF - Attached  8 as <u>Exhibit FF</u> hereto is a true and correct  9 copy of the pleadings that Prenda’s local  10 counsel in St. Clair County, Illinois, Kevin  11 Hoerner, filed in on or around February  12 13, 2013, in <i>Guava, LLC v. Comcast</i>  13 <i>Cable Communication, LLC</i>, Circuit Court  14 of St. Clair County Illinois, No. 12-MR-  15 417.</p>	<p>12. Irrelevant (FRE §§401, 402);  Lacks Foundation and/or Personal  Knowledge (FRE §602); Hearsay  (FRE §§801(c), 802); Speculation  (FRE §602); Improper  Characterization of Evidence;  Improper Authentication of  Document (FRE §901).</p>
<p>16 <b>13.</b> Declaration of Morgan E. Pietz, pg.  17 3 ¶ 7, as follows: This pleading states on  18 page 5 that the name of the person who  19 supposedly verified the petition in that  20 action is “Alan Mony.”  21</p>	<p>13. Irrelevant (FRE §§401, 402);  Lacks Foundation and/or Personal  Knowledge (FRE §602); Hearsay  (FRE §§801(c), 802); Speculation  (FRE §602); Improper  Characterization of Evidence.</p>
<p>22 <b>14.</b> Declaration of Morgan E. Pietz, pg.  23 3 ¶ 7, as follows: On February 14, 2013,  24 among other questions, I asked Prenda’s  25 lawyers to confirm the spelling of the  26 purported client who had signed the  27 verification, and Mr. Hoerner responded  28</p>	<p>14. Irrelevant (FRE §§401, 402);  Hearsay (FRE §§801(c), 802);  Argumentative; Improper  Characterization of Evidence.</p>

<u>Material Objected to:</u>	<u>Grounds for Objection:</u>
<p>1 that day (this was the entire response);  2 “The issues have already been briefed.  3 See you in court.”</p>	
<p>5 <b>15.</b> Declaration of Morgan E. Pietz, pg.  6 3 ¶ 8, as follows: Exhibit GG - Attached  7 as <u>Exhibit GG</u> hereto is a true and correct  8 copy of the amended verification filed by  9 Prenda on February 21, 2013 in Guava St.  10 Clair County action, purportedly executed  11 by someone spelling their name “Alan  12 Mooney.”</p>	<p>15. Irrelevant (<i>FRE</i> §§401, 402);  Lacks Foundation and/or Personal  Knowledge (<i>FRE</i> §602); Hearsay  (<i>FRE</i> §§801(c), 802); Speculation  (<i>FRE</i> §602); Argumentative;  Assumes Facts Not In Evidence;  Improper Characterization of  Evidence; Improper Authentication  of Document (<i>FRE</i> §901).</p>
<p>14 <b>16.</b> Declaration of Morgan E. Pietz, pg.  15 3 ¶ 9, as follows: Exhibit HH - Attached  16 as <u>Exhibit HH</u> hereto is a true and correct  17 copy of an explanatory organization  18 diagram I am prepared for Prenda, etc. I  19 am prepared to explain this document at  20 the hearing and can provide documentary  21 support for the connections.</p>	<p>16. Irrelevant (<i>FRE</i> §§401, 402);  Lacks Foundation and/or Personal  Knowledge (<i>FRE</i> §602); Hearsay  (<i>FRE</i> §§801(c), 802); Speculation  (<i>FRE</i> §602); Argumentative;  Assumes Facts Not In Evidence;  Improper Characterization of  Evidence; Improper Authentication  of Document (<i>FRE</i> §901).</p>
<p>23 <b>17.</b> Declaration of Morgan E. Pietz,  24 pgs. 3-4 ¶ 10, as follows: Attached as  25 <u>Exhibit II</u> is a true and correct copy of two  26 Google Earth maps that I prepared. The  27 first map shows the Wagar residence</p>	<p>17. Irrelevant (<i>FRE</i> §§401, 402);  Lacks Foundation and/or Personal  Knowledge (<i>FRE</i> §602); Hearsay  (<i>FRE</i> §§801(c), 802); Speculation  (<i>FRE</i> §602); Assumes Facts Not In</p>

<u>Material Objected to:</u>	<u>Grounds for Objection:</u>
<p>1 located at 1411 Paseo Jacardanda, Santa  2 Maria, California 93458. (ECF No. 50 ¶  3 29). The second map shows the Denton  4 residence located 635 S. Vanderwell  5 Avenue, West Covina, California 91790.  6</p>	<p>Evidence; Improper  7 Characterization of Evidence;  8 Improper Authentication of  9 Document (<i>FRE</i> §901).</p>
<p>7 <b>18.</b> Declaration of Morgan E. Pietz,  8 pgs. 3-4 ¶ 10, as follows: In order to  9 illustrate the range of a WiFi network,  10 both maps show three circles around the  11 residence, each with different radii: a 100  12 ft. circle (green), a 300 ft. circle (yellow),  13 and a 500 ft. circle (red).  14</p>	<p>18. Irrelevant (<i>FRE</i> §§401, 402);  15 Lacks Foundation and/or Personal  16 Knowledge (<i>FRE</i> §602); Hearsay  17 (<i>FRE</i> §§801(c), 802); Speculation  18 (<i>FRE</i> §602); Argumentative;  19 Assumes Facts Not In Evidence;  20 Improper Characterization of  21 Evidence.  22</p>
<p>15 <b>19.</b> Declaration of Morgan E. Pietz, pg.  16 4 ¶ 11, as follows: Exhibit JJ - Attached  17 as <u>Exhibit JJ</u> hereto is a true and correct  18 copy of the manual, chapter 4, for a  19 wireless router owned by a client of mine  20 in a prior, unrelated case.  21  22  23</p>	<p>19. Irrelevant (<i>FRE</i> §§401, 402);  24 Lacks Foundation and/or Personal  25 Knowledge (<i>FRE</i> §602); Hearsay  26 (<i>FRE</i> §§801(c), 802); Speculation  27 (<i>FRE</i> §602); Assumes Facts Not In  28 Evidence; Improper  29 Characterization of Evidence;  30 Improper Authentication of  31 Document (<i>FRE</i> §901).</p>
<p>24 <b>20.</b> Declaration of Morgan E. Pietz, pg.  25 4 ¶ 11, as follows: The router at issue  26 there was about ten years old, and  27 specified a range of between 300-500 ft.,  28</p>	<p>20. Irrelevant (<i>FRE</i> §§401, 402);  29 Lacks Foundation and/or Personal  30 Knowledge (<i>FRE</i> §602); Hearsay  31 (<i>FRE</i> §§801(c), 802); Speculation</p>

<p>1                    <b><u>Material Objected to:</u></b></p> <p>2                    per page 4-2. This is simply an example</p> <p>3                    of the kind of signal range available on a</p> <p>4                    not-state-of-the-art router.</p> <p>5</p> <p>6</p>	<p style="text-align: center;"><b><u>Grounds for Objection:</u></b></p> <p>(<i>FRE</i> §602); Argumentative;</p> <p>Assumes Facts Not In Evidence;</p> <p>Improper Characterization of</p> <p>Evidence; Improper Authentication</p> <p>of Document (<i>FRE</i> §901).</p>
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8                    **OBJECTIONS TO DEPOSITION TRANSCRIPT OF AF HOLDINGS LLC**

9                    **TAKEN ON FEBRUARY 19, 2013**

<p>10                   <b><u>Material Objected to:</u></b></p> <p>11                   1. Deposition Transcript of the Deposition</p> <p>12                   of AF Holdings LLC’s designated witness</p> <p>13                   taken on February 19, 2013 and lodged</p> <p>14                   with the Court on March 7 and 8, 2013.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p>	<p style="text-align: center;"><b><u>Grounds for Objection:</u></b></p> <p>1. Irrelevant (<i>FRE</i> §§401, 402);</p> <p>Lacks Foundation and/or Personal</p> <p>Knowledge (<i>FRE</i> §602); Hearsay</p> <p>(<i>FRE</i> §§801(c), 802); Speculation</p> <p>(<i>FRE</i> §602); Argumentative;</p> <p>Assumes Facts Not In Evidence;</p> <p>Improper Characterization of</p> <p>Evidence; Improper Authentication</p> <p>of Document (<i>FRE</i> §901).</p>
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22 Dated: March 7, 2013

WAXLER ♦ CARNER ♦ BRODSKY LLP

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24 By: 

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26 ANDREW J. WAXLER

27 WON M. PARK

28 Specially Appearing for Respondent

BRETT L. GIBBS