

Exhibit A

Nicholas Ranallo, Attorney at Law
SBN 275016
371 Dogwood Way
Boulder Creek, CA 95006
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nick@ranallolawoffice.com

Attorney for Joe Navasca

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

| | | |
|-------------------|---|-----------------------------|
| AF HOLDINGS, LLC, |) | Case No.: 3:12-cv-02396-EMC |
| |) | |
| Plaintiff, |) | DECLARATION OF BRETT GIBBS |
| |) | |
| vs. |) | |
| |) | |
| JOE NAVASCA, |) | |
| |) | |
| Defendant |) | |

1. I am an attorney duly licensed to practice in the State of California and before the District Court for the Northern District of California. This declaration is based on personal knowledge of the matters set forth herein.
2. I am formerly "Of Counsel" for Prenda Law, Inc. in California, and represented AF Holdings in that capacity in the instant matter, as well as multiple other cases throughout the state of California until approximately February, 2013.
3. As noted in my March 11, 2013, testimony before the Central District of California in the matter of Ingenuity 13 v. Doe, at all relevant times I was supervised by attorneys John Steele and Paul Hansmeier with regard to AF Holdings' litigation, including this case. John Steele and Paul Hansmeier were the attorneys who I was informed communicated with clients such as AF Holdings, and provided me with instructions and guidelines, which I was informed, originated from these clients, including AF Holdings.

- 1 4. I have reviewed the Affidavit of Mark Lutz filed in this case on May 13, 2013 (Doc.
2 #80). I believe that the information provided in the fifth paragraph of that affidavit
3 regarding my interactions with Mr. Lutz is not an accurate description of those events. I
4 did not "from time to time" send certificates for Mr. Lutz to sign on behalf of the Salt
5 Marsh Trust. I did not have the alleged conversations with Mr. Lutz. In fact, I did not
6 know that Mark Lutz was directly affiliated with these companies, as an owner or
7 otherwise, until months after filing the ADR Certification in this case.
- 8 5. Instead, I was specifically told by Mr. Hansmeier that Salt Marsh was the owner of AF
9 Holdings, and that he, Salt Marsh, had read and understood the ADR handbook, and that
10 I could go ahead and file the ADR Certification with the electronic signature of Salt
11 Marsh. Again, I never spoke with Salt Marsh directly. Through my conversation with
12 Mr. Hansmeier, I was under the impression that the Salt Marsh was an individual who
13 had in fact complied with the Local Rule and that his original signature existed on a
14 document that was being held by my then-employer, Prenda Law, Inc. Given that
15 information, I proceeded to file the ADR Certification on that basis.
- 16 6. After I filed this case, I learned through a separate case filed in Minnesota that the
17 assignment agreement may have been invalid because there was a dispute whether a
18 signature on the agreement was in fact forged. Once alerted to this, I immediately
19 discussed this matter with John Steele and Paul Hansmeier. They assured me that it was
20 a valid signature, that the allegations were mere "conspiracy theories," and that I should
21 have no concern in continuing to prosecute this and other AF Holdings' cases. I believe I
22 was diligent in my factual and legal investigation of this matter.

23
24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. This declaration is executed on this 4th day of June 2013,
26 in Mill Valley, California.
27
28

CERTIFICATE OF SERVICE

By: /s/
Nicholas Ranallo

Exhibit D

1 Brett Gibbs
2 38 Miller Avenue, #263
3 Mill Valley, CA 94941
4 Telephone: (415) 381-3104
5 brett.gibbs@gmail.com
6 *In Propria Persona*

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 INGENUITY 13 LLC,

11 *Plaintiff,*

12 v.

13 JOHN DOE,

14 *Defendant.*

CASE NO. 2:12-CV-8333-ODW (JCx)

Judge: Hon. Otis D. Wright, II
Magistrate Judge: Hon. Jacqueline Chooljian

15 **STIPULATION BETWEEN**
16 **MOVANT BRETT L. GIBBS AND**
17 **ATTORNEY MORGAN E. PIETZ**

18 **STIPULATION**

19 Pursuant to the Central District of California Local Rules, L.R. 7-1,
20 Movant Brett L. Gibbs and the Putative John Doe defendant in 12-cv-
21 8333, by and through counsel, Attorney Morgan E. Pietz (hereinafter
22 “Stipulating Parties”), have agreed to certain terms regarding the May 6,
23 2013 “Order Issuing Sanctions” (hereinafter “May 6 Order,” Doc. No. 130), the
24 Court’s May 21, 2013 “Order Denying Ex Parte Application for Stay of
25 Enforcement; Order to Show Cause Re Attorney’s Fee Award” (“May 21 Order,”
26 Doc. No. 164), and the Court’s Order Denying in Part and Conditionally Granting in
27

1 Part Paul Duffy's Motion for Approval of Bond and Order Staying Enforcement of
2 May 6 and May 21 Orders Imposing Sanctions and Penalties ("June 7 Order," Doc.
3 No. 176). After meeting and conferring in good faith on the issues
4 currently presented in this matter, the Stipulating Parties stipulate to the
5 following:

- 6 1. In view of a bond having been posted in the above-captioned matter,
7 and in consideration of Mr. Gibbs' current financial difficulties as
8 presented in his May 23, 2013 Response to the Court's May 21 Order,
9 the Stipulating Parties agree that the entire amount of the \$1,000 per
10 day penalty should be vacated as to Mr. Gibbs, and only as to Mr.
11 Gibbs.
- 12 2. Mr. Gibbs' position is that because the Court's May 6 Order imposed
13 joint and several liability for the attorney's fee award on four
14 individuals and three entities, and the Court's June 7 Order required that
15 the bonds clearly set forth the joint and several liability of the parties,
16 the posted bond effectively applies to and secures payment from all of
17 the sanctioned parties, including Mr. Gibbs. The putative John Doe
18 defendant, through counsel, does not object to this position.
- 19 3. The Stipulating Parties agree that Mr. Gibbs should not accrue an
20 additional sanction or penalty for failing to post the additional bond
21 required by the Court's June 7 Order; however, if the additional bond
22 required in the June 7 Order is not timely posted, this stipulation is
23 without prejudice to the putative defendant's right to seek further relief
24 as against any party, including Mr. Gibbs.

25 ///

26 ///

1 **CERTIFICATE OF SERVICE**

2 IT IS HEREBY CERTIFIED THAT:

3 I, the undersigned, am a citizen of the United States and am at least eighteen
4 years of age. My business address is 38 Miller Avenue, Mill Valley, CA 94941. The
5 undersigned hereby certifies that on June 11, 2013, all individuals of record who are
6 deemed to have consented to electronic service are being served a true and correct
7 copy of the foregoing document using the Court's ECF system, in compliance with
8 this Court's Local Rules. Further, on June 11, 2013 a true and correct copy of the
9 foregoing document was placed into the U.S. mail, which was delivered to the
10 following addresses, postage paid, the list of which comprise the currently known
11 service list of individuals with known addresses on this matter as required under the
12 Local Rules:

13
14 Angela Van Den Hemel
15 Prenda Law, Inc.
16 161 N. Clark St., Suite 3200
17 Chicago, IL 60601
18 Email: pduffy@pduffygroup.com;
19 paulduffy2005@gmail.com

20 John Steele
21 1111 Lincoln Road, Suite 400
22 Miami Beach, FL 33139
23 Telephone: (708) 689-8131
24 *In Propria Persona*

25 /s/ Brett L/ Gibbs

26 Brett L. Gibbs

Exhibit E

Brett L. Gibbs, Esq. (SBN 251000)
38 Miller Avenue, #263
Mill Valley, CA 94941
415-341-5318
brett.gibbs@gmail.com

Attorney of Record for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AF HOLDINGS, LLC,

Plaintiff,

v.

ANDREW MAGSUMBOL,

Defendant.

No. 3:12-cv-04221-SC

~~PROPOSED~~ ORDER GRANTING
ADMINISTRATIVE MOTION FOR
RELIEF TO ALLOW ATTORNEY BRETT
L. GIBBS WITHDRAW AS COUNSEL
OF RECORD PURSUANT TO LOCAL
RULES 7-11 AND 11-5

For good cause shown, Mr. Gibbs' Administrative Motion for Relief to Allow Attorney Brett L. Gibbs to Withdraw as Counsel is hereby GRANTED, and attorney Brett L. Gibbs shall be terminated from this matter as of the date of this Order.

IT IS SO ORDERED.

DATED: 07/03/2013

Hon. Samuel Conti
United States District Court
Northern District of California

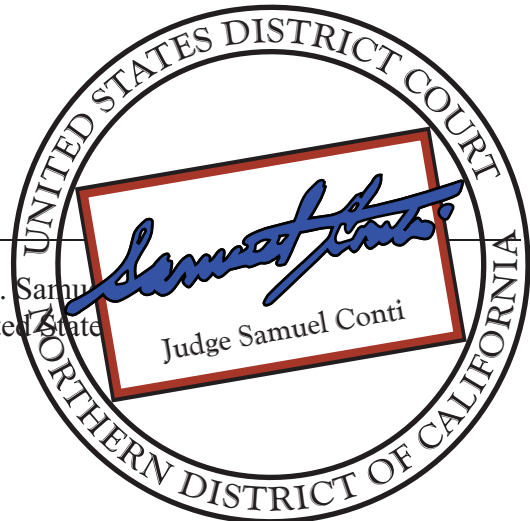


Exhibit F

BRETT L. GIBBS, ESQ.
ATTORNEY AT LAW

January 29, 2013

Brett L. Gibbs, ESQ.
38 Miller
Avenue, #263
Mill Valley
California, 94941
P: 415.325.5900
blgibbs@wefightpiracy.com

Mark L. Lutz
Corporate Representative of AF Holdings LLC
C/O AF Holdings LLC
Springates East
Government Road
Charlestown, Nevis

Via Email and US Mail

Re: AF Holdings Case Nos.: 12-1064, 12-1066, 12-1067, 12-1068, 12-1075, 12-1078, 12-1079, 12-2049, 12-2394, 12-2393, 12-2404, 12-2411, 12-2415, 12-1654, 12-1656, 12-1657, 12-1659, 12-1660, 12-1661, 12-1663, 12-3249, 12-1519, 12-1523, 12-1525, 12-4219, 12-4221, 12-1840, 12-2204, 12-2206, 12-2207, 12-4446, 12-4982.

Confirmation of Withdrawal as Counsel

Dear Mr. Lutz:

Per our discussion this afternoon, I will be withdrawing as counsel of record in all of the above-referenced cases. Also, per our discussion, Mr. Paul Duffy will be substituting and entering his appearance as lead counsel in all of the above cases. Per our conversation, I will remain as counsel of record on Case No. 12-2396 through the Early Neutral Evaluation hearing; after which time, I will be withdrawing as counsel and substituting with Mr. Duffy.

This letter is a confirmation of these mutually agreed upon actions. As we both agree, Mr. Paul Duffy will be sufficient in handling the above cases as lead counsel.

Sincerely,



Brett L. Gibbs, Esq.,

CC: Paul Duffy, Esq. (via email)

Exhibit G

Brett L. Gibbs, Esq. (SBN 251000)
 38 Miller Avenue, #263
 Mill Valley, CA 94941
 415-325-5900
blgibbs@wefightpiracy.com

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE
 NORTHERN DISTRICT OF CALIFORNIA

AF HOLDINGS LLC,

Plaintiff,

v.

ANDREW MAGSUMBOL,

Defendant.

No. 3:12-cv-04221-SC

**DEPOSITION OF MARK LUTZ
 SUPPORTING MOTION FOR
 WITHDRAWAL OF COUNSEL**

**DECLARATION OF MARK LUTZ IN SUPPORT OF
 APPLICATION FOR EXPEDITED DISCOVERY**

I, Mark Lutz, declare as follows:

1. I am the CEO of AF Holdings LLC, the Plaintiff in this matter.
2. I recently discussed Mr. Brett Gibbs' intent to withdraw as counsel of this case, and we agreed that Mr. Gibbs' withdrawal would be best for Plaintiff in this suit.
3. I was told by Mr. Gibbs that AF Holdings LLC must retain California counsel within a reasonable amount of time as the LLC cannot go forward on its own without counsel. I understand this requirement and I assured Mr. Gibbs that I would be actively looking for California counsel to litigate this case in his absence.
4. I declare under penalty of perjury that the foregoing is true and correct based on my own personal knowledge, except for those matters stated on information and belief,

1 and those matters I believe to be true. If called upon to testify, I can and will
2 competently testify as set forth above.
3
4

5
6 **DATED: February 27, 2013**

7 By:

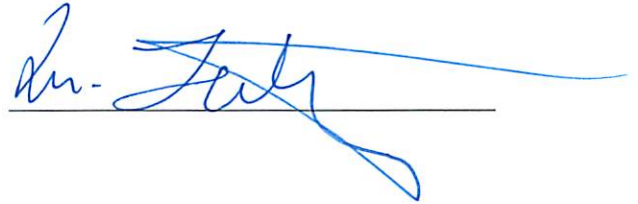
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Exhibit H

Brett L. Gibbs, Esq. (SBN 251000)
38 Miller Avenue, #263
Mill Valley, CA 94941
415-341-5318
brett.gibbs@gmail.com

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AF Holdings, LLC,

Plaintiff,

v.

Andrew Magsumbol,

Defendants.

No. 3:12-cv-04221-SC

**STATEMENT NON-OPPOSITION
PURSUANT TO LOCAL RULE
7-3(b)**

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that pursuant to Local Rule 7-3(b), Plaintiff is not opposing Defendant's Motion for Attorney's Fees (Doc. #54).

Respectfully Submitted,

DATED: June 25, 2013

By: /s/ Brett L. Gibbs, Esq.

Brett L. Gibbs, Esq. (SBN 251000)
38 Miller Avenue, #263
Mill Valley, CA 94941
Brett.gibbs@gmail.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 25, 2013, all individuals of record who are deemed to have consented to electronic service are being served a true and correct copy of the foregoing document, and all attachments and related documents, using the Court's ECF system, in compliance with Local Rule 5-6 and General Order 45.

/s/ Brett L. Gibbs
Brett L. Gibbs, Esq.

Exhibit I

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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
9

10 INGENUITY 13 LLC,
11 Plaintiff,
12 v.
13 JOHN DOE,
14 Defendant.

Case Nos. 2:12-cv-8333-ODW(JCx)

**ORDER TO SHOW CAUSE RE
SANCTIONS FOR RULE 11 AND
LOCAL RULE 83-3 VIOLATIONS**

15 The Court hereby orders Brett L. Gibbs, attorney of record for AF Holdings
16 LLC and Ingenuity 13 LLC, to appear on March 11, 2013, at 1:30 p.m., to justify his
17 violations of Federal Rule of Civil Procedure 11 and Local Rule 83-3 discussed
18 herein.¹

19 **A. Legal Standard**

20 The Court has a duty to supervise the conduct of attorneys appearing before it.
21 *Erickson v. Newmar Corp.*, 87 F.3d 298, 301 (9th Cir. 1996). The power to punish
22 contempt and to coerce compliance with issued orders is based on statutes and the
23 Court's inherent authority. *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512

24
25 ¹ The violations discussed herein were committed in the following related cases: *AF Holdings LLC v.*
26 *Doe*, No. 2:12-cv-6636-ODW(JCx) (C.D. Cal. filed Aug. 1, 2012); *AF Holdings LLC v. Doe*, No.
27 *2:12-cv-6669-ODW(JCx)* (C.D. Cal. filed Aug. 2, 2012); *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-
28 *6662-ODW(JCx)* (C.D. Cal. filed Aug. 2, 2012); *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6668-
ODW(JCx) (C.D. Cal. filed Aug. 2, 2012); *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-8333-ODW(JCx)
(C.D. Cal. filed Sept. 27, 2012). To facilitate this matter, Mr. Gibbs will be given the opportunity to
address these violations together in one hearing rather than in several separate hearings.

U.S. 821, 831 (1994). And though this power must be exercised with restraint, the Court has wide latitude in fashioning appropriate sanctions to fit the conduct. *See Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764–65 (1980).

B. Rule 11(b)(3) Violations

By presenting a pleading to the Court, an attorney certifies that—after conducting a reasonable inquiry—the factual contentions in the pleading have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery. Fed. R. Civ. P. 11(b)(3). This precomplaint duty to find supporting facts is “not satisfied by rumor or hunch.” *Bankers Trust Co. v. Old Republic Ins. Co.*, 959 F.2d 677, 683 (7th Cir. 1992). The reasonableness of this inquiry is based on an objective standard, and subjective good faith provides no safe harbor. *Golden Eagle Distrib. Corp. v. Burroughs Corp.*, 801 F.2d 1531, 1538 (9th Cir. 1986); *F.D.I.C. v. Calhoun*, 34 F.3d 1291, 1296 (5th Cir. 1994); *Knipe v. Skinner*, 19 F.3d 72, 75 (2d Cir. 1994). The Court wields the discretion to impose sanctions designed to “deter repetition of the conduct or comparable conduct by others similarly situated.” Fed R. Civ. P 11(c)(4).

In *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6662-ODW(JCx) (C.D. Cal. filed Aug. 2, 2012), the Court ordered Plaintiff on December 20, 2012, to show cause why it failed to timely serve the Defendant or, if the Defendant has already been served, to submit the proof of service. (ECF No. 12.) In response, Plaintiff noted that the delay was because it waited to receive a response from the subscriber of the IP address associated with the alleged act of infringement. (ECF No. 14.) Plaintiff further noted: “Though the subscriber, David Wagar, remained silent, Plaintiff’s investigation of his household established that Benjamin Wagar was the likely infringer of Plaintiff’s copyright.” (ECF No. 14, at 2.) Based on this investigation, Plaintiff filed an Amended Complaint, substituting Benjamin Wagar for John Doe. (ECF No. 13.)

Plaintiff’s Amended Complaint alleges the following in connection with Benjamin Wagar:

- 1 • “Defendant Benjamin Wagar (‘Defendant’) knowingly and illegally
- 2 reproduced and distributed Plaintiff’s copyrighted Video by acting in
- 3 concert with others via the BitTorrent file sharing protocol and, upon
- 4 information and belief, continues to do the same.” (AC ¶ 1);
- 5 • “Defendant is an individual who, upon information and belief, is over the
- 6 age of eighteen and resides in this District.” (AC ¶ 4);
- 7 • “Defendant was assigned the Internet Protocol (‘IP’) address of
- 8 96.248.225.171 on 2012-06-28 at 07:19:47 (UTC).” (AC ¶ 4);
- 9 • “Defendant, using IP address 96.248.225.171, without Plaintiff’s
- 10 authorization or license, intentionally downloaded a torrent file particular
- 11 to Plaintiff’s Video, purposefully loaded that torrent file into his
- 12 BitTorrent client—in this case, Azureus 4.7.0.2—entered a BitTorrent
- 13 swarm particular to Plaintiff’s Video, and reproduced and distributed the
- 14 Video to numerous third parties.” (AC ¶ 22);
- 15 • “Plaintiff’s investigators detected Defendant’s illegal download on 2012-
- 16 06-28 at 07:19:47 (UTC). However, this is a [*sic*] simply a snapshot
- 17 observation of when the IP address was *observed* in the BitTorrent
- 18 swarm; the conduct took itself [*sic*] place before and after this date and
- 19 time.” (AC ¶ 23);
- 20 • “The unique hash value in this case is identified as
- 21 F016490BD8E60E184EC5B7052CEB1FA570A4AF11.” (AC ¶ 24.)

22 In a different case, *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6668-ODW(JCx)

23 (C.D. Cal. filed Aug. 2, 2012), Plaintiff essentially makes the same response to the

24 Court’s December 20, 2012 Order To Show Cause (ECF No. 12): “Though the

25 subscriber, Marvin Denton, remained silent, Plaintiff’s investigation of his household

26 established that Mayon Denton was the likely infringer of Plaintiff’s copyright.”

27 (ECF No. 13, at 2.) And based on this information, Plaintiff filed an Amended

28 Complaint (ECF No. 16), similar in all respects to the one filed against Benjamin

Wagar in *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6662-ODW(JCx) (C.D. Cal. filed Aug. 2, 2012), with the following technical exceptions:

- “Defendant was assigned the Internet Protocol (‘IP’) address of 75.128.55.44 on 2012-07-04 at 07:51:30 (UTC).” (AC ¶ 4);
- “Defendant . . . purposefully loaded that torrent file into his BitTorrent client—in this case, µTorrent 3.1.3” (AC ¶ 22);
- “The unique hash value in this case is identified as 0D47A7A035591B0BA4FA5CB86AFE986885F5E18E.” (AC ¶ 24.)

Upon review of these allegations, the Court finds two glaring problems that Plaintiff’s technical cloak fails to mask. Both of these are obvious to an objective observer having a working understanding of the underlying technology.

1. Lack of reasonable investigation of copyright infringement activity

The first problem is how Plaintiff concluded that the Defendants actually downloaded the entire copyrighted video, when all Plaintiff has as evidence is a “snapshot observation.” (AC ¶ 23.) This snapshot allegedly shows that the Defendants were downloading the copyrighted work—at least at that moment in time. But downloading a large file like a video takes time; and depending on a user’s Internet-connection speed, it may take a long time. In fact, it may take so long that the user may have terminated the download. The user may have also terminated the download for other reasons. To allege copyright infringement based on an IP snapshot is akin to alleging theft based on a single surveillance camera shot: a photo of a child reaching for candy from a display does not automatically mean he stole it. No Court would allow a lawsuit to be filed based on that amount of evidence.

What is more, downloading data via the Bittorrent protocol is not like stealing candy. Stealing a piece of a chocolate bar, however small, is still theft; but copying an encrypted, unusable piece of a video file via the Bittorrent protocol may not be copyright infringement. In the former case, some chocolate was taken; in the latter case, an encrypted, unusable chunk of zeroes and ones. And as part of its *prima facie*

1 copyright claim, Plaintiff must show that Defendants copied the copyrighted work.
 2 *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361 (1991). If a download
 3 was not completed, Plaintiff's lawsuit may be deemed frivolous.

4 In this case, Plaintiff's reliance on snapshot evidence to establish its copyright
 5 infringement claims is misplaced. A reasonable investigation should include evidence
 6 showing that Defendants downloaded the entire copyrighted work—or at least a
 7 usable portion of a copyrighted work. Plaintiff has none of this—no evidence that
 8 Defendants completed their download, and no evidence that what they downloaded is
 9 a substantially similar copy of the copyrighted work. Thus, Plaintiff's attorney
 10 violated Rule 11(b)(3) for filing a pleading that lacks factual foundation.

11 2. *Lack of reasonable investigation of actual infringer's identity*

12 The second problem is more troublesome. Here, Plaintiff concluded that
 13 Benjamin Wagar is the person who illegally downloaded the copyrighted video. But
 14 Plaintiff fails to allege facts in the Amended Complaint to show how Benjamin Wagar
 15 is the infringer, other than noting his IP address, the name of his Bittorrent client, and
 16 the alleged time of download.² Plaintiff's December 27, 2012 Response to the Court's
 17 Order to Show Cause re Lack of Service sheds some light:

18 Though the subscriber, David Wagar, remained silent, Plaintiff's
 19 investigation of his household established that Benjamin Wagar was the
 20 likely infringer of Plaintiff's copyright. As such, Plaintiff mailed its
 21 Amended Complaint to the Court naming Benjamin Wagar as the
 Defendant in this action. (ECF No. 14, at 2.)

22 The disconnect is how Plaintiff arrived at this conclusion—that the actual infringer is
 23 a member of the subscriber's household (and not the subscriber himself or anyone
 24 else)—when all it had was an IP address, the name of the Bittorrent client used, the
 25 alleged time of download, and an unresponsive subscriber.

26
 27 ² This analysis similarly applies in *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6668-ODW(JCx) (C.D.
 28 Cal. filed Aug. 2, 2012), where Plaintiff fails to allege sufficient facts to show how Mayon Denton is
 the infringer.

1 Plaintiff's December 27, 2012 Discovery Status Report gives additional insight
2 into Plaintiff's deductive process:

3 In cases where the subscriber remains silent, Plaintiff conducts
4 investigations to determine the likelihood that the subscriber, or someone
5 in his or her household, was the actual infringer. . . . For example, if the
6 subscriber is 75 years old, or the subscriber is female, it is statistically
7 quite unlikely that the subscriber was the infringer. In such cases,
8 Plaintiff performs an investigation into the subscriber's household to
9 determine if there is a likely infringer of Plaintiff's copyright. . . .
Plaintiff bases its choices regarding whom to name as the infringer on
factual analysis. (ECF No. 15, at 24.)

10 The Court interprets this to mean: if the subscriber is 75 years old or female, then
11 Plaintiff looks to see if there is a pubescent male in the house; and if so, he is named
12 as the defendant. Plaintiff's "factual analysis" cannot be characterized as anything
13 more than a hunch.

14 Other than invoking undocumented statistics, Plaintiff provides nothing to
15 indicate that Benjamin Wagar is the infringer. While it is plausible that Benjamin
16 Wagar is the infringer, Plaintiff's deduction falls short of the reasonableness standard
17 required by Rule 11.

18 For instance, Plaintiff cannot show that Benjamin is the infringer instead of
19 someone else, such as: David Wagar; other members of the household; family guests;
20 or, the next door neighbor who may be leeching from the Wagars' Internet access.
21 Thus, Plaintiff acted recklessly by naming Benjamin Wagar as the infringer based on
22 its haphazard and incomplete investigation.

23 Further, the Court is not convinced that there is no solution to the problem of
24 identifying the actual infringer. Here, since Plaintiff has the identity of the subscriber,
25 Plaintiff can find the subscriber's home address and determine (by driving up and
26 scanning the airwaves) whether the subscriber, (1) has Wi-Fi, and (2) has password-
27 protected his Wi-Fi access, thereby reducing the likelihood that an unauthorized user
28 outside the subscriber's home is the infringer. In addition, since Plaintiff is tracking a

1 number of related copyrighted videos, Plaintiff can compile its tracking data to
2 determine whether other copyrighted videos were downloaded under the same IP
3 address. This may suggest that the infringer is likely a resident of the subscriber's
4 home and not a guest. And an old-fashioned stakeout may be in order: the presence of
5 persons within the subscriber's home may be correlated with tracking data—the
6 determination of who would have been in the subscriber's home when the download
7 was initiated may assist in discovering the actual infringer.

8 Such an investigation may not be perfect, but it narrows down the possible
9 infringers and is better than the Plaintiff's current investigation, which the Court finds
10 involves nothing more than blindly picking a male resident from a subscriber's home.
11 But this type of investigation requires time and effort, something that would destroy
12 Plaintiff's business model.

13 The Court has previously expressed concern that in pornographic copyright
14 infringement lawsuits like these, the economics of the situation makes it highly likely
15 for the accused to immediately pay a settlement demand. Even for the innocent, a
16 four-digit settlement makes economic sense over fighting the lawsuit in court—not to
17 mention the benefits of preventing public disclosure (by being named in a lawsuit) of
18 allegedly downloading pornographic videos.

19 And copyright lawsuits brought by private parties for damages are different
20 than criminal investigations of cybercrimes, which sometimes require identification of
21 an individual through an IP address. In these criminal investigations, a court has some
22 guarantee from law enforcement that they will bring a case only when they actually
23 have a case and have confidently identified a suspect. In civil lawsuits, no such
24 guarantees are given. So, when viewed with a court's duty to serve the public interest,
25 a plaintiff cannot be given free rein to sue anyone they wish—the plaintiff has to
26 actually show facts supporting its allegations.

27 ///

28 ///

1 C. Local Rule 83-3 Violations

2 Under Local Rule 83-3, the Court possesses the power to sanction attorney
3 misconduct, including: disposing of the matter; referring the matter to the Standing
4 Committee on Discipline; or taking “any action the Court deems appropriate.”
5 L.R. 83-3.1. This includes the power to fine and imprison for contempt of the Court’s
6 authority, for: (1) misbehavior of any person in its presence or so near thereto as to
7 obstruct the administration of justice; (2) misbehavior of any of its officers in their
8 official transactions; or, (3) disobedience or resistance to its lawful writ, process,
9 order, rule, decree, or command. 18 U.S.C. § 401.

10 The Court is concerned with three instances of attorney misconduct. The first
11 and second instances are related and concern violating the Court’s discovery order.
12 The third instance concerns possible fraud upon the Court.

13 1. *Failure to comply with the Court’s discovery order*

14 In *AF Holdings LLC v. Doe*, No. 2:12-cv-6636-ODW(JCx) (C.D. Cal. filed
15 Aug. 1, 2012) and *AF Holdings LLC v. Doe*, No. 2:12-cv-6669-ODW(JCx) (C.D. Cal.
16 filed Aug. 2, 2012), the Court ordered Plaintiff to “cease its discovery efforts relating
17 to or based on information obtained through any abovementioned Rule 45
18 subpoenas.” (ECF No. 13, at 1; ECF No. 10, at 1.) Further, Plaintiff was required to
19 name all persons that were identified through any Rule 45 subpoenas. (*Id.*)

20 Plaintiff responded on November 1, 2012, and indicated that it did not obtain
21 any information about the subscribers in both of these cases. (ECF No. 10, at 6–7,
22 10.)³ But in response to the Court’s subsequent Orders to Show Cause, Plaintiff not
23 only named the subscribers, but recounted its efforts to contact the subscriber and find
24 additional information. (ECF No. 15; ECF No. 18.)

25 This conduct contravenes the Court’s order to cease discovery. Plaintiff has
26 provided no justification why it ignored the Court’s order.

27 ³ This response was filed in *AF Holdings LLC v. Doe*, No. 2:12-cv-5709-ODW(JCx) (C.D. Cal. filed
28 July 2, 2012).

1 2. *Fraud on the Court*

2 Upon review of papers filed by attorney Morgan E. Pietz, the Court perceives
3 that Plaintiff may have defrauded the Court. (ECF No. 23.)⁴ At the center of this
4 issue is the identity of a person named Alan Cooper and the validity of the underlying
5 copyright assignments.⁵ If it is true that Alan Cooper's identity was misappropriated
6 and the underlying copyright assignments were improperly executed using his
7 identity, then Plaintiff faces a few problems.

8 First, with an invalid assignment, Plaintiff has no standing in these cases.
9 Second, by bringing these cases, Plaintiff's conduct can be considered vexatious, as
10 these cases were filed for a facially improper purpose. And third, the Court will not
11 idle while Plaintiff defrauds this institution.

12 **D. Conclusion**

13 Accordingly, the Court hereby **ORDERS** Brett L. Gibbs, **TO SHOW CAUSE**
14 why he should not be sanctioned for the following:

- 15 • In *AF Holdings LLC v. Doe*, No. 2:12-cv-6636-ODW(JC) (C.D. Cal.
16 filed Aug. 1, 2012), violating the Court's October 19, 2012 Order
17 instructing AF Holdings to cease its discovery efforts based on
18 information obtained through any earlier-issued subpoenas;
- 19 • In *AF Holdings LLC v. Doe*, No. 2:12-cv-6669-ODW(JC) (C.D. Cal.
20 filed Aug. 2, 2012), violating the Court's October 19, 2012 Order
21 instructing AF Holdings to cease its discovery efforts based on
22 information obtained through any earlier-issued subpoenas;

23 ///

24
25

26 ⁴ Although the papers revealing this possible fraud were filed in *Ingenuity 13 LLC v. Doe*, No. 2:12-
27 cv-8333-ODW(JC) (C.D. Cal. filed Sept. 27, 2012), this fraud, if true, was likely committed by
28 Plaintiff in each of its cases before this Court.

⁵ For example, in *AF Holdings LLC v. Doe*, No. 2:12-cv-6669-ODW(JC) (C.D. Cal. filed Aug. 2, 2012), Plaintiff filed a copyright assignment signed by Alan Cooper on behalf of Plaintiffs. (ECF No. 16-1.)

- 1 • In *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6662-ODW(JCx) (C.D. Cal.
2 filed Aug. 2, 2012), violating Rule 11(b)(2) by:
 - 3 ○ alleging copyright infringement based on a snapshot of Internet
4 activity, without conducting a reasonable inquiry; or,
 - 5 ○ alleging that Benjamin Wagar is the infringer, without conducting
6 a reasonable inquiry;
- 7 • In *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6668-ODW(JCx) (C.D. Cal.
8 filed Aug. 2, 2012), violating Rule 11(b)(2) by:
 - 9 ○ alleging copyright infringement based on a snapshot of Internet
10 activity, without conducting a reasonable inquiry; or,
 - 11 ○ alleging that Mayon Denton is the infringer, without conducting a
12 reasonable inquiry;
- 13 • In *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-8333-ODW(JCx) (C.D. Cal.
14 filed Sept. 27, 2012), perpetrating fraud on the Court by
15 misappropriating the identity of Alan Cooper and filing lawsuits based
16 on an invalid copyright assignment.

17 This order to show cause is scheduled for hearing on March 11, 2013, at 1:30
18 p.m., to provide Mr. Gibbs the opportunity to justify his conduct. Based on the
19 unusual circumstances of this case, the Court invites Morgan E. Pietz to present
20 evidence concerning the conduct outlined in this order. The Court declines to sanction
21 Plaintiffs AF Holdings LLC and Ingenuity 13 LLC at this time for two reasons:
22 (1) Mr. Gibbs appears to be closely related to or have a fiduciary interest in Plaintiffs;
23 and; (2) it is likely Plaintiffs are devoid of assets.

24 If Mr. Gibbs or Mr. Pietz so desire, they each may file by February 19, 2013, a
25 brief discussing this matter. The Court will also welcome the appearance of Alan
26 Cooper—to either confirm or refute the fraud allegations.

27 Based on the evidence presented at the March 11, 2013 hearing, the Court will
28 consider whether sanctions are appropriate, and if so, determine the proper

1 punishment. This may include a monetary fine, incarceration, or other sanctions
2 sufficient to deter future misconduct. Failure by Mr. Gibbs to appear will result in the
3 automatic imposition of sanctions along with the immediate issuance of a bench
4 warrant for contempt.

5 **IT IS SO ORDERED.**

6 February 7, 2012

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9 **OTIS D. WRIGHT, II**
10 **UNITED STATES DISTRICT JUDGE**
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Exhibit J

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
3 HONORABLE OTIS D. WRIGHT
4 UNITED STATES DISTRICT JUDGE PRESIDING

5 - - -

6 Ingenuity 13 LLC,)
7 PLAINTIFF,)
8 VS.) NO. CV 12-8333 ODW
9 John Doe, et al.,)
10 DEFENDANT,)
_____)

11

12

13 REPORTER'S TRANSCRIPT OF PROCEEDINGS

14 LOS ANGELES, CALIFORNIA

15 MONDAY, MARCH 11, 2013

16

17

18

19 KATIE E. THIBODEAUX, CSR 9858
20 U.S. Official Court Reporter
21 312 North Spring Street, #436
22 Los Angeles, California 90012
23
24
25

1 APPEARANCES OF COUNSEL:

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22

23

24

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|----|----------------------------------|------|----------|
| 1 | I N D E X | | |
| 2 | | | |
| 3 | WITNESS NAME | PAGE | |
| 4 | Alan Cooper | | |
| | Direct Examination by the Court | 21 | |
| 5 | Direct Examination by Mr. Pietz | 26 | |
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| 6 | Bart Huffman | | |
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1 LOS ANGELES, CALIFORNIA; MONDAY, MARCH 11, 2013

2 1:38 P.M.

3 - - - - -

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5

6 THE CLERK: Calling Item No. 4, CV 12-8333-ODW,
7 CV 12-6662, ODW, CV 12-6668, Ingenuity 13 LLC versus John
8 Doe, additionally, CV 12-6636 ODW, CV 12-6669, AF
9 Holdings LLC versus John Doe.

10 Counsel, please state your appearances.

11 MR. WAXLER: Andrew Waxler, your Honor, and Barry
12 Brodsky for Mr. Gibbs who is present in the courtroom.
13 Thank you.

14 THE COURT: Good afternoon, counsel.

15 MR. PIETZ: Good afternoon, your Honor. Morgan
16 Pietz, P-I-E-T-Z, for the putative John Doe defendant in
17 12-CV-8333.

18 MR. RANALLO: Nicholas Ranallo, co-counsel for the
19 same Doe.

20 THE COURT: All right. Gentlemen, thank you.

21 All right. We are here in response to an OSC
22 set by this court as to why sanctions should not be
23 imposed for various violations including Rule 11 and
24 Local Rule 83-3.

25 I have received from Mr. Waxler on behalf of

1 Mr. Gibbs his response, supplemental response, a number
2 of documents. Spent the weekend reading a depo which was
3 perhaps the most informative thing I have read in this
4 litigation so far primarily because of what you didn't
5 want revealed. So, in any event, I have extended an
6 offer to all of the principles concerned to offer them an
7 opportunity to explain.

8 It is my understanding that they have declined
9 that invitation. Therefore --

10 MS. ROSING: Your Honor?

11 THE COURT: And you are?

12 MS. ROSING: If I may approach.

13 THE COURT: Please.

14 MS. ROSING: My name is Heather Rosing, and I
15 filed an ex parte application with this court.

16 THE COURT: When?

17 MS. ROSING: Friday?

18 THE COURT: When?

19 MS. ROSING: It was filed I believe at 3:54 p.m.?

20 THE COURT: Guaranteed for the court to actually
21 see it; right? Was it electronically filed?

22 MS. ROSING: The local rule says we're not
23 allowed --

24 THE COURT: Answer my question. Was it
25 electronically filed?

1 MS. ROSING: No. Because we are not allowed to,
2 your Honor.

3 THE COURT: Okay. So what you did is you took it
4 downstairs to the intake window?

5 MS. ROSING: Yes, your Honor?

6 THE COURT: Late Friday afternoon addressing a
7 matter that is set for hearing on Monday morning?

8 MS. ROSING: My clients received notice of this on
9 Thursday, your Honor. We received notice on Thursday?

10 THE COURT: I am just asking you a question. You
11 can answer it "yes" or "no".

12 MS. ROSING: I'm sorry. Could you repeat the
13 question.

14 THE COURT: What is -- why are you here?

15 MS. ROSING: Again, my name is Heather Rosing with
16 the Klinedinst PC law firm. I am specially appearing for
17 four of those people that received this notice on
18 Thursday, Angela Van Den Hemel, a paralegal at Prenda
19 law --

20 THE COURT: Is this the long way of saying they
21 are not going to be here?

22 MS. ROSING: I'm sorry. I was just telling you
23 who I represent, your Honor?

24 THE COURT: Are they here?

25 MS. ROSING: No, your Honor.

1 THE COURT: Have a seat.

2 MS. ROSING: May I just finish?

3 THE COURT: Have a seat.

4 Bottom line is the court is going to end up
5 drawing its own inferences from the information it
6 actually has. An opportunity to be heard is all that is
7 required. If you don't wish to exercise that, fine.

8 There was so much obstruction during the
9 course of this deposition that it is obvious that someone
10 has an awful lot to hide. This has actually raised far
11 more questions of fraud than the court originally had,
12 but we will get to that later.

13 Initially, I have got a number of questions
14 regarding some of the filings that have been made with
15 the court.

16 I guess, Mr. Waxler, I guess you will be the
17 one that is addressing some of these things. One of my
18 questions is this. Why is it that in every single one of
19 these cases there is a form attached to the complaint
20 that asks for whether or not there are any related cases.
21 I have got a partial list of all of these cases that have
22 been filed in the Central District. None of them have
23 indicated that there are any related cases.

24 Could you tell me why?

25 MR. WAXLER: Well, your Honor, the downloads are

1 done by separate infringers, and the plaintiffs, yes,
2 obviously, were a lot the same, and I believe that the
3 decision had been made that it didn't require the related
4 case filings to be made.

5 THE COURT: Okay.

6 MR. WAXLER: Perhaps that was in error, your
7 Honor, as we sit here today.

8 THE COURT: Let me ask a question then. Let's
9 just say on one date, that date being July 2nd of 2012,
10 four lawsuits were filed by AF Holdings LLC versus John
11 Doe all seeking a remedy for the infringement of the same
12 movie Popular Demand.

13 Now, can you tell me how on earth these aren't
14 related?

15 MR. WAXLER: Well, they are obviously related in
16 the sense that --

17 THE COURT: That is what I thought, too. And that
18 is what this entire list is. Okay. They are all
19 related, but that box was always checked no. And then we
20 are going to get to something separate in a minute, and
21 that is the issue of who has an interest, a financial
22 interest in the outcome of these cases. We will look at
23 this shortly.

24 There is the issue of the court having vacated
25 and quashed the subpoenas that were served on various

1 ISP's, and, then, of course, I have gotten other
2 responses to the OSC saying, well, we didn't know that
3 that meant we couldn't do other forms of discovery. And,
4 by the way, we sent out a copy of the court's order to
5 the various ISP's letting them know that the court had
6 withdrawn those orders and surely that is not the conduct
7 of someone who was trying to disobey the court's order.
8 And I had to agree. Sounded reasonable.

9 Have you all seen the declaration of Sean
10 Moriarty from Verizon?

11 MR. WAXLER: Your Honor, we saw it this morning,
12 yes.

13 THE COURT: Okay. Good.

14 And what say you because he responds directly
15 to Mr. Gibbs' assertion that the ISP's were given notice
16 not to respond to the subpoenas. He says this didn't
17 happen, that they didn't receive notice.

18 MR. WAXLER: May I respond to that, your Honor?

19 THE COURT: Sure.

20 MR. WAXLER: Mr. Gibbs -- Prenda Law is one of
21 the, is one of the e-mail addresses that received a copy
22 of your October 19th, 2012 order. As does Mr. Gibbs.
23 Mr. Gibbs had a conversation with Mr. Hansmeier and told
24 him that he thought that this order should be served on
25 the ISP's. Mr. Hansmeier advised Mr. Gibbs that that

1 would be done. Mr. Hansmeier later advised Mr. Gibbs
2 that his request had been taken care of.

3 Now, if you read page, Paragraph 4 at Line 18
4 and 19 of the declaration, all it says is based on the
5 Verizon records, it does not appear that Verizon received
6 from AF Holdings or its counsel a copy of the order. It
7 does not say they did not. And Verizon, like these other
8 ISP's, has a history of, as I understand it, eliminating
9 its records from their systems soon after, like within 30
10 days. CT Corporation receives the subpoenas. That was
11 who was supposed to be served, and they have a history of
12 not keeping them in their records for very long.

13 THE COURT: So they eliminate their documents
14 pretty much the way Mr. Gibbs eliminates the original
15 signed application from Alan Cooper?

16 MR. WAXLER: Mr. Gibbs never had the original
17 signed verification from Mr. Cooper. Mr. Gibbs was told
18 by Prenda Law that they had it. So Mr. Gibbs was never
19 in possession of that document, and Mr. Gibbs did not
20 lose that document, your Honor.

21 THE COURT: One other thing you didn't really make
22 clear, was it only that document or was the entire file
23 lost?

24 MR. WAXLER: I don't know the answer to that.

25 THE COURT: Okay. So here is the deal. So what

1 we have got, we have got CT Systems destroying the order
2 and the cover letter or transmittal of that order to
3 Verizon; right? But they have got everything else. They
4 have got all the other letters and the subpoena and all
5 that sort of thing. So the only thing they have gotten
6 rid of it just the order quashing the subpoena; right?

7 MR. WAXLER: No, your Honor. CT Corporation is
8 the agent for service of process.

9 THE COURT: I know who they are.

10 MR. WAXLER: CT Corporation may have received
11 that, and I am just saying their history is they don't
12 keep records for very long of having received subpoenas
13 or service of those. The other documents which are
14 attached to this declaration -- I believe since it was
15 given to me about an hour, actually 15 minutes ago out
16 there; I saw part of it online -- are documents that were
17 exchanged between Verizon directly and others. So they
18 weren't going through CT Corporation. So that is the
19 difference, your Honor.

20 THE COURT: You are saying, then, that the notice
21 to Verizon that that subpoena had been quashed by the
22 court went to CT and not to Verizon?

23 MR. WAXLER: That is their agent for service of
24 process. That is who they served. That is who
25 Mr. Gibbs, when he talked to Mr. Hansmeier, said please

1 serve this order on them, and that is what Mr. Gibbs
2 understands was done.

3 THE COURT: Okay. Was the order served in the
4 same way that the subpoena was served?

5 MR. WAXLER: That would be our understanding. I
6 mean, it was served on CT Corporation. That is how the
7 subpoena was served on CT Corporation.

8 THE COURT: So the subpoena and all the various
9 letters, et cetera, that emanated from Prenda Law to
10 Verizon were served on CT Systems; right?

11 MR. WAXLER: No. As I understand it, your Honor,
12 the e-mails that may appear here were exchanged between
13 Verizon directly, once they got the subpoena, and members
14 of Prenda Law. The only thing that would have gone
15 through CT Corporation was the service of the original
16 subpoena and a copy of the order.

17 THE COURT: All right. I am only going by the
18 declaration of Mr. Moriarty. This is under tab, Exhibit
19 A. The letter, Prenda Law, see that, September 5th? It
20 says via hand delivery.

21 MR. WAXLER: I see that.

22 THE COURT: All right. Enclosed please find a
23 subpoena and attachment. So I am assuming that the
24 subpoena was also hand delivered. It doesn't say to
25 whom. Is this to CT?

1 MR. WAXLER: That is our understanding, your
2 Honor.

3 THE COURT: So what we have is a situation or at
4 least you are guessing, you are guessing that everything
5 seeking information from Verizon arrived intact, but the
6 order withdrawing or quashing that subpoena somehow got
7 misplaced.

8 MR. WAXLER: There is no evidence before this
9 court that Verizon did not receive that subpoena, that
10 order from this court. I can tell you that Mr. Gibbs'
11 intent was that that order be served so that they did
12 receive it. And it was always his understanding until he
13 saw the declarations in the filings by Mr. Pietz that
14 some of the ISP's did not receive a copy of that order.

15 THE COURT: It is also my understanding that I
16 guess a paralegal in the employ of one of these law firms
17 began following up with these Internet service providers
18 inquiring as to why certain information had not been
19 provided pursuant to those subpoenas.

20 MR. WAXLER: And Mr. Gibbs read that for the first
21 time when the declarations were submitted in connection
22 with this OSC and was very surprised by it because he
23 understood, as he does today, that the order by this
24 court was served on CT Corporation and then would have
25 been transmitted to Verizon.

1 THE COURT: Okay. All right. There is a number
2 of things, Mr. Waxler, which you state in your papers
3 that I wanted to ask you about. In more than one place,
4 you indicate that Ingenuity 13 LLC and AF Holdings, et
5 cetera, have assets which consist of without limitation
6 their intellectual property rights in some of these
7 films. What other assets?

8 MR. WAXLER: AF Holdings and Ingenuity -- AF
9 Holdings, at least, received the assignment. So they
10 have those property rights, and the companies would have
11 obviously the right to, or rather the settlement funds
12 that were paid on some of these matters would have been
13 property of those companies.

14 But as I understand it from Mr. Hansmeier's
15 deposition which I, too, read over the weekend, that the
16 trust accounts of some of the lawyers were holding those
17 settlement funds. Whether those settlement funds ever
18 made it to AF Holdings or Ingenuity 13, all I can do,
19 your Honor, is rely on what Mr. Hansmeier says because we
20 have no independent knowledge of it and nor does
21 Mr. Gibbs. Mr. Gibbs did not receive those funds. Those
22 funds were sent to Prenda Law.

23 THE COURT: So you are telling me what you know is
24 what you gleaned from this this weekend pretty much as
25 the court did; right?

1 MR. WAXLER: Well, I mean, Mr. Gibbs may have more
2 knowledge than specifically what Mr. Hansmeier said.

3 THE COURT: Oh. Mr. Hansmeier has no knowledge of
4 anything. So I just want to know if you got what the
5 court got which is the only entities which apparently
6 make any claim whatsoever to these settlement funds are
7 the law firms. There appears to be no effort whatsoever
8 of transmitting any of these funds to the so-called
9 clients, Ingenuity 13 and AF Holdings, who don't file
10 income taxes anywhere because as Mr. Hansmeier says they
11 have no income.

12 Is that what you got? That is what I got.

13 MR. WAXLER: I thought that Mr. Hansmeier said
14 they didn't file income taxes because they were not
15 required in where they were domiciled, but you may be
16 right and I may be wrong.

17 THE COURT: No. He quite clearly said they have
18 not filed income taxes anywhere.

19 MR. WAXLER: I understand that. I just thought it
20 was a different reason for not filing them.

21 THE COURT: Well, probably because they don't do
22 anything, do they?

23 MR. WAXLER: Well, they in hearing from Mr -- in
24 reading from what Mr. Hansmeier says, they obviously own
25 valid copyrights, and those entities retain law firms

1 like Prenda Law, apparently, to file actions such as the
2 ones that are at issue today.

3 THE COURT: They retain firms? Seriously?

4 You can hardly keep a straight face, can you?

5 MR. WAXLER: No, your Honor.

6 THE COURT: These entities were basically created
7 by these lawyers; right? They have no business. They
8 have no employees. They have no function really. They
9 are not even really a shell, are they?

10 MR. WAXLER: I don't know, your Honor.

11 THE COURT: The law firms are basically
12 prosecuting these actions on their own behalf, aren't
13 they?

14 MR. WAXLER: Mr. Gibbs never had any client
15 contact with those clients. Mr. Gibbs received
16 information from Mr. Hansmeier and Mr. Steele, and those
17 individuals advised Mr. Gibbs that they had talked to the
18 clients.

19 THE COURT: Hansmeier and Steele, are those the
20 individuals to whom you refer in your papers to as the
21 senior partners in the law firm.

22 MR. WAXLER: Yes, they are.

23 THE COURT: I have another question. Does
24 Mr. Gibbs have an indemnity or hold harmless agreement
25 from these senior partners? Or is he out there on his

1 own?

2 MR. WAXLER: He has no hold harmless agreement
3 from these partners that I am aware of.

4 THE COURT: Okay. All right.

5 MR. WAXLER: He was an of counsel, W -- 1099,
6 independent contractor for Prenda Law.

7 THE COURT: All right. Now, the court is coming
8 to the conclusion, and this is why it has been wonderful
9 to have someone here to disabuse me of the notion that
10 all of these lawsuits are being prosecuted on behalf of
11 the lawyers, that all of the settlement funds inure
12 solely to the benefit of the lawyers because not dime
13 one has been transmitted to AF Holdings or to Ingenuity
14 13.

15 Now, if there is information to rebut that, I
16 would love to hear it. But, otherwise, that is what I am
17 stuck with. So now I am wondering why is it that no
18 disclosure has been made in this court and probably in
19 none of the federal courts that the lawyers have a
20 pecuniary interest in the outcome of these cases?

21 MR. WAXLER: I don't believe that that is what
22 Mr. Gibbs understands the case to be. The fact that the
23 settlement funds were not transmitted as of yet to those
24 entities doesn't mean those settlement funds aren't being
25 held in trust for those entities. Mr. Gibbs has no

1 information whatsoever, your Honor, to understand
2 anything different than what I just described.

3 MR. BRODSKY: Your Honor, may I interject one
4 point?

5 THE COURT: Sure. Your name again?

6 MR. BRODSKY: Barry Brodsky.

7 THE COURT: All right. Go ahead, sir.

8 MR. BRODSKY: My understanding and it is only from
9 reading the same deposition transcript was that those
10 funds remained in the trust accounts of the various law
11 firms that were representing the companies to defray
12 future expenses.

13 THE COURT: And what were those expenses other
14 than filing fees?

15 MR. BRODSKY: I would assume they would be filing
16 fees, investigative fees, you know, basically that.

17 THE COURT: To -- okay.

18 MR. BRODSKY: But that is just my reading of the
19 deposition.

20 THE COURT: Okay. And after that is done, then
21 what?

22 MR. BRODSKY: Apparently -- well, we don't know
23 where that trail ends, whether that trail has ended. But
24 we do know this. We know that none of those funds
25 reached Mr. Gibbs.

1 THE COURT: And we also know none of those funds
2 reached Ingenuity 13 and AF Holdings.

3 MR. BRODSKY: Apparently, from Mr. Hansmeier's
4 testimony, that is correct.

5 THE COURT: Who was the corporate designee, the
6 30(b)(6) designee for AF Holdings; right?

7 MR. BRODSKY: Yes.

8 THE COURT: And none of those funds ever reached
9 AF Holdings.

10 MR. BRODSKY: According to him, that's correct.

11 THE COURT: All these lawsuits settled on behalf
12 of AF Holdings; right? But they reside in the law firm's
13 trust account.

14 MR. BRODSKY: Some obviously were settled, yes.

15 THE COURT: You know what was really interesting,
16 a lawsuit handled by law firm A, the settlement funds
17 then are transmitted to law firm B's trust account, law
18 firm B being controlled by Mr. Steele. I don't know. I
19 just find these things curious.

20 All right. Any other light to be shed on some
21 of the court's concerns with respect to this foolishness
22 here because -- by the way, is there a Mr. Cooper here?

23 MR. PIETZ: Your Honor, Mr. Cooper is in
24 attendance today, and I believe prepared to confirm that
25 these documents are founded on forgeries.

1 THE COURT: Is there an Alan Cooper in the
2 courtroom? Don't be shy. Come forward, sir.

3 (The witness was sworn.)

4 THE CLERK: Thank you. Have a seat.

5 THE COURT: By the way, while we are on the
6 subject, is there a Mark Lutz in the courtroom as well?

7 Is either Hansmeier in the courtroom?

8 MS. ROSING: Your Honor, I am the attorney
9 specially appearing for them and if I could finish my
10 request?

11 THE COURT: I just want to know if they are here.

12 MS. ROSING: They are not physically here, your
13 Honor?

14 THE COURT: Thank you. Good.

15 MR. PIETZ: Your Honor, my understanding was that
16 Ms. Rosing was representing one of the Hansmeiers. Is
17 that different, or are you also representing Peter
18 Hansmeier?

19 MS. ROSING: I did not have an opportunity to say,
20 but I do not represent Peter Hansmeier.

21 THE COURT: I didn't think you would be. The
22 technician? I didn't think you would be.

23 MR. WAXLER: Your Honor, while those individuals
24 are not present, my understanding is they are available
25 by phone.

1 THE COURT: Is that right. Okay. I may take them
2 up on that. Maybe. Anyway.

3

4 DIRECT EXAMINATION

5 BY THE COURT:

6 Q Mr. Cooper, your name is Alan Cooper?

7 A Yes, sir.

8 Q And where do you reside, sir?

9 A Isle, Minnesota.

10 Q Isle, Minnesota. Do you have any connection -- let
11 me just ask you specifically, do you have any connection
12 with Mr. Gibbs?

13 A No, sir.

14 Q Ever met Mr. Gibbs before?

15 A No.

16 Q What about Paul Hansmeier, any connection with him?

17 A No.

18 Q Ever meet him before?

19 A No.

20 Q What about John Steele?

21 A Yes.

22 Q What was your connection with Mr. Steele?

23 A I was a caretaker for a piece of property that he
24 had in Northern Minnesota.

25 Q And when was this?

1 A I think from 2006 till last August.

2 Q You worked for him from 2006 until August of 2012?

3 A No, I did not work for him. I was a caretaker for
4 his piece of property. He had two houses. I lived in
5 one and then took care of everything else there.

6 Q Okay. And he paid you?

7 A No.

8 Q Who paid you?

9 A There was no pay. It was I lived in the one house,
10 and I took care of everything on the property for free.

11 Q Or in exchange for a place to live?

12 A Yes.

13 Q All right. So you didn't have to pay for your
14 housing; correct?

15 A Correct.

16 Q So in exchange for housing on the property, you
17 took care of his property?

18 A Yes.

19 Q And this was a deal you negotiated with Mr. Steele?

20 A Yes.

21 Q All right.

22 A It is in a lease agreement that we have.

23 Q All right. I guess you have been advised. Matter
24 of fact, I have seen a letter written by an attorney who
25 apparently is acting on your behalf where you have become

1 concerned that your name is being used as a corporate
2 representative of some West Indian entities that you know
3 nothing about; is that true?

4 A Yes. That's correct.

5 Q I want you to explain. I want you to elaborate.
6 What is it that you have heard?

7 A That my name is being signed and forged and used
8 for whatever these offices or myself personally scams
9 that they have going on.

10 Q Did you ever have a discussion with Mr. Steele
11 about these concerns of yours?

12 A He had, on one of his trips up to the cabin, all he
13 had said was if anybody contacts you about any of my law
14 firm or anything that has to do with me, don't answer and
15 call me.

16 Q Had he ever given you any advance notice that he
17 was contemplating embarking on -- let me back up. Do you
18 know what his legal specialty was, say, back in 2006?
19 What kind of law was he practicing?

20 A When I had first met him, he was still in law
21 school.

22 Q In law school. All right. And, then, what area of
23 practice did he go into if you know?

24 A He had originally said divorce, family law.

25 Q Family law. All right. Did he ever indicate to

1 you that he was contemplating embarking on a different
2 specialty in the law?

3 A Yes.

4 Q And best as you can recall, what was this new
5 specialty?

6 A Internet porn buyers. I don't know exactly how to
7 word it for you.

8 Q Oh. Internet porn piracy sounds pretty good. All
9 right.

10 Do you recall anything he said about that?

11 A As far as?

12 Q Anything about this new venture, this new method of
13 practicing law.

14 A I tried not to talk to him very much, but what he
15 had -- what he had said on one of his trips was his goal
16 was \$10,000 a day, to have a mailing of these letters.

17 Q What letters?

18 A To people that illegally downloaded on the
19 Internet.

20 Q Did he explain what these letters would say and who
21 these letters would be sent to?

22 A I am not very Internet savvy myself, so it would be
23 whoever downloaded something that they weren't paying for
24 or illegal. I don't know exactly how this works. That
25 he would just send out a letter stating that if they

1 didn't send a check for a certain amount, that he would
2 make it public to these people's family and friends what
3 they were looking at.

4 Q I see. Okay. Is that all you can remember him
5 saying about this new venture?

6 A At this time. Yes.

7 Q All right. Now, let's put this in context. He
8 basically told you that if you started getting any
9 inquiry, that you were to, what, call him or direct the
10 callers to him?

11 A To contact personally, personally contact him.

12 Q Okay. Now, back up. If you received any calls or
13 inquiries regarding what?

14 A He said anything that seemed out of place.

15 Q And you took that to mean what?

16 A I took that to mean the very next day I went and
17 talked to my father-in-law which is a retired sheriff and
18 talked to him, and he said until anybody contacts you, he
19 goes we have nothing to go to the court system with.

20 Q And did that change?

21 A I never heard anything from anybody.

22 Q All right. So no one ever contacted you?

23 A No.

24 Q And so what is it that made you go off and hire
25 Mr. Paul Godfread?

1 A I had received a text asking if this was my
2 signature on a particular document, and I said no. And
3 that is when I was given a number to call an attorney to
4 make sure that this didn't come back towards me.

5 Q All right. I am going to assume that that copy of
6 that document is probably in court; right?

7 MR. PIETZ: Referring now to the copyright
8 assignment agreement, your Honor?

9 THE COURT: Right.

10 MR. PIETZ: Correct, your Honor.

11 THE COURT: Okay. Let me turn this over to you,
12 sir. Go ahead.

13 MR. PIETZ: Okay. Thank you, your Honor.

14 If it please the court, I have some documents
15 which I can show on the monitor including to Mr. Cooper.
16 I just want to make sure we have both the copyright
17 assignments.

18 MR. PIETZ: Are the monitors arrayed so that the
19 court can see them?

20 THE COURT: Yes. The court has its own. We got
21 that before the sequester.

22 MR. PIETZ: All right.

23 DIRECT EXAMINATION

24 BY MR. PIETZ:

25 Q Mr. Cooper, my name is attorney Morgan Pietz.

1 Thank you for coming here today.

2 Did anyone ever ask you to become a corporate
3 representative of AF Holdings LLC?

4 A No.

5 Q Did anybody ever ask you to become a corporate
6 representative of Ingenuity 13 LLC?

7 A No.

8 Q Mr. Cooper, now, I would like to show you some
9 documents, and Mr. Ranallo I believe just passed out
10 copies of the first. So what we have here is a
11 complaint.

12 It is one of the consolidated cases presently
13 before the court. For the record, it is Civil Action No.
14 212 CV 6636, an action filed here in the Central District
15 of California.

16 Mr. Cooper, have you ever seen this complaint
17 before?

18 A No.

19 Q I am going to skip now to the last page of this
20 complaint or actually it is not quite the last page. It
21 is the last page of the main document, or, sorry, it is
22 actually Exhibit B to the complaint. Here is the first
23 page of Exhibit B, now, Mr. Cooper.

24 It says copyright assignment agreement on the
25 top, and then I will note for the record that the

1 copyright at issue is Popular Demand which it states in
2 the first paragraph. Moving down to the second page of
3 the agreement, Mr. Cooper, you will note that there is a
4 signature on the right where it says Alan Cooper.

5 Is that your signature, sir?

6 A No. That is not.

7 Q You are quite sure about that?

8 A Yes. I use a middle initial.

9 Q Mr. Cooper, I would like to show you a similar
10 document which has appeared in a different case. What we
11 have here is a copyright assignment agreement. This is
12 for a different AF Holdings copyright styled Sexual
13 Obsession which it lists in the first paragraph. For the
14 record, this is Northern District of California No. 12 CV
15 2048.

16 Mr. Cooper, I am going to turn now to the
17 second page of this copyright assignment agreement, or I
18 guess it would be the third page. There is a signature
19 there on the right that says Alan Cooper.

20 Is that your signature, sir?

21 A No, it is not.

22 Q Did anybody ever ask you to become a corporate
23 representative or otherwise involved with a company
24 called AF Films LLC?

25 A No.

1 Q And you are quite sure that is not your signature?

2 A Very sure it is not mine.

3 Q Mr. Cooper, I would like to show you now another
4 document, and I will note for the record that this is a
5 verified petition to perpetuate testimony filed in the
6 Eastern District of California, 12 CV 8333, have you ever
7 seen this document before, Mr. Cooper, prior to within
8 the last couple of days?

9 A No.

10 MR. WAXLER: Your Honor, I would like to object to
11 that question.

12 THE COURT: Object to the question as to whether
13 or not he has seen the document?

14 MR. WAXLER: Well, this inquiry is beyond the
15 scope of the OSC. The OSC is about four cases that was
16 filed in the Central District of California. Now, we
17 have heard about a Northern District case and Eastern
18 District case that he is being questioned about which we
19 did not address in our papers, and it is not what this
20 OSC is about.

21 THE COURT: Well, it has become about it. It has
22 become about fraudulent filings in federal court.

23 MR. PIETZ: I would add, your Honor, that it all
24 goes to a pattern and practice.

25 Q Mr. Cooper, looking now at the verified petition, I

1 am going to skip to the last page. You will note that it
2 is signed by Mr. Gibbs. On this page which reads at the
3 top notarized verification, there is a slash S,
4 type-printed signature that says Alan Cooper, and it says
5 Alan Cooper, Manager of Ingenuity 13 LLC.

6 Did you ever sign a notarized verification for
7 this document?

8 A No, I did not.

9 Q Did you ever give anyone permission to sign your
10 name for you on this document?

11 A No.

12 MR. PIETZ: Mr. Ran, would you pass out Exhibit
13 53. I will note for the record that I am moving now to
14 what has been previously filed with this court as Exhibit
15 S which is the declaration of Nicholas Ranallo in
16 opposition to a motion to shorten time filed in the
17 Northern District of California. And I am going to move
18 now to an exhibit to this motion.

19 It is actually the second to last page in that
20 filing, Exhibit S, and what we are looking at is a
21 business entity detail for an entity called VPR, Inc.
22 from the Minnesota Secretary of State website.

23 Q Mr. Cooper, you will note there that under
24 officers, it says Alan Cooper and it lists an address of
25 4532 East Villa Teresa Drive, Phoenix, Arizona, 85032.

1 Mr. Cooper, have you ever been to Arizona?

2 A No, I haven't.

3 Q So that is not your residence, is it?

4 A No.

5 Q Do you have any knowledge of that address
6 whatsoever?

7 A No, I do not.

8 Q Did anybody ever ask you to be the president of
9 VPR, Inc.?

10 A No.

11 Q Did anybody ask you to be any other role in
12 connection with that company?

13 A No.

14 Q Mr. Cooper, I am going to move now to what has been
15 previously identified in the record as Exhibit T. What
16 we have here is a notissues.com registration.

17 Mr. Cooper, did you ever register an Internet
18 domain name called notissues.com or perhaps it is
19 pronounced notissues.com?

20 A No, I did not.

21 Q I am going to zoom in now. Mr. Cooper, I will note
22 that on the second page it says registrant Alan Cooper,
23 and it lists that same Phoenix address that we mentioned
24 a moment ago. Am I correct in presuming that there where
25 it says administrative contact, and it lists the e-mail

1 address, johnsteele@gmail.com. Am I correct in assuming
2 that johnsteele@gmail.com is not your e-mail address,
3 Mr. Cooper?

4 A No, it is not.

5 Q Mr. Cooper, after you hired attorney Paul Godfread,
6 and he let the other side know that he was going to be
7 representing you in actions in Minnesota, did you hear
8 from John Steele?

9 A Yes. He called me twice and left two voicemails
10 and sent me two texts.

11 Q So this was after Mr. Godfread let Prenda know that
12 he was your attorney; isn't that correct?

13 A Yes.

14 Q How many times in a row did Mr. Steele call you
15 when that happened?

16 A I think five or six times right in a row.

17 Q And that was, more or less, to your understanding,
18 was that more or less immediately after your attorney
19 Paul Godfread let the other side know that he was going
20 to be representing you?

21 A Yes. It was right after Paul let him know.

22 Q Within a matter of minutes, would you say, sir?

23 A Yes.

24 Q Have you heard from Mr. Steele recently,
25 Mr. Cooper?

1 A He had left two other voicemails on my phone and
2 two other texts within the last couple of weeks, I think
3 it was.

4 Q And, more recently than that, have you heard from
5 him again?

6 A Yes. Yeah. There was a two week spell between
7 them that he had called me twice.

8 Q And, Mr. Cooper -- pardon me, I didn't mean to
9 interrupt you. Go ahead, sir.

10 A He left four voicemails altogether and four text
11 messages.

12 Q And, Mr. Cooper, my understanding is that you
13 brought copies of these voicemails to potentially play
14 for the court; is that correct, sir?

15 A Yes.

16 Q If the court will indulge me a moment, I will play
17 those into the microphone for the record.

18 THE COURT: Okay.

19 MR. PIETZ: If it is okay with the court, I would
20 like to ask Mr. Stoltz to assist me with this. He is the
21 brains of the operation on the technology here.

22 Apologize, your Honor. We are starting from
23 the beginning.

24 (Audio recording played.)

25 Q BY MR. PIETZ: Mr. Cooper, have you spoken with John

1 Steele enough times to recognize his voice?

2 A Oh, yeah. That is his voice. That is him.

3 Q So that was Mr. Steele on those recordings that we
4 just heard a moment ago?

5 A Yes.

6 Q The three lawsuits that Mr. Steele was referring
7 to, do you think he means the three defamation cases
8 recently filed against you and your attorney, Paul
9 Godfread by John Steele, Paul Duffy and Prenda Law in
10 Florida, the Northern District of Illinois and the
11 Central District of Illinois? Do you think that is what
12 he was talking about?

13 A Yes.

14 Q Mr. Cooper, I, for my part, don't have anything
15 further. Perhaps the court does, but, before I step
16 down, I would like to thank you for coming here today?

17 THE COURT: Thank you, counsel.

18 MR. BRODSKY: Very briefly, your Honor. Thank
19 you.

20

21 CROSS-EXAMINATION

22 BY MR. BRODSKY:

23 Q Mr. Cooper, you have never met Mr. Gibbs; is that
24 correct?

25 A Yes.

1 Q And you have never spoken to him as well; is that
2 correct?

3 A No, I have not.

4 Q And you have exchanged no correspondence with him
5 whatsoever; is that correct?

6 A That is correct.

7 Q Do you know a gentleman by the name of Grant Berry,
8 B-E-R-R-Y?

9 A Yes, I do.

10 Q Who is Mr. Berry?

11 A He is the one that introduced me to John when I was
12 selling my house.

13 Q And what type of relationship if any do you have
14 with Mr. Berry?

15 A He was the realtor for -- he was a realtor that I
16 had for selling my house.

17 Q And did you ever tell or ask Mr. Steele in
18 Mr. Berry's presence how is my porn company doing?

19 A No, I have not.

20 Q You sure about that?

21 A Yes.

22 MR. BRODSKY: Thank you, your Honor. Nothing
23 further.

24 THE COURT: All right. Same questions that he
25 asked with respect to -- what about Mr. Paul Duffy, do

1 you know him?

2 THE WITNESS: No, I do not.

3 THE COURT: Ever heard of him?

4 THE WITNESS: Through these things that are going
5 on, yes.

6 THE COURT: All right.

7 THE WITNESS: That way only.

8 THE COURT: All right. Anyone else?

9 MR. PIETZ: Your Honor, just very briefly, as a
10 technical matter, I would like to ask that the documents
11 I went through with Mr. Cooper be admitted into evidence.

12 That was the copyright assignment with Popular
13 Demand. I would ask that that be admitted into evidence
14 as Exhibit 1. The copyright assignment agreement for
15 sexual obsession, I would ask that that be admitted as
16 Exhibit 2. The verified petition in the Eastern District
17 of California matter previously identified in this action
18 as Exhibit L, I would ask that it be admitted now as
19 trial Exhibit 3. The declaration from Mr. Ranallo which
20 has the printout for VPR, Inc. previously filed here as
21 Exhibit S, I would ask that be admitted as trial Exhibit
22 4. And the notissues.com registration previously
23 identified here as Exhibit T, I would ask be admitted as
24 trial Exhibit 5.

25 THE COURT: Any objection?

1 MR. BRODSKY: Yes, your Honor. As to Exhibits 3,
2 4 and 5, we would object on the ground of relevance.

3 THE COURT: Sustained. All right. Everything
4 else comes in. What about the audio? Is there a
5 transcript of the audio?

6 MR. PIETZ: Your Honor, we can prepare it.

7 THE COURT: Would you. Thank you.

8 MR. PIETZ: We would be happy to, and we will
9 lodge it with the court, your Honor.

10 THE COURT: Thank you. Okay. That will be
11 received as well.

12 All right.

13 Anything, gentlemen? Nothing.

14 You may step down, sir. Appreciate you
15 coming.

16 MR. PIETZ: Your Honor, at this time, I think it
17 might be helpful for me to suggest a few other things
18 that I am prepared to discuss today for the court. We
19 have heard from Mr. Cooper.

20 What I might propose now is turning to
21 Mr. Gibbs. Mr. Gibbs has noted in his declaration or
22 attempted to characterize himself as merely a, quote,
23 independent contract attorney for Prenda Law. I am
24 prepared to present evidence today showing that, in fact,
25 Mr. Gibbs is really what amounts to a de facto chief

1 operating officer of Prenda Law. And I have a number of
2 documents and exhibits I am prepared to go through with
3 Mr. Gibbs on that account.

4 In addition, I am prepared to show through
5 cross-examination of Mr. Gibbs that his investigation in
6 these cases was objectively unreasonable. Although I was
7 not able to contact Mr. Larguire(phonetic) or Mr. Denton,
8 a former client of mine in a previous case who was
9 previously named by Mr. Gibbs as a result of what I view
10 as a shoddy online investigation is here to testify that
11 the main fact that Mr. Gibbs relied upon in that case
12 turned out to be completely incorrect.

13 Fourth, your Honor or I should said say third,
14 there are representatives here today from both AT&T and
15 Verizon who can conform that the court's discovery orders
16 were unambiguously violated in this case.

17 Fifth, and, finally, your Honor, if the court
18 is inclined to hear it, I am prepared to explain my
19 understanding of how Prenda is organized and present
20 evidence showing that the court does indeed have personal
21 jurisdiction over Mr. Steele, Mr. Duffy, Mr. Paul
22 Hansmeier and Ms. Angela Van Den Hemel.

23 THE COURT: Let's begin with the ISP's.

24 MR. PIETZ: Very well, I would ask now that
25 Mr. Huffman come forward. Is he here?

1 (The witness was sworn.)

2 THE CLERK: Please have a seat.

3 Please state your full and true name for the
4 record, and spell your last name?

5 THE WITNESS: My name is Bart Huffman,
6 H-U-F-F-M-A-N.

7 THE COURT: One second.

8 THE CLERK: Counsel, I think we are going to first
9 have our 2:30 matter. I think it will be a little
10 shorter. So I am going to call the next matter and then
11 we will have you guys come back.

12 (Recess from 2:30 to 2:31 p.m.)

13 THE COURT: Okay. Sorry for the interruption.
14 Let's go back on the record in the AF Holdings, Ingenuity
15 13 LLC.

16 All right. Go ahead, counsel.

17 MR. PIETZ: Thank you, your Honor.

18

19 DIRECT EXAMINATION

20 BY MR. PIETZ:

21 Q Mr. Huffman, what is your job, sir?

22 A I am an attorney.

23 Q With what firm?

24 A Lock Lorde.

25 Q And do you represent AT&T in that capacity, sir?

1 A Yes, I do.

2 Q And how long have you been -- how long have you
3 been representing AT&T, sir?

4 A I have been representing AT&T for about six or
5 seven years, I suppose.

6 Q And do you have personal familiarity with matters
7 before AT&T that involve the Prenda law firm?

8 A I do.

9 Q So on a day-to-day basis over the past few years,
10 have you handled Prenda matters for AT&T?

11 A A number of them.

12 Q Very well. You prepared a declaration which I
13 submitted with the court in this matter; isn't that
14 correct, sir?

15 A That is correct.

16 Q And that declaration was based on an investigation
17 performed by your client, AT&T; is that correct?

18 A Well, that declaration recounts a series of events
19 where Angela Van Den Hemel who has contacted us on a
20 regular basis to follow-up on subpoenas contacted us with
21 respect to the subpoenas in the case that was
22 consolidated with others in this proceeding. And as we
23 looked into it, we discovered that the case had been
24 stayed as far as discovery goes.

25 Q So you are familiar, then, with this court's

1 October 19th, 2013 discovery order vacating the subpoenas
2 in the AF Holdings cases now before this court?

3 A Yes.

4 Q And as far as AT&T is aware, did Prenda in fact
5 stop seeking subpoena returns on the cases consolidated
6 before this court after October 19th, 2013?

7 MR. WAXLER: Calls for speculation.

8 THE WITNESS: I am not aware that they did. AT&T
9 did not, to my knowledge, receive any notice of the order
10 and furthermore Ms. Van Den Hemel, I think I am saying
11 her name right, contacted us seeking to follow-up and
12 obtain information presumably with respect to the
13 subpoenas in that case. And we received, I should add,
14 we received, I and my firm receive the information pretty
15 much directly as it comes in from CT Corporation so with
16 respect to these type of subpoenas.

17 Q BY MR. PIETZ: So with respect to these type of
18 subpoenas, then, the receipt or non receipt by AT&T would
19 come into your office; is that correct?

20 A Typically, it would.

21 MR. WAXLER: Calls for speculation.

22 THE COURT: Hang on. What is your objection?

23 MR. WAXLER: Calls for speculation, your Honor.

24 This witness is being asked to say whether
25 AT&T received something, and I think that is speculative

1 for him to be able to testify as to whether AT&T might
2 have received it or not.

3 THE COURT: I understood it to be how mail is
4 handled in his office, but let's walk through it again.

5 MR. PIETZ: Very well.

6 Q So did your office receive a copy of the
7 October 19th, 2013 order vacating the subpoenas in this
8 case?

9 A Not independently. When we looked on Pacer as
10 we -- we routinely do with respect to production requests
11 and the like, we found the order.

12 Q So your office was not served by Prenda or anybody
13 affiliated with Prenda with this court's October 19th
14 discovery order?

15 A That is correct.

16 Q And did you investigate with your client, AT&T, as
17 to whether or not AT&T received a copy of the court's
18 October 19th order?

19 A I did not specifically ask them that, no.

20 Q And were you contacted only the once by Angela
21 Van Den Hemel regarding the court's October 19th order in
22 this action?

23 A No. She contacted my paralegal twice and my
24 paralegal would routinely refer those type of inquiries
25 to me.

1 Q So she actually asked twice for subpoena returns to
2 be made after the October 19th discovery order?

3 A That's correct. And when I looked at the Pacer
4 records and saw the order, I then responded to
5 Ms. Van Den Hemel saying that the discovery had been
6 stayed and we of course would not be producing discovery
7 in the case at that time.

8 MR. PIETZ: I would ask that the declaration of
9 Bart Huffman be admitted as evidence in this hearing. I
10 think we are on Exhibit 6.

11 THE COURT: Okay.

12 THE WITNESS: And would you also want to have the
13 declaration of my paralegal admitted as well?

14 MR. PIETZ: Yes. I would ask as well that that be
15 admitted as Exhibit 7. It is the next filing on the
16 docket.

17 THE WITNESS: Camille Kerr.

18 Q BY MR. PIETZ: Could you spell her name for the
19 record.

20 A Certainly. C-A-M-I-L-L-E, K-E-R-R.

21 THE COURT: All right. Any objection, gentlemen?

22 MR. BRODSKY: Is she going to be testifying, your
23 Honor?

24 THE COURT: I have no idea.

25 MR. BRODSKY: Object on the ground of hearsay.

1 THE COURT: Is she here?

2 Q BY MR. PIETZ: Mr. Huffman, is Ms. Kerr here today?

3 A Ms. Kerr is not here today. I can testify though
4 that I oversaw and reviewed all of the items stated in
5 her declaration, and they are part of our regularly kept
6 records and they are consistent with our files, were
7 overseen by me at every single step and reviewed and they
8 are, in fact, true and correct.

9 Q So you are personally familiar with the facts in
10 Ms. Kerr's declaration?

11 A I am, and I reviewed it in detail.

12 THE COURT: What is the substance or the subject
13 matter?

14 THE WITNESS: Ms. Kerr submitted a separate
15 declaration simply because she was the addressee on the
16 e-mails from Ms. Van Den Hemel.

17 THE COURT: All right. And her declaration
18 attests to?

19 THE WITNESS: Her declaration attests to the truth
20 and authenticity of the e-mails that I attached thereto.

21 THE COURT: That is all?

22 THE WITNESS: That is all.

23 THE COURT: All right. I will permit it. Okay.
24 Gentlemen?

25 MR. BRODSKY: No questions, your Honor.

1 THE COURT: All right. Sir, you may step down.

2 Thank you.

3 THE WITNESS: Thank you, your Honor.

4 THE COURT: I do have one question.

5 Ms. Van Den Hemel, when you advised her that you had
6 learned from Pacer of the court's order quashing those
7 subpoenas, did she sound surprised?

8 THE WITNESS: She never responded at all.

9 THE COURT: All right. Thank you.

10 MR. PIETZ: Your Honor, also in attendance today
11 is an attorney for Verizon, Mr. Benjamin Fox. If it
12 please the court, I would suggest we offer him.

13 THE COURT: Yes. Please.

14 (The witness was sworn.)

15 THE CLERK: Please have a seat. And please state
16 your full and true name for the record and spell your
17 last name.

18 THE WITNESS: Benjamin Fox, F-O-X.

19

20 DIRECT EXAMINATION

21 BY MR. PIETZ:

22 Q Mr. Fox, what is your occupation, sir?

23 A I am a partner at Morrison and Foerster here in Los
24 Angeles. I am a lawyer.

25 Q And do you represent Verizon in that capacity?

1 A I do.

2 Q And how long have you represented Verizon in that
3 capacity?

4 A I can't tell you the date. I know that the first
5 matter was the Eastern District of California Rule 27
6 proceeding filed by Ingenuity 13, and that is the case
7 that you had a copyright assignment for that you showed
8 earlier this afternoon.

9 Q So you appeared on behalf of Verizon in that Rule
10 27 petition action in the Eastern District of California;
11 is that correct?

12 A Correct.

13 Q And I believe that was in 2011. Since then, have
14 you had occasion to deal with litigation matters
15 involving the Prenda law firm?

16 A Yes.

17 Q So you have handled those issues for Verizon on a
18 day-to-day basis in the past two years?

19 A Yes. Many of them.

20 Q Very well. You prepared and submitted, filed, I
21 should say, a declaration with the court earlier today;
22 isn't that correct, sir?

23 A I prepared for Verizon and obtained a signature
24 from Mr. Sean Moriarty who is a Verizon representative in
25 Arlington, Virginia. Yes.

1 Q So you are familiar with the facts that were
2 averred in the declaration filed with the court today?

3 A Yes, I am.

4 Q And did you investigate whether the facts are
5 correct prior to filing the document here today?

6 A I did.

7 Q And can you explain to me the substance of the
8 declaration with respect to whether or not Verizon
9 received a copy of the court's October 19th discovery
10 order?

11 A Sure. Verizon has been the recipient of I think
12 literally hundreds of subpoenas from the Prenda firm, and
13 Verizon is a party in a DC Circuit appeal where AF
14 Holdings was the plaintiff based on one of the copyright
15 assignments that bears the name of Mr. Cooper. Verizon
16 is very focused on what has been happening in these cases
17 and has been paying close attention to it.

18 So if Verizon had received the October 19
19 order from this court, Verizon would have known that, and
20 I would have received it as well. My e-mail doesn't have
21 any record of it. I have searched. I know that Verizon
22 has now searched. Is there some theoretical possibility
23 that maybe it was sent to someone at Verizon and not
24 forwarded to the correct people? Possible. But having
25 not seen anything from Mr. Gibbs that suggests it was

1 sent, you know, my conclusion is that it was not sent to
2 Verizon.

3 Q So, then, in terms of the usual channels, the
4 custom and practice, the way subpoenas would normally
5 come in from Verizon, did you check all of these means of
6 receiving subpoena information?

7 A I checked.

8 MR. WAXLER: Calls for speculation, your Honor.

9 MR. PIETZ: Let me rephrase.

10 THE COURT: What is your objection?

11 MR. WAXLER: Calls for speculation. He is asking
12 this witness to speculate about what Verizon's policies
13 are in receiving subpoenas.

14 THE COURT: I thought you were talking about
15 Morrison and Foerster's policy.

16 MR. PIETZ: That's right. I will rephrase and
17 make it more clear, your Honor. Let me rephrase.

18 Q So did you personally check Morrison and
19 Foerster's, the way that Morrison and Foerster would
20 normally receive information about a subpoena? Did you
21 check and make sure that no notice was received of the
22 October 19th discovery order?

23 A Yes. I made a reasonable search, and I looked
24 wherever that I thought was appropriate to look.

25 Q And you communicated with your client that you --

1 well, let me back up.

2 The gentleman who executed the declaration
3 that was filed with the court today, what was his name,
4 again, sir?

5 A Sean Moriarty.

6 Q And is that somebody you normally communicate with
7 these type of matters.

8 A Yes.

9 Q And you spoke with Mr. Moriarty, and can you
10 explain, did you have him investigate, from Verizon's
11 end, whether notice was received?

12 A The Verizon team investigated. Yes.

13 Q Including Mr. Moriarty?

14 A Yes.

15 Q Very well. And so, then, to the best of your
16 knowledge, based on both his investigation and a review
17 of Morrison and Foerster's own records, Verizon did not
18 receive a copy of the October 19th discovery order; isn't
19 that correct?

20 MR. WAXLER: Your Honor, it is basically taking
21 hearsay. Calls for speculation. He is asking the
22 witness what Verizon did. Verizon has given a
23 declaration that says it does not appear.

24 THE COURT: Overruled.

25 THE WITNESS: Correct.

1 Q BY MR. PIETZ: I would ask, then, that the
2 declaration submitted by Mr. Moriarty with the court
3 earlier today be admitted into evidence as Exhibit 7.
4 Sorry. Pardon. Exhibit 8.

5 THE COURT: It will be admitted.

6 All right. Mr. Brodsky, do you wish to
7 inquire?

8 MR. BRODSKY: I do not, your Honor. I have no
9 questions.

10 THE COURT: Sir, you may step down.

11 THE WITNESS: Thank you.

12 THE COURT: All right. Now, I would also like to
13 hear from your former client?

14 MR. PIETZ: Very well. Mr. Nason, are you in
15 attendance today?

16 (The witness was sworn.)

17 MR. WAXLER: Your Honor, I would object to this
18 line of questioning please.

19 THE COURT: He hasn't asked any questions yet.

20 MR. WAXLER: I know that, but this witness has no
21 relevant testimony to this subject matter. He is not a
22 party to any of the four cases at issue in this OSC. It
23 is not even a federal court case that he was a defendant
24 in, your Honor. He has no relevant testimony that he
25 could state in connection with this OSC.

1 THE COURT: Maybe yes. Maybe no. If we are
2 talking about a pattern and practice, and from what I
3 have seen, this is a cookie-cutter litigation. Sometimes
4 the only thing that I see changed on the complaints are
5 the ISP's addresses and the name of the film, but, in all
6 other respects, they seem to be all the same even the
7 declaration from the technical expert as to what he did
8 in order to identify the infringer. It is the same
9 document. So I hear your point. If I don't find it to
10 be relevant, I will discard it.

11 MR. WAXLER: Your Honor, just for the record,
12 Mr. Gibbs' declaration does go through exactly the
13 different things that he did in order to determine
14 whether in the two cases that you cited in the OSC
15 whether he was able to locate the infringer and who that
16 was. And there is nothing cookie cutter about that
17 effort that he put in his declaration.

18 THE COURT: All right. Thank you.
19 Go ahead.

20 THE CLERK: Please state your full and true name
21 for the record and spell your last name.

22 THE WITNESS: Jessie Nason. That is N like Nancy,
23 A-S-O-N.

24 THE COURT: Go ahead, counsel.
25 Is that one S or two?

1 THE WITNESS: One S.

2 THE COURT: All right.

3 THE WITNESS: Well, two in Jessie. Sorry.

4

5 DIRECT EXAMINATION

6 BY MR. PIETZ:

7 Q Mr. Nason, have you heard the name Brent Gibbs
8 before?

9 A Yes.

10 Q And in what context, sir?

11 A He was the lawyer who brought the case against me,
12 Lightspeed Media versus my name.

13 Q And where was that -- and I represented you in that
14 case, did I not, sir?

15 A Correct.

16 Q And was that in the Los Angeles Superior Court
17 filed in 2012?

18 A Yes.

19 Q I will note for the record that the case is
20 Lightspeed Media Corporation versus Jessie Nason, Los
21 Angeles Superior Court No. NC057950.

22 MR. WAXLER: Your Honor, I would like to object
23 again. This case is not even a copyright case. It was a
24 case where the individual here was alleged to --

25 THE COURT: Where are you from?

1 MR. WAXLER: I am from Los Angeles, your Honor.

2 THE COURT: There are no speaking objections in
3 Los Angeles.

4 MR. WAXLER: I'm sorry, your Honor.

5 THE COURT: Okay. What is this case about?

6 MR. PIETZ: Your Honor, if I might speak to that
7 very briefly. What we have seen from Prenda Law is a
8 slightly different twist in some of their cases on
9 copyright litigation, and what it is is essentially an
10 attempt to address a copyright infringement case in state
11 law clothing, well, state law and the Computer Fraud and
12 Abuse Act.

13 So the causes of action at issue in the
14 Lightspeed case was a computer fraud and abuse act claim
15 which essentially alleges that downloading and
16 distributing content, and the content is nebulously
17 specified in the complaint amounts to Computer Fraud and
18 Abuse Act violations. And then there were a variety of
19 related claims all of which were preempted by the
20 Copyright Act for conversion, unjust enrichment and the
21 like. But, really, what it was, and, in fact, and I can
22 speak to this longer although perhaps it is getting off
23 on a tangent, in reality what happened, was at some point
24 somebody probably hacked into a password protected
25 website, but, then, Prenda started logging IP addresses

1 and suing people in CFAA claims even though really the
2 gravamen of the case was the use of BitTorrent. So it is
3 similar, but, in any event, the issue in Mr. Nason's case
4 that I think is relevant here is the same, and that
5 specifically what was the investigation that was
6 performed prior to naming Mr. Nason as the defendant in
7 the case, and it is fairly bread and butter.

8 THE COURT: Okay. Go ahead.

9 Q Mr. Nason, are you familiar with the reason that
10 Mr. Gibbs stated that he had named you as a defendant?

11 A Yes.

12 MR. WAXLER: Calls for speculation.

13 THE COURT: He said stated. You did say stated;
14 right?

15 MR. PIETZ: Yes, your Honor.

16 THE COURT: All right. Overruled.

17 Q BY MR. PIETZ: So, in any event, what was that
18 reason, Mr. Nason.

19 A I believed it to be that he supposed I lived by
20 myself in my apartment, and so he considered me a single
21 male.

22 Q And, Mr. Nason, is that correct? Do you live
23 alone?

24 A No, I do not.

25 Q And who do you live with, Mr. Nason?

1 A My wife of nine years.

2 Q And have you lived with her for the past
3 nine years?

4 A Correct.

5 Q So, at any point, you know, save perhaps for a
6 vacation, consistently for the past nine years, you have
7 always lived with your wife; is that correct?

8 A That's correct.

9 MR. PIETZ: That is essentially all I need from
10 Mr. Nason, your Honor. I might have some questions about
11 Mr. Gibbs, or perhaps now I could show the court the
12 section of the transcript from the hearing in the Nason
13 matter where Mr. Gibbs, when pressed by the court as to
14 how it is and why it is he justified having named
15 Mr. Nason as a defendant, Mr. Gibbs specifically stated,
16 well, because we determined that he lived alone. It is
17 just incorrect. And, indeed, the court denied my motion
18 on that basis even though it turned out to be incorrect.

19 MR. BRODSKY: Your Honor, for the record, may we
20 move to strike the testimony on the ground that it is
21 irrelevant and beyond the scope of the court's OSC.

22 THE COURT: You may step down, sir. Thank you.

23 THE WITNESS: Thank you.

24 MR. PIETZ: I am looking now for the specific
25 section of the transcript.

1 THE COURT: Don't worry about it.

2 MR. PIETZ: All right. I can find it afterwards.

3 Thank you, your Honor.

4 THE COURT: All right. Let's now switch to the
5 jurisdictional issue.

6 MR. PIETZ: Oh, you know what, your Honor, I have
7 here the actual original copy of the transcript which
8 perhaps I will lodge with the court and move to mark as
9 Exhibit 9, I believe we are on.

10 THE COURT: Okay.

11 MR. PIETZ: And, Mr. Ranallo, if you can find the
12 pin cite, we will go ahead and add it.

13 May I approach to give this to the clerk, your
14 Honor?

15 MR. WAXLER: We would object to the inclusion of
16 that transcript as an exhibit.

17 THE COURT: I will take a look at it. We will
18 see.

19 Where was this? Was this in Torrance?

20 MR. PIETZ: Yes, it was, your Honor. Judge
21 Vicencia.

22 THE COURT: Small world. My old court reporter.
23 Okay.

24 MR. PIETZ: I am just looking now for the diagram
25 which I think will assist in explaining all of this.

1 We seem to be a bit off kilter there, don't
2 we. Interesting. Well, in any event --

3 MR. WAXLER: What exhibit is this?

4 MR. PIETZ: Yes. Marked as -- I will tell you in
5 just a moment. Double H, previously on the record.

6 In any event, perhaps less useful than I hoped
7 it would be, but I can at least talk the court through
8 it.

9 THE COURT: What is your source? I mean,
10 electronic source?

11 MR. PIETZ: This is a demonstrative exhibit, your
12 Honor.

13 THE COURT: I know that. What are you using,
14 laptop?

15 MR. PIETZ: It is Trial Pad on my iPad, your
16 Honor.

17 THE COURT: It is on your iPad?

18 MR. PIETZ: Yes, sir.

19 THE COURT: And you can't do anything to adjust
20 it?

21 MR. PIETZ: We do have a color paper copy of the
22 document. It will take just a moment to pull it.

23 THE COURT: Okay. Go ahead.

24 MR. PIETZ: In any event, Mr. Ranallo, perhaps you
25 can look for that.

1 MR. BRODSKY: Your Honor, may I inquire of the
2 court for a moment?

3 THE COURT: Sure.

4 MR. BRODSKY: I am not quite sure what the
5 relevance of this is, the foundation for it or exactly
6 what counsel is doing. It just seems to be his own
7 statement of his investigation.

8 THE COURT: Do you know the general subject that
9 we are going to discuss now?

10 MR. BRODSKY: I believe so, your Honor.

11 THE COURT: Okay. That is what I think it is, and
12 hopefully it will help him. Now, when it gets down to
13 the source of this material and the accuracy of this
14 material, I hope I will be hearing from you gentlemen. I
15 don't have the independent knowledge of this one way or
16 the other. Thank God for the adversarial process.

17 MR. WAXLER: Your Honor, so, then, should
18 Mr. Pietz be on the stand if he is going to give
19 essentially testimony about this exhibit?

20 THE COURT: I don't make a habit of placing
21 lawyers under oath, but this case may change that. I
22 figure officers of the court will not knowingly make
23 misrepresentations to the court, will they.

24 MR. WAXLER: No, they won't.

25 THE COURT: Until this case.

1 MR. WAXLER: My client hasn't in this case.

2 MR. PIETZ: Your Honor, to explain what it is,
3 what I thought I might do is to give a very brief
4 overview of the organization, and, then, I thought I
5 would go through some specific documents about Mr. Steele
6 and a couple of arguments. So this is really argument,
7 essentially, a couple of exhibits that go to Mr. Steele's
8 connection to the California as well as a couple of
9 points about Mr. Paul Hansmeier and Mr. Duffy.

10 THE COURT: Okay.

11 MR. PIETZ: So, in any event, this is a chart that
12 was essentially prepared. This was prepared by my office
13 essentially as a tool to aid in the understanding of how
14 Prenda Law appears to have evolved over the past few
15 years.

16 Essentially, it started out here with Steele
17 Hansmeier, and John Steele -- I know that is a little
18 hard to see -- John Steele, Paul Hansmeier and Brett
19 Gibbs. Mr. Steele and Mr. Hansmeier were the named
20 partners in the firm, and Mr. Gibbs was the of counsel
21 originally. When they first started out, circa 2011 --

22 THE COURT: I am going to have to stop you. How
23 do you know that Mr. Gibbs was of counsel with Steele and
24 Hansmeier?

25 MR. PIETZ: Your Honor, I can point to the

1 specific exhibit, but there are pleadings of which the
2 court can take judicial notice where he is listed on the
3 pleadings as of counsel to Steele Hansmeier.

4 THE COURT: You are aware of the fact that
5 Mr. Hansmeier doesn't know what capacity Mr. Gibbs was
6 working at his law firm?

7 MR. PIETZ: Correct, your Honor. So, in any
8 event, let me put it this way. Mr. Gibbs filed documents
9 in federal court indicating on the caption that he was of
10 counsel to Steele Hansmeier.

11 THE COURT: Okay.

12 MR. PIETZ: Now, I believe I can also speak to
13 this if the court is so inclined that Mr. Lutz was
14 holding himself out to the world as a paralegal at that
15 time, working, according to Mr. Paul Hansmeier, solely
16 for Mr. Steele. At this time, most of the lawsuits with
17 a few exceptions filed by Prenda around 2011 were on
18 behalf of a porno production, pardon me, adult
19 entertainment production company that actually people
20 have heard of before. And that is this list of clients
21 here.

22 What happened is that sometime in 2012, the
23 Steele Hansmeier firm was disbanded or become Prenda,
24 sold its client book to Prenda Law. We are not entirely
25 sure exactly the nature of the transaction, but, in any

1 event, at that point, Paul Duffy became involved as the
2 nominal figurehead of the Prenda Law enterprise.
3 However, there are indications that Mr. Steele and
4 Mr. Hansmeier remain involved and Mr. Gibbs has declared
5 that he essentially continued on as of counsel handling
6 the same cases only now on behalf of Prenda Law, Inc.
7 rather than Steele Hansmeier LLC.

8 At the same time that Steele Hansmeier became
9 Prenda, sometime around, then, in 2012, I am not exactly
10 sure, Mr. Hansmeier started up his own shingle in
11 Minnesota, the virtual office called the Alpha Law Firm
12 LLC. So, essentially, Mr. Hansmeier sometimes files
13 pleadings in federal court that list his affiliation as
14 Alpha Law Firm LLC, but, by the same token, Mr. Gibbs has
15 identified Mr. Paul Hansmeier as being the person from
16 whom he took direction at Prenda.

17 And, indeed, the court may recall from the
18 deposition transcript read over the weekend that
19 Mr. Hansmeier testified that, indeed, his clients
20 deposited their trust account funds into the Prenda Law
21 Firm account rather than to the Alpha Law Firm account.

22 THE COURT: Stop. I hate to interrupt you.

23 But she means more to me than this argument,
24 and we have had her going at light speed for an
25 hour-and-a-half. Right. So I am going to take a break,

1 and we can all take a break. How about 10 minutes.

2 Okay.

3 MR. PIETZ: Very good. Thank you, your Honor.

4 (Recess from 2:58 to 3:09.)

5 THE COURT: All right. Mr. Pietz.

6 MR. PIETZ: Thank you. I will attempt to keep
7 this section very brief, and then we will move on to some
8 documentary evidence. This is just a summary.

9 So, as I was saying, sometime around 2012,
10 there was a bit of a shift in the Prenda business
11 strategy. Mr. Hansmeier -- so what happened is these
12 companies, AF Holdings, LLC, Ingenuity 13 LLC and then
13 there is a couple of other companies which are the ones
14 in the CFAA cases. That is Arte de Oaxaca LLC and Guava
15 LLC. And the CFAA cases have primarily been filed in
16 state court and have indeed tried to use -- certain
17 states have presuit discovery procedures that are more
18 lenient than Federal Rule of Civil Procedure 27. So it
19 is sort of a newer twist is these state court CFAA cases
20 and Arte de Oaxaca.

21 But, in any event, according to Mr. Hansmeier
22 in his deposition, these essentially shell company
23 plaintiffs are owned by a mystery trust. Mr. Hansmeier,
24 as 30(b)(6) deponent -- well, anyway, I won't go into
25 that. The court read it. According to Mr. Gibbs'

1 special counsel, though, on the same day, February 19th,
2 there is conflicting testimony essentially saying that
3 Livewire Holdings LLC is actually the current holder of
4 AF Holdings and Ingenuity 13.

5 So, in any event, these are the parent
6 companies, some mystery trust and Livewire Holdings LLC.
7 There is documents, you know, I had this sort of set
8 aside to potentially go through with Mr. Gibbs, but I can
9 also just show the documents, show what I have. In any
10 event, there is documents showing Mr. Gibbs as in-house
11 counsel for Livewire Holdings.

12 There are various other connections between
13 Livewire Holdings and the attorneys we see over here.
14 Mr. Dugas is a local counsel who has worked at both
15 Prenda and Alpha Law which I can show through his
16 LinkedIn profiles, obviously, not central to the case.
17 Mr. Dugas' wife has been identified on LinkedIn as
18 in-house counsel for Livewire Holdings.

19 In addition, what I will talk about now is the
20 way that we see the lawyers. Mr. Hansmeier has been both
21 30BC deponent for AF and as its counsel. In any event,
22 what seemed to happen is that at some point these cases
23 filed on behalf of Ingenuity, AF Holdings, Arte de Oaxaca
24 and Guava LLC are cases where what appears to have
25 happened is the lawyers essentially took assignment of

1 the underlying intellectual property rights in these
2 mysterious shell companies. One recurring theme here is
3 the way that when we are seeing the straw men, there is
4 always a connection to John Steele. So, for example, in
5 the VPR International, we see John Steele is the
6 attorney. We see Alan Cooper listed on the corporate
7 registration. The address listed for VPR International,
8 the 4532 East Villa Teresa Drive. My understanding based
9 on documents that have been submitted with the court is
10 that is an address that comes up for John Steele's sister
11 and a gentleman named Anthony Saltmarsh, in addition, of
12 course, to being the address listed for Mr. Cooper.

13 So on various federal court filings in the
14 Northern District of California, all of which are
15 attached as exhibits to the deposition that was lodged
16 with the court which the court read over the weekend,
17 when pressed to identify the person at AF Holdings who
18 would be made available for an early neutral settlement
19 evaluation conference, there are various court filings
20 listing the owner of AF Holdings as somebody named Salt
21 Marsh, two words.

22 So, in any event, what seems to perhaps be the
23 case is that this Anthony Saltmarsh lived at this address
24 with John Steele's sister which was essentially used as a
25 front for various entities involved in Prenda activities.

1 I don't want to spend too much time on just
2 the overview. What I thought I might do is shift instead
3 to taking the nonappearing folks individually. And I
4 thought I might start with Mr. Steele. So I have some
5 documents which go to that, and I will switch back now
6 to -- okay. There we go. So I will note that in the
7 declaration submitted to the court by Mr. Steele on
8 Friday, he claims that he resides in the State of
9 Florida.

10 I will point out that when Mr. Steele was
11 under threat of sanction in the state of Florida, he
12 declared to the court there that he resided in the State
13 of Nevada and only visited the State of Florida. So I
14 have here the affidavit of John Steele that he filed, and
15 you can see the file stamp on the top. It is Middle
16 District of Florida, Case No. 812 CV 1685 that was filed
17 on December 20th, 2012. And, in Paragraph 2, Mr. Steele
18 swore to the court that my legal residence is Las Vegas,
19 Nevada, and I also spend one to two weeks a month in
20 Miami, Florida. So my understanding must be then that
21 sometime between last December and now Mr. Steele has
22 decided that his residence is not Nevada but rather
23 Florida.

24 In any event, and before moving on, I would
25 ask the court to take judicial notice of the fact that in

1 the -- that this affidavit which was filed in the public
2 record in the Middle District of Florida that Mr. Steele
3 states that he spends one to two weeks a month in Miami,
4 Florida. Mr. Ranallo can pass out copies of the
5 affidavit to everybody.

6 So, in any event, let's look at some other
7 documents about Mr. Steele. And what I would start with,
8 I believe, is a declaration here, and I will ask
9 Mr. Ranallo again to pass this out for the court, the
10 declaration of Michael B. Stone, and what this
11 declaration is, the declaration itself is essentially
12 just authenticating the document, but the document at
13 issue is a collection of pleadings in a Northern District
14 of California action in which it was a case filed on
15 behalf of a Prenda client.

16 Well, this I think was an actual company that
17 people have heard of in an earlier case, but in any
18 event, here, we see the pleading. So the declaration
19 authenticates it, and then Exhibit 1 is a copy of the
20 complaint which as we can see was filed in the United
21 States District Court for the Northern District of
22 California, and it is Civil Action No. 511 CV 3648.

23 Well, in any event, the interesting thing
24 about this complaint is who signed the subpoena that was
25 directed in this case at a John Doe defendant who resided

1 in California. And the answer, and here we see a copy of
2 the subpoena, pardon me, authenticated by Mr. Stone.
3 This is the letter that the ISP normally sends out, and,
4 here, we see a copy of the subpoena itself. And this is
5 in the same action.

6 Then, we see, there, that this subpoena which
7 again was signed by John Steele in a California action
8 requesting information of a John Doe defendant in the
9 State of California. So, essentially, I would ask that
10 this declaration of Michael Stone be admitted into
11 evidence as Exhibit, I believe, we are on 9.

12 Is that correct, Madam Clerk?

13 THE CLERK: 10.

14 MR. PIETZ: Pardon me. 10. I am one behind.

15 THE COURT: All right. Any objection?

16 MR. WAXLER: Your Honor, I just question the
17 relevancy of it as to Mr. Gibbs. Again, it is not one of
18 the cases that you put in your OSC.

19 THE COURT: It will be admitted.

20 MR. PIETZ: Similar document that I will move onto
21 next. What we have here is a declaration which was filed
22 on the docket in a case in the Northern District of
23 California by a man named Samuel Teitelbaum. It is
24 Northern District of California No. 311 CV 5628. And we
25 can see here that it is pending in the Northern District

1 of California.

2 In this declaration, Mr. Teitelbaum explains
3 that he received a letter directed to him in California
4 from Prenda Law and that the letter which was mailed to
5 him in California which is there is a copy of it right
6 here. It is on Steele Hansmeier letterhead, and if we go
7 to the last page, we see that the letter, mailed into the
8 State of California in a case pending in the Northern
9 District of California, is signed by John Steele,
10 attorney and counselor at law.

11 So, in any event, I would ask that this be
12 admitted into evidence as Exhibit 11, and these both go
13 to showing that Mr. Steele has indeed reached into the
14 State of California in terms of his actions in BitTorrent
15 copyright litigation cases.

16 THE COURT: All right. Will be received.

17 MR. PIETZ: So what I will do now, I think that
18 the other facts that I had already pointed out about the
19 other gentlemen who are not here today, so I mean Paul
20 Hansmeier and Paul Duffy, I pointed out in my opposition
21 to the objections which was filed on Friday, but, in
22 general, I would argue the jurisdictional issue as
23 follows.

24 What we have from Mr. Gibbs is a declaration
25 saying that anything that was potentially improper in

1 these cases was done at the direction of his superiors at
2 the Prenda law firm. He identifies those people as John
3 Steele and Paul Hansmeier. Interestingly enough,
4 Mr. Duffy isn't on the list or perhaps maybe not as much.

5 Mr. Duffy has his California bar license in
6 the state of California and has substituted in in
7 Mr. Gibbs' place in a variety of actions in the Northern
8 District of California. Mr. Hansmeier, in addition to
9 being identified by Mr. Gibbs as essentially running a
10 law firm doing business in California, flew to California
11 apparently of his own free will to appear as the
12 corporate 30(b)(6) deponent of AF Holdings LLC. So we
13 have Mr. Hansmeier reaching into the state of California,
14 attending a deposition in California in a Northern
15 District of California case, representing essentially
16 that the same plaintiff that is at issue here, AF
17 Holdings LLC.

18 So at least with respect to Mr. Duffy who has
19 his bar license here and Mr. Hansmeier who flew here as a
20 30(b)(6) deponent and has been identified, I think it is
21 fairly clear that probably both general and specific
22 jurisdiction exists.

23 Mr. Steele has perhaps been a little more
24 careful about trying to keep his fingerprints off here,
25 but I would remind the court that Mr. Gibbs has

1 identified him as essentially running a law firm in
2 California which by the way is not qualified to do
3 business in California, and I checked with the state bar
4 and it is not registered as a law firm here.

5 But in any event --

6 THE COURT: You talking about Prenda now?

7 MR. PIETZ: Talking about Prenda. Yes, sir.

8 In any event, I apologize. I don't have
9 documents to back that up, but I can provide them. But,
10 in any event, I think that with respect to Mr. Steele
11 when you take Mr. Gibbs' declaration and add it together
12 with a subpoena signed by Mr. Steele. And, pardon me, I
13 will note one other thing about the declaration of
14 Michael Stone. In addition to authenticating the
15 documents, he also included some back and forth, some
16 meet and confer correspondence he had with Mr. Steele.

17 So, essentially, Mr. Stone noticed the fact
18 that Mr. Steele was not licensed in California and that
19 he had signed the subpoena and wrote to Mr. Gibbs saying
20 this subpoena is invalid. And what happened is that
21 Mr. Steele wrote back directly without cc'ing Mr. Gibbs
22 and essentially shrugged off the concerns about the
23 subpoena being signed by an attorney who doesn't have a
24 license in California.

25 So, in any event, I think that with respect to

1 Mr. Steele, when you add together the subpoena issued
2 into the state of California, a demand letter issued
3 under the state of California as well as Mr. Gibbs'
4 testimony, it is pretty clear that the court has personal
5 jurisdiction.

6 I don't have a tremendous number of additional
7 exhibits on this topic. However, I do have quite a few
8 with respect to what I view as Mr. Gibbs' central role in
9 the Prenda law organization.

10 MR. BRODSKY: Your Honor, may I make one comment?

11 THE COURT: You can make more than that. Thank
12 you.

13 Yes. Go ahead.

14 MR. BRODSKY: We are not taking a position at the
15 present time on the jurisdictional issues that the court
16 is deciding, but there were statements made about my
17 client that I believe mischaracterize the evidence that
18 has been put forward.

19 THE COURT: Okay. Listen, let me just sort of
20 tell you the way we are going to proceed here. At this
21 point, you will have the floor. All right. I can't
22 imagine you are going to raise too much in opposition to
23 the jurisdictional issue. Otherwise, he is in. So you
24 go right ahead.

25 Now, a number of things -- I am just going to

1 give you some of my thinking. A number of things were
2 stated in your papers. Some of them caused me some
3 concern because they were inaccurate. For example, you
4 make the argument that certain people were identified as
5 infringers because there was no way, for example, that
6 someone else could have been piggy-backing off of their
7 modem because of the size of the lot, where the house is
8 situated on the lot, the proximity or lack of proximity
9 of other residences around, et cetera.

10 Your representation of these homes and the
11 neighborhoods and juxtaposition of other houses around
12 them was simply not accurate. Not in the least bit. And
13 I found that troublesome when you are asking me, then, to
14 accept all of your our arguments.

15 So I just want to throw that out there to let
16 you know some of my thinking.

17 MR. WAXLER: Our turn, your Honor?

18 THE COURT: I don't care who. It is this side.

19 MR. WAXLER: We will call Mr. Gibbs to the stand,
20 your Honor.

21 THE COURT: All right.

22 (The witness was sworn.)

23 MR. PIETZ: Your Honor, before we move onto
24 Mr. Gibbs, may I request that we admit into evidence the
25 affidavit of John Steele as Exhibit 12, the Michael Stone

1 declaration as Exhibit 13 -- oh. Pardon me. Stone and
2 Teitelbaum have already been admitted so just the
3 affidavit of John Steele. I would ask that that be
4 admitted as Exhibit 12.

5 THE COURT: I think that's right. Are we up to
6 12? Okay. All right.

7 THE CLERK: If you could state your full and true
8 name for the record and spell your last name.

9 THE WITNESS: Sure. Brad Gibbs, G-I-B-B-S.

10

11 DIRECT EXAMINATION

12 BY MR. WAXLER:

13 Q Mr. Gibbs, who is your present employer?

14 A I am not currently employed.

15 Q You became employed -- I'm sorry. You became an of
16 counsel, 1099 independent contractor for Steele
17 Hansmeier; correct?

18 A Yes.

19 Q Was Steele Hansmeier an existing law firm at the
20 time that occurred?

21 A I believe they had been existing for a number of
22 months at that point.

23 Q What were you told your role would be at Steele
24 Hansmeier?

25 A Basically, California counsel for Steele Hansmeier

1 in bringing lawsuits on behalf of their clients.

2 Q Were you paid as an employee?

3 A No.

4 Q Did you share in Steele Hansmeier profits?

5 A No.

6 Q Were you on the management of Steele Hansmeier?

7 A No.

8 Q And who did you understand were the decision makers
9 of Steele Hansmeier?

10 A John Steele and Paul Hansmeier.

11 Q When you were an of counsel to Steele Hansmeier,
12 who supervised you?

13 A John Steele and Paul Hansmeier.

14 Q Did you have periodic meetings while at Steele
15 Hansmeier to discuss cases?

16 A Yes, we did.

17 Q And were those weekly meetings?

18 A Yes. Sometimes they would be sending the schedule,
19 but, yes, mostly weekly meetings.

20 Q Who participated in those meetings?

21 A John and Paul would call me, and they would hold a
22 weekly meeting.

23 Q And were these by phone or in person?

24 A These were by phone.

25 THE COURT: Were they ever in person.

1 THE WITNESS: I went sometimes and met them, and
2 then we had meetings, yes, in person at that point, but
3 this was only a couple of times.

4 THE COURT: This is out of California?

5 THE WITNESS: Yes. Well, I have met with Paul
6 Hansmeier in California prior to this deposition, but the
7 other, everything was out of California.

8 Q BY MR. WAXLER: When -- were any cases that you filed
9 while at -- while of counsel to Steele Hansmeier, were
10 any of those cases settled?

11 A Yes.

12 Q And did the checks, the settlement checks come to
13 you?

14 A No.

15 Q Did you have a client trust account in any account
16 in which you had an interest at all as a signatory?

17 A No. Actually, I don't even have a client trust
18 account.

19 Q So the checks were sent to Steele Hansmeier's trust
20 account?

21 A I don't know. I would assume they were. They
22 weren't sent to me. They were sent to Steele Hansmeier.

23 Q And how did you learn that Prenda law was going to
24 substitute in or take over the cases from Steele
25 Hansmeier?

1 A Basically, I heard of the name Prenda Law. They
2 told me that Prenda Law was now taking over the business.
3 Steele Hansmeier was no longer going to exist at that
4 point.

5 Q And who is they in that answer?

6 A That would be John Steele and Paul Hansmeier.

7 Q Were you on the management committee at all of
8 Prenda Law?

9 A No.

10 Q Were you partner at Prenda Law?

11 A No.

12 Q What was your affiliation with Prenda Law?

13 A The same as it was for Steele Hansmeier which would
14 be of counsel, California counsel essentially for Prenda
15 Law.

16 Q So you were compensated with a 1099?

17 A Yes. That is correct.

18 Q And did that ever change over the course of the
19 time which you were counsel to Prenda Law?

20 A In terms of what?

21 Q In terms of your relationship with that firm?

22 A No. I would only say that they, John and Paul, had
23 asked me to help the other counsel in different states,
24 basically, like, give them advice in doing their own
25 cases in different states. That was the only change

1 really. Other than that, I was just California counsel.

2 Q While of counsel to Prenda Law, did you ever
3 receive any settlement checks?

4 A Myself personally, no.

5 Q Did you have a client trust account at Prenda Law
6 that you somehow administered or controlled?

7 A No.

8 Q And were you supervised at Prenda Law?

9 A Yes, I was.

10 Q Who were you supervised by?

11 A Paul Hansmeier and John Steele.

12 Q Were you supervised by Paul Duffy?

13 A No.

14 Q And when you say supervised, could you just
15 describe what you mean by that? How did they supervise
16 you?

17 A Sure. You know, they essentially were the ones
18 that would initiate cases. By that, I mean, they would
19 tell me they wanted to file certain cases in California,
20 for instance, and they would instruct me to go ahead and
21 file those. And they would give me the authority to do
22 so. I would be told what cases we are looking at and how
23 many cases we are talking about, and then I would file
24 the cases.

25 And they would give me general guidelines on

1 what to do and sometimes the cases would be settled by
2 John as was pointed out earlier, and sometimes they gave
3 me certain parameters which I could settle the case
4 myself.

5 Q Did you ever talk to anybody that you understood to
6 be the client, AF Holdings?

7 A No. The communications were solely through Paul
8 Hansmeier and John Steele.

9 Q Did you ever talk to anybody who said they were
10 affiliated with Ingenuity 13?

11 A Well, I mean, aside from Mark Lutz who is the CEO
12 of Ingenuity 13, but aside from that, no. All my
13 communications were straight through Paul Hansmeier and
14 John Steele.

15 Q Did Mr. Lutz ever give you direction on the
16 handling of any of these cases directly?

17 A No. Actually, I only found out about that
18 connection, I would say, after the cases in the Central
19 District were filed, about him being the CEO. I didn't
20 know that before.

21 Q And the cases that were filed in the Central
22 District were dismissed; correct?

23 A That is correct.

24 Q And whose decision was it to dismiss those cases?

25 A Ultimately, it was John Steele and Paul Hansmeier's

1 decisions. We had talked about it. As counsel of record
2 here, I just kind of broke down like a cost benefit
3 analysis of those cases. And they said, basically, go
4 ahead and dismiss them because -- they said go ahead and
5 dismiss them.

6 Q When the cases were filed, did you have a
7 discussion with anybody about whether notice of
8 interested parties should be filed?

9 A I did. Yeah.

10 Q And who did you have discussions with?

11 A Mostly Paul Hansmeier. Yes. Mostly Paul Hansmeier
12 but sometimes John Steele, I guess. I don't know. It
13 was a while ago I guess.

14 Q Did you file those notices of interested parties?

15 A Yes.

16 Q What did they say in connection with AF Holdings.

17 A They said there was no other interested parties.

18 Q Do you have any personal knowledge of that
19 statement as untrue?

20 A No, I did not. No. I still don't. I mean, in
21 terms of I know there is other things involved in terms
22 of the trust and stuff like that, but in terms of other
23 people involved, I was only taking direction from these
24 guys in terms of these types of filings.

25 Q And these guys are?

1 A These guys are Paul Hansmeier and John Steele.

2 Q In connection with Ingenuity 13 cases did you file
3 notices of interested parties?

4 A That is correct. Yes.

5 Q And were you ever advised that the information --
6 how did you obtain the information for those notices?

7 A Well, I just, I would ask them, you know, are there
8 any other people that I should be noticing on this
9 document that I am filing with the court.

10 Q Who is them in your response?

11 A That would be Paul Hansmeier and John Steele.

12 Q Were you told not to do that again. Instead of
13 saying them, were you told by Paul Hansmeier, John Steel
14 that the information you included in those notice of
15 interested parties was correct?

16 A So they actually told me, I was instructed to fill
17 those documents out like I did.

18 Q There was a question raised by the court this
19 morning about the failure to have filed notices of
20 related cases. My question is did you consider filing
21 notices of related cases when you filed the actions in
22 the Central District of California?

23 A Yes, we did.

24 Q And could you please describe for the court what
25 your thought process was as a result of, in not filing

1 these notices?

2 A So we had filed -- well, I filed on behalf of
3 Steele Hansmeier, then Prenda Law, a number of cases in
4 the Northern District of California, and those were cases
5 with multiple people in them.

6 And what the court in the Northern District of
7 California concluded, almost every court, at that point,
8 after filing multiple cases was that joinder was not
9 valid and that they basically told us in no uncertain
10 terms that these cases weren't related. Therefore, that
11 informed my belief in terms of whether we wanted to
12 relate these cases or not. They said these cases,
13 essentially, through their orders and through live
14 hearings, that these cases aren't related, they should be
15 brought as individual actions. So it was just a decision
16 to bring those individual actions and not relate the
17 cases based on that.

18 Q And your experience in Northern California, that
19 predated the filings of the Central District actions that
20 we are here to discuss today?

21 A Yes. I don't even know if I was admitted into the
22 Central District at that point.

23 THE COURT: Let me jump in a second. You were
24 told in the Northern District of California that when you
25 filed a lawsuit on behalf of either AF Holdings or

1 Ingenuity 13 versus Does 1 through many, that that
2 joinder was improper; correct?

3 THE WITNESS: Some cases. Some cases it was not
4 improper. Some judges felt differently.

5 THE COURT: All right. But if it involved
6 different movies, downloads, different times, different
7 people, different places, different ISP addresses, they
8 said you need to file separate lawsuits; right?

9 THE WITNESS: Some of them were the same clients,
10 same videos.

11 THE COURT: Okay. But even then?

12 THE WITNESS: Yes.

13 THE COURT: Even then, you had to file separate
14 lawsuits?

15 THE WITNESS: Yes. We were pointing that
16 direction even there was a footnote in one of the courts'
17 opinions saying basically that we were trying to get
18 around the filing fee, and that is what they thought so
19 we should file individual cases from there on out.

20 THE COURT: Of course, you were, but that is not
21 where we are going here. Now, that deals with joinder in
22 one lawsuit and consolidating really separate and
23 complete causes of action, different parties in a single
24 lawsuit.

25 Now, what we are talking about here is with

1 respect to your notice of related case.

2 THE WITNESS: I understand.

3 THE COURT: You do because I can hear it now. I
4 can hear you going it is compound, all the stuff that you
5 do.

6 Do you realize -- no. Did you equate the
7 instructions you got from the court regarding improper
8 consolidation of a lot of cases, a lot of claims into a
9 single complaint, did you somehow conflate that with the
10 issue of related cases, notices of related cases? And
11 you know what that is for, here; right?

12 THE WITNESS: I understand.

13 THE COURT: You understand why we are looking for
14 that.

15 THE WITNESS: I understand.

16 THE COURT: Tell me what your understanding is as
17 to why the court is interested in knowing whether or not
18 there are related cases.

19 THE WITNESS: Because if they are similar cases,
20 my belief is the court wants to know about those so the
21 court can handle it so that there are uniform decisions
22 essentially that are held from the same court.

23 THE COURT: Excellent. A completely different
24 objective -- right -- than consolidating a lot of
25 different lawsuits in one complaint; right? Completely

1 different. This is judicial economy.

2 THE WITNESS: I understand. Yes. I understand
3 what you are saying. In terms of that it was just the
4 decision that was made, and perhaps it was the wrong
5 decision, but, you know, the decision was made.

6 THE COURT: Okay. Don't do that. Decision that
7 was made. Who made that decision?

8 THE WITNESS: It was a discussion amongst myself,
9 Paul Hansmeier and John Steele and, probably, mostly,
10 Paul Hansmeier. I don't even know if Steele was involved
11 in that discussion or not, and that is just what we
12 decided to do.

13 THE COURT: All right. The law firm that you were
14 working for -- and I guess initially we are talking
15 Steele Hansmeier or the other way around.

16 THE WITNESS: It was Steele Hansmeier.

17 THE COURT: Okay. Did that firm have, in its
18 California office, did it have a client trust account?

19 THE WITNESS: In California.

20 THE COURT: Yes.

21 THE WITNESS: Well, I was working of counsel to
22 them. So, no, I never had my own client trust account.
23 The funds were always going through the law firm.

24 THE COURT: Were you operating out of your home?

25 THE WITNESS: Yes, I was originally.

1 THE COURT: Did at any time you ever have a
2 business office even if it was a suite any place?

3 THE WITNESS: Not for Steele Hansmeier.

4 THE COURT: What about Prenda?

5 THE WITNESS: Prenda Law, yes. They wanted me to
6 get an office. So I got an office, and I actually moved
7 twice.

8 THE COURT: At that time, did you have a client
9 trust account?

10 THE WITNESS: No, your Honor.

11 THE COURT: Was it your understanding that in
12 California that you were required to have a client trust
13 account?

14 THE WITNESS: My belief was that considering I was
15 working as of counsel to the Prenda Law, and Prenda Law
16 had the trust account, that was my understanding of how
17 the money was dealt with. I didn't ever -- they never
18 saw my bank account. I was paid like by Prenda Law as an
19 attorney, of counsel attorney, 1099. And so my
20 understanding was that they had a trust account. And,
21 therefore, you know, the people that were working with
22 them did not need trust accounts themselves.

23 THE COURT: Okay. All right. And you only handle
24 one kind of business; right?

25 THE WITNESS: What do you mean by that, your

1 Honor? I only handle one kind of business?

2 THE COURT: Yes.

3 THE WITNESS: Can you explain your question? You
4 mean in terms of just being plaintiff's lawyer?

5 THE COURT: Plaintiff's lawyer for copyright
6 infringement for the adult film industry.

7 THE WITNESS: Well, no, actually. So originally
8 when I was working for Steele Hansmeier, I was also
9 working for an arbitrator. So I had other business, but
10 it was just a 1099 worker at the same time. I was
11 helping him out with his cases, and so when Prenda law
12 came around, we basically, I said, look, you guys are
13 trying to put a lot of work on my plate essentially, and
14 I am kind of split here. And they said, well, we would
15 like to basically have you work solely for Prenda Law,
16 this is being Paul Hansmeier and John Steele. And so I
17 wrapped up my arrangement with the arbitrator, and I
18 became exclusive doing stuff for Prenda Law at that
19 point.

20 THE COURT: Listen, last January, this past
21 January, a few weeks ago, I guess you started withdrawing
22 as counsel of record.

23 THE WITNESS: That is correct, yes.

24 THE COURT: All right. And you just testified
25 that you are no longer employed by Prenda?

1 THE WITNESS: That is correct. I am no longer
2 employed by Prenda or any other corporation or LLC that
3 is involved in these cases. I have moved on. I am going
4 to work again for the arbitrator and find some other work
5 essentially. You know, so that is where I am right now.
6 Actually, I was working for Livewire for two months, but
7 there was actually a couple of things that happened in
8 terms of I never even got paid for my two months there.

9 THE COURT: Two months where?

10 THE WITNESS: Two months at Livewire.

11 THE COURT: You did get paid by Prenda though;
12 right?

13 THE WITNESS: Before that, yes. During 2012, yes.

14 THE COURT: So why did you leave?

15 THE WITNESS: Well, there is multiple reasons for
16 it. Personal reasons, I am getting married soon. So I
17 wanted to focus on that, but, you know, to be honest with
18 you --

19 THE COURT: That would be good.

20 THE WITNESS: Yeah. No. I am looking forward to
21 it. And to be honest with you, these types of things
22 raising up themselves, I just didn't want to be
23 affiliated with it anymore. It wasn't worth it. I was
24 getting a lot of harassment. My family was receiving
25 e-mails and correspondence from people, my fiance, my

1 parents. I just didn't see, and I was getting a lot of
2 negative exposure that, you know, I just didn't want
3 anymore ultimately.

4 And, then, also, I didn't really get along
5 with one of the people that managed me. So I, you know,
6 I decided to go ahead and exit and told them about that,
7 and, yeah, and that is the situation essentially.

8 THE COURT: Okay.

9 Q BY MR. WAXLER: Just to complete your employment
10 picture because there was perhaps some gaps. You learned
11 sometime in late 2012 that Prenda Law was no longer going
12 to be your, I will just say the word employer but you
13 weren't going to be of counsel to Prenda Law anymore;
14 correct?

15 A That is correct.

16 Q And how were you informed of that?

17 A I was told I would say middle December or so.
18 There was a brainstorming issue about -- they were, John
19 Steele and Paul Hansmeier were brainstorming about
20 whether they wanted basically to start their own company,
21 I guess. And the company was Livewire, turned out to be
22 Livewire. And that Livewire would essentially buy AF
23 Holdings and Ingenuity 13 and Guava.

24 And so I was informed that as of January 1,
25 you know, Livewire extends you this offer, and basically

1 if you don't accept this offer, then, you know, we are
2 going to part ways. So the offer was to be in house
3 counsel for Livewire, and so I was hired W2 employee for
4 this company which is a holding company of copyrights.

5 Q And you understood that one of the subsidiaries of
6 that company included AF Holdings; correct?

7 A That was my understanding, yeah.

8 Q When did you come to a different understanding?

9 A Oh. Well, during the deposition, I came to a
10 different understanding because obviously the deposition
11 was said what was said, and I asked Paul Hansmeier about
12 that.

13 Q And what we are talking about here is
14 Mr. Hansmeier's testimony that there was a trust that
15 owned AF --

16 A That is correct.

17 Q And before that testimony, you heard that
18 testimony, you understood as of January 1, that Livewire
19 would own --

20 A Yes.

21 Q Livewire would own AF Holdings?

22 A That is correct.

23 Q And that is why in at least one of the pleadings
24 you put that you are in house counsel for AF Holdings
25 because that was a company that was owned by Livewire;

1 correct?

2 A I was specifically told to sign as in house counsel
3 for AF Holdings by Paul Hansmeier in that case. I was
4 actually because of Mark Lutz' position as CEO, I was
5 trying to get his signature for that document, but Paul
6 Hansmeier said, no, you are in house counsel for Livewire
7 thereby in house counsel for AF Holdings, you sign it on
8 behalf of the client.

9 Q Is one of the other reasons you decided to leave
10 Livewire is because you learned that the stamp was being
11 used for your signature?

12 A Yes. Certain letters were sent out without my
13 knowledge. I never authorized them, never approved them.
14 When I questioned John about them, he was, like,
15 basically said, this is your role. This is what you have
16 to do. You have to send these letters out, and I said I
17 don't feel comfortable, these aren't even my cases,
18 essentially. And, you know, I actually e-mailed Mark
19 Lutz about that, and he said you got to talk with John
20 and Paul about this.

21 THE COURT: I'm sorry. What kind of letters are
22 we talking about? Is that the settlement letters?

23 THE WITNESS: Settlement letters. They had been
24 using -- they originally said they were going to do a
25 stamp for me for certain things, but I thought they were

1 only for my cases. And, you know, later, I found out
2 that stamp might have been used for cases that I never
3 even participated in or seen the letters before they went
4 out.

5 THE COURT: Let me make sure I understand now.
6 Livewire eventually became the parent of AF Holings and
7 Ingenuity 13 LLC?

8 THE WITNESS: That was my understanding. I was
9 told that, yeah. And that is why I was hired and a lot
10 of people were hired in terms of working as W2 employees
11 for Livewire. So it was the company that was a holdings
12 company that would do litigation as well as distribution.
13 That is what they told me.

14 THE COURT: And you were a W2 employee?

15 THE WITNESS: That's correct. And I still have
16 not been paid for that position.

17 Q BY MR. WAXLER: That was for a period of two months;
18 correct?

19 A That's correct. And I gave him my notice early
20 February essentially.

21 THE COURT: Where was Livewire's offices?

22 THE WITNESS: Livewire has an address of
23 Washington DC address, but, obviously, I don't know if it
24 has an office to be honest with you. It is just a matter
25 of, kind of a cloud type office. It might be a situation

1 where -- I am just speculating right now.

2 THE COURT: You have never visited Washington DC
3 offices?

4 THE WITNESS: No. I believe it is just a PO box
5 over there. That is just a mailing address for them.

6 THE COURT: Did that form letter requesting
7 payment of the settlement sums, did that letter change to
8 reflect that payment now should be sent to Livewire at
9 the Washington DC address?

10 THE WITNESS: Absolutely. It wasn't sent to me or
11 anything like that. It was sent to that mailbox, and
12 then I believe it would be sent back to somebody at some
13 point somewhere. But that is the kind of issues that I
14 started having, and along with a lot of other different
15 issues. So I just decided to -- I asked them if I could
16 go ahead and substitute out with Paul Duffy who had a
17 license in California. I talked to Paul Duffy about
18 that, he said sure, and then I proceeded to do that.

19 THE COURT: All right. So you substituted out.
20 Now, how long were you general counsel for Livewire?

21 THE WITNESS: Two months basically. I mean, I
22 guess you could say, I think the official documents were
23 signed. It never actually specified that I was in house
24 counsel, but that is what I was told. The documents were
25 just general employment documents, but that was from I

1 think January 7th on. That's when I signed the
2 documents.

3 Q BY MR. WAXLER: You were not general counsel. You
4 were in house counsel; right?

5 A In house counsel. Sorry.

6 Q You have never held the position of general
7 counsel, have you?

8 A No.

9 THE COURT: Did you know about any other employees
10 there?

11 THE WITNESS: Yes.

12 THE COURT: Was there a bookkeeper or an
13 accountant?

14 THE WITNESS: Yes.

15 THE COURT: Do you know whether -- well, okay.

16 Thank you.

17 MEMBER OF THE AUDIENCE: Your Honor?

18 THE COURT: You are?

19 MEMBER OF THE AUDIENCE: Jason (inaudible). I
20 represent Godfread and Cooper in some of the defamation
21 cases.

22 THE COURT: You represent Godfread?

23 MEMBER OF THE AUDIENCE: Yes.

24 THE COURT: So back in Minnesota, lawyers have
25 lawyers?

1 MEMBER OF THE AUDIENCE: I am from Massachusetts.

2 THE COURT: And how can I help you?

3 MEMBER OF THE AUDIENCE: I had a conversation with
4 Mr. Gibbs probably back in October regarding AF Holdings
5 where he told me that he was national counsel for AF
6 Holdings and that any settlement negotiations were to be
7 made through him. And the local counsel for that case
8 confirmed that he was the one who told me to contact
9 Mr. Gibbs.

10 THE COURT: Have you come to understand as have I
11 that every representation made by a lawyer associated
12 with Prenda is not necessarily true?

13 MEMBER OF THE AUDIENCE: I have known that for
14 three years.

15 THE COURT: Okay. Good. So you aren't shocked,
16 are you?

17 MEMBER OF THE AUDIENCE: No.

18 THE COURT: Nor am I, but thank you.

19 MEMBER OF THE AUDIENCE: You are welcome.

20 Q BY MR. WAXLER: Mr. Gibbs, you know you are under
21 penalty of perjury testifying here today?

22 A That is correct.

23 Q Have you ever made a representation to a court in
24 the Central District of California or any other court
25 that you know is untrue?

1 A No.

2 THE COURT: Well, that isn't exactly accurate, is
3 it? You have caused documents to be filed with, let's
4 just be kind and say falsified signatures.

5 THE WITNESS: Your Honor, I had no idea that these
6 were allegations --

7 THE COURT: That is "yes" or "no".

8 THE WITNESS: Your Honor, I think it is still an
9 open question.

10 THE COURT: Oh. No. It is not an open question.
11 We have had the individual testify under oath. Those
12 were not his signatures on these documents.

13 THE WITNESS: And that is the first time I have
14 heard in terms of him saying out loud that he absolutely
15 did not sign those papers, those exact papers. He said
16 before he was not associated with the companies, but that
17 is the first time I heard him say he did not sign those
18 exact papers.

19 THE COURT: Are you saying that you have had prior
20 conversations with him where he either admitted or
21 tacitly admitted that he signed?

22 THE WITNESS: No, your Honor. I haven't had any
23 conversations with Mr. Cooper.

24 THE COURT: That was my thought. I thought that
25 you had never met the man.

1 THE WITNESS: No. I never met the man. He never
2 met me, and I have never talked with him.

3 THE COURT: And you were acting on the
4 representation of John Steele that --

5 THE WITNESS: And Paul Hansmeier.

6 THE COURT: -- that they actually had the
7 signatures, the authentic signature of the real Alan
8 Cooper?

9 THE WITNESS: Yes. I was told that. And I
10 investigated that in terms of, you know, what is going on
11 here when the first Alan Cooper issue arose, and I was
12 told that there was no issue, that he -- that he did sign
13 the document. And so I also did a little bit of research
14 and found out that the assignor, even if the assignor is
15 invalid, it still is a valid document. So combining
16 those two things, I still believed -- I don't think I
17 filed a case after that. It was just a matter of kind of
18 addressing with these guys, and they were my sole
19 information for this type of thing.

20 THE COURT: Okay. You also indicated that you had
21 on file the original or notarized signature of Alan
22 Cooper, but you really don't, do you?

23 THE WITNESS: No. No. I never said I had on
24 file. No. Prenda law or Steele Hansmeier had it on
25 file. They told me they had it on file, and that is I

1 believe what was in the declaration. So I said, okay,
2 you know, do we have this notarized copy, do you guys
3 have it over there? I don't think I ever saw it, but
4 they told me, yes, we have copies of this, it is here,
5 and you can go ahead and file that based on our
6 representation to you.

7 THE COURT: Do you feel like you have been duped
8 by Hansmeier and Steele?

9 THE WITNESS: In a way, yes.

10 THE COURT: Okay. This has been very
11 enlightening.

12 Q BY MR. WAXLER: Mr. Gibbs -- I just have a few more
13 your Honor. Mr. Gibbs, have you ever been a 30(b)(6)
14 witness for AF Holdings?

15 A No.

16 Q Have you ever been a 30(b)(6) witness for Ingenuity
17 13?

18 A No.

19 Q Have you ever received client funds in any of your
20 capacities as counsel affiliated with Steele Hansmeier or
21 Prenda Law?

22 A No.

23 Q The court expressed some disappointment in the
24 manner in which you described how you determined the
25 location of the houses that sat on the lots, and the

1 router, the ability for the router to pick up people who
2 were not authorized to pick up that signal. And let me
3 ask you some questions about that.

4 A Sure.

5 Q It is your understanding that when wireless routers
6 are used and they determine what the distance is where
7 they would be able to pick up a signal, that those
8 determinations are made where there is an open field and
9 not placed in the middle of a structure?

10 A Yeah. I have read some reports on that and that
11 the projections are basically favorable to them because
12 there is no obstacles in the middle, there is nothing
13 like walls or fences or bushes or trees which have a
14 great effect on wireless signals.

15 Q Tell me how you described the Denton residence and
16 what facts you had to support your description of the
17 Denton residence?

18 THE COURT: Which city? Is this Santa Maria or
19 West Covina?

20 THE WITNESS: I believe it is the second one.

21 MR. WAXLER: I will find it, your Honor.

22 MR. PIETZ: Your Honor, I might suggest we look at
23 Exhibit II which is the picture, the geographical Google
24 maps picture of the two residences.

25 THE COURT: That is why I wanted to know. I mean,

1 I went to Google Earth as well, and I just want to know
2 which one we are talking about because in West Covina,
3 you made some representations of fact that you cannot
4 possibly know to be true.

5 THE WITNESS: Well, your Honor, based on my
6 personal knowledge of wireless networks, I believed they
7 were true.

8 THE COURT: I am talking about of the residence
9 itself. It is a gated community.

10 I'm sorry. I didn't mean to interrupt you.

11 MR. WAXLER: I am happy to address that, your
12 Honor.

13 Q Mr. Gibbs, the map that you have seen that was
14 offered by Mr. Gibbs and Mr. Pietz -- and I apologize if
15 I am butchering your name, by the way --

16 MR. PIETZ: Pietz.

17 MR. WAXLER: Pietz.

18 Q That is not the type of map that you saw; correct?

19 A No, that is not.

20 Q Please describe the map that you looked at when you
21 made the representations in the filings that we have done
22 in this courthouse.

23 A It was a map that you could go down the street, it
24 is actually focused on the house, not on an overview like
25 that, but it is on, basically, there is like a street

1 view on Google that allows you to, like, look around the
2 house essentially. Kind of. It is limited to a certain
3 extent though.

4 Q What did you see when you looked at that map?

5 A I saw a house that I believed it was likely not
6 something that wifi could have broadcasted out to
7 neighbors.

8 Q Did you see a gate?

9 A I did see a gate.

10 Q Did you see several structures?

11 A I did.

12 Q Did you see bushes and shrubs and trees around,
13 between the house structure and the street where someone
14 might be driving by?

15 A I did. Actually, the aerial view, I think, is even
16 covering the house if I remember correctly. So, yeah, it
17 is -- I mean, in terms of trees, there is a lot of trees
18 there.

19 Q And it is your understanding that the wireless
20 signal doesn't just fly over these trees, does it?

21 A No. Actually, I mean, there is just certain things
22 that -- I mean, I think everyone kind of knows when they
23 go into certain people's houses and say, hey, I want to
24 use the wifi connection, there are certain rooms in the
25 house that don't get, even in the same house that don't

1 get the wifi connection. So, yes, walls, trees, these
2 things definitely have a dramatic effect. Sometimes,
3 concrete wall, for instance, sometimes it just altogether
4 stops something. That is my understanding of it.

5 Q Was your description of the residence in West
6 Covina when you signed your declaration and submitted
7 these papers and we submitted these papers on your behalf
8 accurate to the best of your knowledge.

9 A Yes, it was. It was based on my personal
10 knowledge. Yes.

11 Q And do you still believe it is accurate despite the
12 very different map that was submitted to the court?

13 A That is correct. I believe that map might be -- I
14 don't even know where the yards come, or I don't know how
15 that works.

16 Q Would the same be true for the residence in Santa
17 Maria?

18 A It was the same analysis essentially. It was just
19 part of the full analysis, but yeah.

20 Q In other words, there were walls, there were
21 buildings, there were shrubs, all of which would block
22 the signal and reduce by a great extent the range of the
23 wireless network?

24 A Yes. That was my impression from them, the street
25 maps from Google.

1 MR. WAXLER: May I have one moment, your Honor?

2 THE COURT: Certainly.

3 Q BY MR. WAXLER: Mr. Gibbs, did you knowingly violate
4 the discovery orders from this court?

5 A No.

6 Q Did you cause to be served on the ISP providers the
7 October 19, 2012 discovery order by this court?

8 A Yes. I mean, at least, I thought I did. I had
9 requested it.

10 Q And it was your understanding that that was done?

11 A It was my understanding. I confirmed it
12 afterwards, and they said it was taken care of.

13 Q And the first time you learned that an ISP may not
14 have received a copy of that order was when?

15 A I believe it was in the response by the ISP, AT&T
16 possibly.

17 MR. WAXLER: I have nothing further, your Honor.
18 Thank you.

19 THE COURT: Okay. Thank you. But you started
20 getting responses from some of the Internet service
21 providers, didn't you?

22 THE WITNESS: I didn't get the responses.

23 THE COURT: All right. You filed a status report
24 with the court?

25 THE WITNESS: Yes.

1 THE COURT: Right?

2 THE WITNESS: Yes.

3 THE COURT: And at the time you filed that status
4 report, there had been no returns on those subpoenas;
5 right?

6 THE WITNESS: Yes.

7 THE COURT: Then about a week later --

8 THE WITNESS: Well, sorry, let me qualify my
9 answer. There were -- at that point, there was nothing
10 in the computers that showed there was any returns on the
11 subpoenas.

12 THE COURT: Okay. That changed a few days later.

13 THE WITNESS: It changed, I think, on the 7th.
14 Yes.

15 THE COURT: And, of course, you updated that
16 status report, you advised the court, then -- right --
17 that suddenly, for whatever reason, people are now
18 starting to send you information on your subscribers;
19 right? You updated your filing, didn't you?

20 Actually, no, you didn't.

21 THE WITNESS: I didn't, your Honor, but if I can
22 explain why.

23 THE COURT: Yes.

24 THE WITNESS: Okay. So I did some investigation
25 on that, and what I was told, and, again, I don't handle

1 the subpoenas. These are handled out of the Chicago and
2 Minnesota offices. I was told that these things are
3 usually delivered and that either hand-delivered or I
4 believe mailed but most likely they are just a few blocks
5 away. Like CT Corporation is just a few blocks away,
6 that CT Corporation would send, mail back the
7 information.

8 I didn't realize that that information was
9 faxed back by Verizon. I never knew that. And I did
10 some investigation on it. And I, also, I talked to Paul
11 Duffy, and the exact date of the court's order in that
12 case, there had been -- he had had some eye surgery and
13 he also had some trauma related to it.

14 So what he said was he wasn't picking up his
15 mail as frequently during that time period. So I thought
16 that the information had been received essentially by,
17 through his mailbox at that point but hadn't been input
18 in the computer until later. So that was my
19 understanding. That was my understanding of what had
20 happened.

21 Q BY MR. WAXLER: Do you now regret not advising the
22 court when you learned on November 7th that Prenda Law
23 had received information in response to those subpoenas
24 and that there was information in the status report that
25 was not correct?

1 A Absolutely. Absolutely.

2 MR. WAXLER: Thank you, your Honor.

3 THE COURT: Mr. Pietz.

4

5 CROSS-EXAMINATION

6 BY MR. PIETZ:

7 Q Mr. Gibbs, I would ask you to refer to the binder
8 that is there with you to Exhibit EE which is the
9 substitution of counsel that was filed apparently with
10 your CM/ECF account listing you as in house counsel for
11 AF Holdings.

12 A Yes, I am familiar with that document.

13 Q So Mr. Gibbs, just to clarify, then, your testimony
14 is that when you filed that document, that was an
15 accurate representation -- correct -- that you were at
16 that moment in house counsel for AF Holding?

17 A When I filed that document, I believed I was. What
18 I was told afterwards and after the deposition was that
19 that merger or that acquisition hadn't happened therefore
20 it was still owned by the trust. So I, essentially, I
21 had been told to go ahead and file as in house counsel,
22 but, for some reason, Livewire didn't own AF Holdings at
23 that time.

24 Q So can you just pin down for me exactly when it was
25 that your capacity as in house counsel for AF Holdings

1 begun and exactly when it terminated?

2 A Well, my understanding was that -- my understanding
3 when I was told that I was in house counsel for Livewire
4 that I was therefore in house counsel for AF Holdings and
5 the other companies as well, Ingenuity and Guava.

6 And only did I find out later when I was
7 exiting and I was already leaving all these cases
8 essentially, only then, I found out that they had not
9 actually acquired -- Livewire had not acquired AF
10 Holdings according to Mr. Hansmeier.

11 Q Mr. Gibbs, have you ever authorized anyone else to
12 use your CM/ECF password?

13 A I don't -- I might have. I don't know.

14 Q Who?

15 A An individual by the name of Carl. He worked for
16 me, or he worked with me, I guess you would say. He
17 actually worked for Prenda Law.

18 Q How about John Steele?

19 A No. I don't think so. Not to my knowledge. I am
20 not saying -- in terms of authority, I did not, no.

21 Q How about Paul Hansmeier, did you ever authorize
22 him to use your CM/ECF password?

23 A I don't believe so. I mean, I know he had my -- he
24 had access to my passwords at one point, so he might
25 have, yeah.

1 Q What was your business telephone number while you
2 worked for Prenda Law?

3 A It was (415)325-5900.

4 Q And what was your business e-mail address when you
5 worked for Prenda Law?

6 A It was blgibbs@wefightpiracy.com.

7 Q Have you ever instructed Prenda local counsel to
8 file pleadings using your business e-mail and business
9 telephone number on the pleadings even though it was
10 their name and physical address?

11 A So, yes, my name is on -- my e-mail address and my
12 number and my phone number is on certain cases in other
13 states. I was instructed to do so like that by Paul
14 Hansmeier. And, essentially, the way that was explained
15 to me was that I would essentially forward all of the
16 communications to the outside counsel. Yeah. So.

17 MR. PIETZ: Before we move on any farther, I would
18 ask that Exhibit EE be admitted into evidence as Exhibit
19 13.

20 Q Mr. Gibbs, I have some copies of a few different
21 complaints, one that was filed by a local counsel in
22 Nebraska and three complaints filed by local counsel in
23 Florida all of which list the name of the local counsel,
24 a mailing address in those respective states and an
25 e-mail address, blgibbs@wefightpiracy.com and your 415

1 telephone number, is that consistent with your
2 understanding of what the normal practice was at Prenda
3 that your business e-mail and phone would be on pleadings
4 all around the country?

5 MR. WAXLER: Objection. Irrelevant, your Honor.

6 THE COURT: Overruled.

7 THE WITNESS: That was what I was instructed to do
8 by Prenda, yeah, was to do that because I was essentially
9 helping those guys out on their cases. It was their
10 case, but, yes.

11 Q BY MR. PIETZ: I would ask Mr. Ranallo to pass out
12 No. 2 which is the declaration of Matt Catlett, an
13 attorney in Nebraska, and he is authenticating the
14 service copy of the complaint filed in Nebraska listing
15 Mr. Gibbs. I would ask that that be admitted into
16 evidence as Exhibit 14.

17 Similarly, Mr. Ranallo, if you would be so
18 kind as to pass out 3, 4 and 5 which are the complaint in
19 Sunlust v. Nguyen, First Time Video. Here is Sunlust v.
20 Nguyen. That is Middle District, Florida. We also have
21 First Time Videos v. Paul Uphold and Openmind Solutions
22 v. Barry Wolfson.

23 MR. WAXLER: Your Honor, I would object to the
24 introduction of those exhibits.

25 THE COURT: Right. We don't need this. We have

1 basically got his testimony.

2 MR. PIETZ: Fair enough.

3 THE COURT: And we have got the testimony on the
4 reason why, but I got to tell you, that doesn't sound
5 reasonable to me that you would be inviting telephone
6 calls, litigation in Florida on a case that you know
7 nothing about. How do you field these calls?

8 THE WITNESS: No, sir. I would pass the messages
9 on to the other attorneys.

10 THE COURT: Back to Florida?

11 THE WITNESS: Yes. I would pass the messages on
12 to them because, essentially, it was just easy for them
13 at that point. I was like their secretary essentially,
14 and that is the way that Prenda wanted to do it.

15 THE COURT: Why?

16 THE WITNESS: I don't know. I mean, they changed
17 the practice at some point where people were putting
18 their own e-mails, their own numbers, but I don't know
19 why that was the way it was structured originally.

20 And I don't know. I mean, I don't know who
21 had access to my e-mail either. So I don't know, like, I
22 have no idea if I was sent something or if someone else
23 read it.

24 Q BY MR. PIETZ: Did John Steele have access to your
25 e-mail?

1 A He did. I don't know if he did throughout, but he
2 did.

3 Q Would he routinely respond to e-mail inquiries at
4 the blgibbs@wefightpiracy.com e-mail address?

5 A I never knew it because he didn't CC me on them, or
6 he didn't let me know he was doing them. But I believe
7 he did.

8 Q Did Paul Hansmeier have access to that e-mail
9 address?

10 A I think he had access. I have no idea whether he
11 used it or not.

12 Q How about Mr. Duffy, Paul Duffy, did he have access
13 to that e-mail account?

14 A I don't think so.

15 Q Mr. Gibbs, earlier, you testified that some things
16 were sent out with your signature stamped on there that
17 didn't have your approval. I would like to refer now --
18 actually, before I venture any farther afield, I would
19 ask that the court take judicial notice of the complaints
20 I have just identified as Exhibits, I think, 15, 16 and
21 17.

22 In any event, moving on, now, to what has been
23 previously identified in this action as Exhibit X, ask
24 that it be admitted now as Exhibit 18.

25 Essentially, I would just like to ask you a

1 question to confirm.

2 A Sure.

3 Q Is this the kind of letter you are talking about?

4 This was a demand letter sent in the Guava, St. Clair

5 County, Illinois case. I note that it is dated -- what

6 is the date on it? January 30th. And it is,

7 essentially, a, you know, a demand letter. And then I

8 will go to the last page there. It has a pleading in

9 there. So, in any event, on the last page of the letter

10 itself, there is a stamped signature, what appears to be

11 a stamped signature that says Brett Gibbs. Is it your

12 testimony that this letter was sent out without your

13 authorization?

14 A That is my testimony.

15 Q You had no knowledge whatsoever that this letter

16 was being sent out?

17 A No. Not with my name on it. I don't even

18 remember -- no one ever told me about this before I found

19 out. I actually found out through an opposing counsel

20 that contacted me and wrote me a letter saying,

21 basically, you know, you have nothing on my client, and

22 you communicate through me. So I was kind of confused,

23 but I eventually saw the letter, and it had my stamped

24 signature on it.

25 Q Mr. Gibbs -- I will represent to the court that

1 this letter has been sent to over 300 Internet users
2 across the country. Have you done anything to correct
3 the fact that this letter went out with your signature on
4 it without your authorization? I note that it was filed
5 in late January.

6 A Yeah. I actually talked with Mark Lutz, and Mark
7 said, I said, Mark, do not send any of these letters out
8 anymore that are, you know, please contact me and let me
9 know what is happening before you send out these letters.
10 And the response from Mr. Lutz was I don't control those
11 types of things, you have to talk with Paul and John.

12 Q Fair enough. Mr. Gibbs, have you ever hired local
13 counsel for Prenda Law?

14 A Actually, the hiring, no, because the hiring
15 process was done by John Steele.

16 Q Are you familiar with an attorney in Florida named
17 Matthew Wasinger?

18 A Yes. Yes.

19 Q Are you aware of the fact that Mr. Wasinger
20 testified under oath in federal court in Florida at the
21 Sunlust hearing that you hired him and that, as far as he
22 understood, you were a principal of Prenda law? Are you
23 aware of that, Mr. Gibbs?

24 MR. WAXLER: Objection, your Honor. It is
25 irrelevant. It is also hearsay.

1 MR. PIETZ: I am asking Mr. Gibbs if he is aware
2 of it.

3 THE COURT: Sustained. I have got the picture.
4 Okay. And I appreciate it. Thank you.

5 MR. PIETZ: I will move along, your Honor.

6 THE COURT: Okay. To what? Give me a blueprint.

7 MR. PIETZ: Fair enough, your Honor. I will
8 explain the broad strokes of the categories I have, and
9 whatever the court is interested in, we will move to
10 that.

11 In addition to a few more things about
12 Mr. Gibbs hiring, firing and even threatening local
13 counsel, I have evidence on him being delegated
14 independent authority to settle cases which he actually
15 concluded. Contrary to Mr. Gibbs' assertion which is a
16 little confusing in light of the fact that he says I
17 spoke to Mark Lutz, in any event, with respect to his
18 assertion that he never had any direct client contact, I
19 have a number of documents which actually show -- some of
20 which are Mr. Gibbs' own prior words showing that, in
21 fact, at least according to him, he was communicating
22 back and forth with the client, whatever that means, and
23 my theory is that that may mean John Steele.

24 But in any event, beyond the direct client
25 interaction, you know, I could ask Mr. Gibbs about his

1 investigation in the case, about the petition, but those
2 are the broad strokes, your Honor. If the court has got
3 the picture, I don't need to necessarily get into all the
4 documents.

5 THE COURT: I do have the picture, and I know who
6 the client is. We have talked about the client, and the
7 client has been running everything. Yeah, I know who the
8 client is.

9 MR. PIETZ: Very good.

10 THE COURT: Okay. Thank you.

11 Gentlemen. Mr. Brodsky, you look bored.

12 MR. BRODSKY: I am not bored, your Honor.

13 THE COURT: All right.

14 MR. WAXLER: We have no further questions, your
15 Honor.

16 THE COURT: All right.

17 Unless anyone has anything else in terms of
18 evidence to offer, the matter will stand submitted. All
19 right.

20 Thank you, sir. You may step down?

21 THE WITNESS: Thank you, your Honor.

22 THE COURT: Good luck to you.

23 All right. How about this, I will leave this
24 up to counsel, if you wish. If you would like to sum up
25 your position, you may do so at this time. It is not

1 necessary. I am just making that offer.

2 MR. WAXLER: Thank you, your Honor for giving us
3 the opportunity to clear Mr. Gibbs' name, and what I
4 would like to add to the declarations that he has
5 submitted and the papers that we have submitted is that
6 Mr. Gibbs did not intend to disrespect this court or
7 disobey any orders of this court. Mr. Gibbs had no
8 knowledge that perhaps others may have knowingly or
9 unknowingly disregarded some orders of this court in
10 terms of the service of the knowledge of the October 17th
11 order.

12 The order itself, you know, did not require
13 service on the ISP's, but that was what Mr. Gibbs wanted
14 to do. And that is the undisputed testimony here today
15 that that is what he wanted to do was to have those ISP's
16 notified of that. And he took no action whatsoever, your
17 Honor, to do discovery, formal discovery of those ISP's
18 or ask the ISP's to follow-up on the information
19 provided.

20 So Mr. Gibbs stands before you, your Honor, he
21 is I think we could say humbled by this experience, and I
22 think he is regretful that he has perhaps been put in a
23 position where the court at least in the original OSC
24 made comments suggesting that he was a culpable party
25 here. And he is not, your Honor. And I hope you see it

1 that way too.

2 And I thank you very much for your time.

3 Appreciate the opportunity you have given us to clear his
4 name.

5 THE COURT: Thank you, counsel.

6 Anything from this side? You don't have to.

7 MR. PIETZ: I will keep it very brief, your Honor.

8 I can appreciate that there may be more
9 parties, other people who are more culpable than
10 Mr. Gibbs with respect to what has occurred in these
11 cases. However, I think the assertion that Mr. Gibbs is
12 merely an independent contract attorney is simply not
13 credible. I would just simply leave it at this, there is
14 ample evidence showing that Mr. Gibbs was been involved
15 since day one or at least very shortly thereafter on a
16 key level exercising operational control over this
17 litigation on a national basis.

18 So while I am sympathetic that perhaps to a
19 certain extent, maybe there are other people more
20 culpable, I will just leave it that certainly there is
21 ample evidence showing that Mr. Gibbs indeed played a key
22 role in all of this.

23 Thank you, your Honor.

24 THE COURT: Okay. I just have one question,
25 gentlemen. As a licensed attorney in this state,

1 particularly when it is only your name on the pleadings,
2 don't you think you have some responsibility to assure
3 the accuracy of those pleadings? Or is it permissible
4 simply to go they told me to do so or the senior partner
5 said it is okay, it may not have sounded right to me, but
6 they said it was okay. Could you do that really?

7 MR. WAXLER: Your Honor, I am going to suggest
8 that that is not what happened on a key issue.

9 THE COURT: Okay.

10 MR. WAXLER: On a key issue, the issue involving
11 Alan Cooper, there was not one shred of information that
12 Alan Cooper wasn't Alan Cooper until Mr. Gottfried's
13 letter in November of 2012 at which point Mr. Gibbs
14 immediately questioned whether this was accurate or not.
15 And the most important thing is that Mr. Gibbs filed no
16 further pleadings after that time which purported to rely
17 on Mr. Cooper being the assignee of AF Holdings. And so
18 Mr. Gibbs reacted to the notion.

19 He investigated and he did nothing further on
20 it. He was assured that Alan Cooper was Alan Cooper, but
21 so he -- he did something other than said somebody told
22 me. And on the other issues, your Honor, these were not
23 examples of him relying on anybody else to do things that
24 were improper. He was doing discovery. He was doing
25 investigations. They were supervising him, but he was

1 acting like a California lawyer doing what he thought in
2 his best judgment should be done as a California lawyer
3 in these cases.

4 THE COURT: All right.

5 MR. WAXLER: Thank you.

6 THE COURT: Thank you, counsel.

7 All right. Again, the matter stands
8 submitted. We are adjourned.

9 MR. WAXLER: Thank you, your Honor.

10 MR. PIETZ: Thank you, your Honor.

11 (Proceedings concluded.)

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CERTIFICATE

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I hereby certify that pursuant to Section 753, Title 28,
United States Code, the foregoing is a true and correct
transcript of the stenographically reported proceedings held
in the above-entitled matter and that the transcript page
format is in conformance with the regulations of the
Judicial Conference of the United States.

Date: March 17, 2013

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

Exhibit K

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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
9

10 **INGENUITY 13 LLC,**

11 **Plaintiff,**

12 **v.**

13 **JOHN DOE,**

14 **Defendant.**

Case Nos. 2:12-cv-8333-ODW(JCx)

ORDER

15 The Court has received the Ex Parte Application filed on behalf of John Steele,
16 Paul Hansmeier, Paul Duffy, and Angela Van Den Hemel, requesting the Court to
17 withdraw its March 5, 2013 Order requiring their attendance on March 11, 2013.

18 Based on the papers filed and the evidence presented during the March 11, 2013
19 hearing, the Court concludes there is at least specific jurisdiction over these persons
20 because of their pecuniary interest and active, albeit clandestine participation in these
21 cases. Not only does the Ex Parte Application lack merit, its eleventh-hour filing
22 exemplifies gamesmanship. Accordingly, the Ex Parte Application is **DENIED**.

23 The March 11, 2013 hearing raised questions concerning acts performed by
24 other persons related to Prenda Law, Inc., Steele Hansmeier PLLC, Livewire Holdings
25 LLC, AF Holdings LLC, Ingenuity 13 LLC, and 6881 Forensics, LLC. The evidence
26 presented suggests these persons may be culpable for the sanctionable conduct
27 explained in the Court's February 7, 2013 Order to Show Cause, which the Court
28 previously attributed to Brett Gibbs only. Further, it appears that these persons, and

1 their related entities, may have defrauded the Court through their acts and
2 representations in these cases.

3 Thus, the Court amends its February 7, 2013 Order to Show Cause (ECF
4 No. 48) to include sanctions against the persons and entities in subparagraphs a–m
5 below:

- 6 a) John Steele, of Steele Hansmeier PLLC, Prenda Law, Inc., and/or
7 Livewire Holdings LLC;
- 8 b) Paul Hansmeier, of Steele Hansmeier PLLC and/or Livewire Holdings
9 LLC;
- 10 c) Paul Duffy, of Prenda Law, Inc.;
- 11 d) Angela Van Den Hemel, of Prenda Law, Inc.;
- 12 e) Mark Lutz, of Prenda Law, Inc., AF Holdings LLC and/or Ingenuity
13 13 LLC;
- 14 f) Alan Cooper, of AF Holdings LLC;
- 15 g) Peter Hansmeier, of 6881 Forensics, LLC;
- 16 h) Prenda Law, Inc.;
- 17 i) Livewire Holdings LLC;
- 18 j) Steele Hansmeier PLLC;
- 19 k) AF Holdings LLC;
- 20 l) Ingenuity 13 LLC; and
- 21 m) 6881 Forensics, LLC.

22 These persons and entities are **ORDERED** to appear on March 29, 2013, at
23 10:30 a.m., **TO SHOW CAUSE** for the following:

- 24 1) Why they should not be sanctioned for their participation, direction,
25 and execution of the acts described in the Court’s February 7, 2013
26 Order to Show Cause;
- 27 2) Why they should not be sanctioned for failing to notify the Court of
28 all parties that have a financial interest in the outcome of litigation;

Exhibit L

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

3 HONORABLE OTIS D. WRIGHT

4 UNITED STATES DISTRICT JUDGE PRESIDING

5 - - -

6 Ingenuity 13 LLC,)
7 PLAINTIFF,)
8 VS.) NO. CV 12-8333 ODW
9 John Doe, et al.,)
10 DEFENDANT,)
_____)

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12
13 REPORTER'S TRANSCRIPT OF PROCEEDINGS

14 LOS ANGELES, CALIFORNIA

15 TUESDAY, APRIL 2, 2013
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18 _____
19 KATIE E. THIBODEAUX, CSR 9858
20 U.S. Official Court Reporter
21 312 North Spring Street, #436
22 Los Angeles, California 90012
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1 LOS ANGELES, CALIFORNIA; TUESDAY, APRIL 2, 2013

2 10:00 A.M.

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6 THE CLERK: Calling Item No. 1, CR 12-8333, ODW,
7 Ingenuity 13, LLC, versus John Doe, et al.

8 Counsel, please state your appearances.

9 MR. PIETZ: Morgan Pietz, P-I-E-T-Z, for the
10 putative John Doe defendant in 12-CV-8333.

11 MR. RANALLO: And Nicholas Ranallo for the same
12 Doe.

13 THE COURT: Morning, counsel.

14 MR. WAXLER: Andrew Waxler and Barry Brodsky, both
15 for Brett Gibbs who is here today.

16 THE COURT: By the way, thank you for your
17 submittal with respect to your efforts to effect service.
18 Thank you.

19 MR. BAKER: Phil Baker and Dan Leonard specially
20 appearing for Paul Hansmeier.

21 MR. LEONARD: Morning, your Honor.

22 MR. BAKER: And he is present today.

23 THE COURT: Where?

24 MR. BAKER: Mr. Hansmeier, will you stand up.

25 THE COURT: Front row.

1 MR. HALLORAN: Morning your Honor. My name is Tim
2 Halloran, Thomas Mazzacco on behalf of John Steele who is
3 also present.

4 THE COURT: Mr. Steele.

5 MR. STEELE: Yes.

6 MS. ROSING: Morning, your Honor. Heather Rosing
7 with Klinedinst PC with my colleagues Phil Vineyard and
8 Dave Majchrzak appearing on behalf of Paul Duffy, Angela
9 Van Den Hemel and Prenda Law, and Mr. Duffy and
10 Ms. Van Den Hemel are in the audience today.

11 THE COURT: Thank you.

12 Is that it?

13 MR. BAKER: Your Honor?

14 THE COURT: Yes.

15 MR. BAKER: There are other individuals pursuant
16 to your order here. They are not represented.

17 THE COURT: Mark Lutz?

18 MR. BAKER: Yes, he is present.

19 MR. LUTZ: Yes.

20 THE COURT: Mr. Lutz, welcome, sir. Did Alan --
21 well, do we have an Alan Cooper? Any Alan Cooper?

22 (No response.)

23 THE COURT: All right. Peter Hansmeier?

24 MR. HANSMEIER: Yes, your Honor.

25 THE COURT: Good morning, sir.

1 MR. HANSMEIER: Morning.

2 THE COURT: Any representatives of any other
3 representatives of Prenda Law, Livewire Holdings, AF
4 Holdings other than Mr. Lutz, Ingenuity 13 other than
5 Mr. Lutz and 6881 Forensics, LLC.

6 MS. ROSING: Mr. Duffy is appearing on behalf of
7 Prenda Law, your Honor.

8 THE COURT: All right. Here is my interest, and
9 we can proceed in any way that seems to make sense. I am
10 pleasantly surprised that we have everyone here.
11 Otherwise, I was going to be forced to draw reasonable
12 inferences from the facts as I know them.

13 It should be clear by now that this court's
14 focus has now shifted dramatically from the area of
15 protecting intellectual property rights to attorney
16 misconduct such misconduct which I think brings discredit
17 to the profession. That is much more of a concern now to
18 this court than what this litigation initially was about.

19 Mr. Steele -- well, let me do it this way. I
20 have questions of Mr. Steele. Mr. Steele can choose to
21 answer those questions or not. The same applies for
22 Mr. Duffy and Mr. Hansmeier.

23 Now, as the attorneys, how do you all propose
24 we proceed?

25 MR. BAKER: May I take the podium, your Honor?

1 THE COURT: Well, actually, we don't have one, but
2 we do have a lecturn and you are free to use it.

3 MR. MAZZUCCO: Thomas Mazzucco on behalf of
4 Mr. Steele.

5 Your Honor, in light of some of the
6 information that was in the transcript of March 11th,
7 2013 in this courtroom and some of the concerns that this
8 court has mentioned, at this point in time, if Mr. Steele
9 is called to testify, he is going to exercise his Fifth
10 Amendment privilege against forced testimony.

11 And we state for two reasons, one, there were
12 serious allegations made by the court and others of not
13 just attorney misconduct but the word fraud was used
14 several times in the transcript.

15 THE COURT: Should have been.

16 MR. MAZZUCCO: The next step is there is also an
17 issue involving attorney-client privilege. If Mr. Steele
18 was to testify, that privilege belongs to the client.

19 THE COURT: Which client might that be?

20 MR. MAZZUCCO: That would be several of his
21 clients. Mr. Halloran is going to handle that part of
22 the argument, but that is a two pronged argument, your
23 Honor.

24 THE COURT: Are you talking about AF Holdings,
25 Ingenuity 13, those clients?

1 MR. MAZZUCCO: Yes.

2 THE COURT: And you think there is a difference
3 between those clients and Mr. Steele?

4 MR. MAZZUCCO: I think there is, your Honor, yes.

5 THE COURT: From what I know about this case,
6 there is no difference at all, but that is why I am glad
7 Mr. Steele is here. Maybe he can clarify some of those
8 things, but if you say answering those kinds of questions
9 would incriminate him, I'll take you at your word.

10 MR. MAZZUCCO: No, your Honor. I'm not saying
11 they are going to incriminate him. I said it is his
12 Fifth Amendment privilege against forced testimony.
13 There was language on the record from March 11th where
14 this court made some accusatory statements about fraud
15 upon the court, things that were in the transcript.

16 THE COURT: Yes.

17 MR. MAZZUCCO: You leave my client with no
18 alternative but.

19 THE COURT: To rebut those statements.

20 MR. MAZZUCCO: He can rebut those statements in
21 the proper venue, your Honor. This is an order to show
22 cause in front of this court.

23 THE COURT: Let's cut to the chase. I am really
24 not interested in -- I want to know if some of my
25 conjecture is accurate. The only way I can find out is

1 to have the principles here and answer those questions.

2 Now, if you say he will not answer those
3 questions, then I will draw whatever inferences I think
4 are reasonable from the facts as I know them. This is an
5 opportunity for him to protect himself, to defend and
6 protect himself. It is up to him. So you are saying he
7 doesn't want to answer any questions, fine. I am not
8 going to go through the charade of asking the questions
9 and have him assert the Fifth.

10 MR. MAZZUCCO: Your Honor, he is not going to
11 respond to your questions.

12 THE COURT: All right. Fine.

13 What about Mr. Hansmeier? What is his
14 position, the same?

15 MR. BAKER: The exact same, your Honor.

16 THE COURT: All right. You may be seated.

17 Mr. Duffy.

18 MS. ROSING: Your Honor, Mr. Duffy and
19 Ms. Van Den Hemel will also be taking the fifth
20 amendment. Though, in response to your desire for
21 additional information, I do have approximately 25
22 minutes of argument, and I do have some exhibits that are
23 judicially noticeable.

24 THE COURT: On what? Relevant to what?

25 MS. ROSING: To the seven issues pending before

1 this court.

2 THE COURT: Give me the Cliff Note version. Just
3 give me a summary, what it is that you would like to --

4 MS. ROSING: Well, your Honor, what I would like
5 to argue because my clients are entitled to a reasonable
6 opportunity to be heard, we weren't allowed --

7 THE COURT: Excuse me. They are giving up that
8 right to be heard. Now, what have you got to say that is
9 under oath?

10 MS. ROSING: Well, your Honor, my arguments are
11 legal arguments.

12 THE COURT: I know. I am looking for facts. I
13 really am. I am not a looking for legal arguments.

14 MS. ROSING: Well, your Honor --

15 THE COURT: Can you tell me, for example, who
16 directs the litigation here in California? Who makes the
17 decision as to whether or not cases are dismissed or
18 settled for how much money? Can you tell me that?

19 MS. ROSING: Your Honor, I can't testify.

20 THE COURT: "Yes" or "no", please. Because we
21 need to move through this. Can you tell me that?

22 MS. ROSING: I personally cannot tell you that,
23 your Honor.

24 THE COURT: All right. Do you know whether or not
25 there is another Alan Cooper other than the one that was

1 here at the last hearing?

2 MS. ROSING: I am not aware of another Alan
3 Cooper, your Honor.

4 THE COURT: All right. Good.

5 What happens to the settlement money?

6 MS. ROSING: Your Honor, obviously, I represent
7 Mr. Duffy and Ms. Van Den Hemel. I don't have personal
8 knowledge of any of this.

9 THE COURT: Why weren't notices of related cases
10 filed? Who made the decision to hide from the court the
11 fact that all of these cases were related.

12 MS. ROSING: I do have a judicially noticeable
13 document on that, your Honor, where the Northern District
14 declined to relate the cases.

15 THE COURT: That is a different thing. That is
16 consolidating them.

17 MS. ROSING: It is actually an order declining to
18 relate them.

19 THE COURT: Same plaintiff, same film, same causes
20 of action, and they are not related? Excuse me?

21 Okay. Tell me this. Who made the decision
22 not to disclose to the court the fact that the law firms
23 have a financial interest in the outcome of this
24 litigation?

25 MS. ROSING: Your Honor, there is no evidence

1 before this court at all that the law firm or any, well,
2 certainly, my clients, Paul Duffy or Angela Van Den
3 Hemel, have any financial interest in the outcome of this
4 litigation.

5 THE COURT: Excuse me. Did you read Hansmeier's
6 deposition?

7 MS. ROSING: Yes, I did, your Honor.

8 THE COURT: And then you make the statement you
9 just made?

10 MS. ROSING: Your Honor, there is no evidence that
11 Mr. Duffy or Ms. Van Den Hemel who is a W2 paralegal at
12 Prenda Law --

13 THE COURT: I understand that.

14 MS. ROSING: And I would be happy --

15 THE COURT: Wait a minute. The money goes to
16 Prenda Law's trust account; right?

17 MS. ROSING: Your Honor, I have no personal
18 knowledge, and I can't testify. But I do have an
19 argument I would like to present to your Honor.

20 THE COURT: Relative to what? To anything I just
21 asked?

22 MS. ROSING: Well, your Honor, it is a legal
23 argument with some objections and some judicially
24 noticeable documents.

25 THE COURT: Relative to what?

1 MS. ROSING: Well, the seven issues before the
2 court, the Alan Cooper issue, the discovery order issue,
3 the Wagar investigation, the Denton investigation, Form
4 CV30, the relationships, and March 11, the things that
5 are noticed in this court's OSC.

6 But, your Honor, we would be happy to submit
7 this in a brief if that would be more --

8 THE COURT: Good. Do that. Thank you.

9 We are done.

10 (Proceedings concluded.)
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CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Date: April 5, 2013

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR