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EXHIBIT B

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7 *Attorney for Plaintiff*

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

BOY RACER, INC,)
Plaintiff,)
v.)
DOES 1-73,)
Defendants.)

No. C-11-02534 MEJ

**DECLARATION OF BRETT L. GIBBS
IN SUPPORT OF APPLICATION FOR
EXPEDITED DISCOVERY**

**DECLARATION OF BRETT L. GIBBS IN SUPPORT OF
APPLICATION FOR EXPEDITED DISCOVERY**

I, Brett L. Gibbs, declare as follows:

1. I am an attorney at law licensed to practice in California, and admitted in the Northern District of California. My business address is 38 Miller Avenue, #263, Mill Valley, CA, 94941. I am counsel of record for Plaintiff in this matter.

2. The actual identities of the Doe Defendants in this matter are currently unknown. While their IP addresses are known, we are unable at this point, without the requested discovery from the Internet Service Providers listed in Exhibit A of the Complaint [DKT# 1], to connect those IP addresses with actual names, addresses, email addresses and Media Address Control addresses.

1 As a result, no service of summons on any Doe Defendant can yet be effectuated, and this case
2 essentially cannot proceed through its normal course without the requested discovery.

3 3. At this point, there is no defendant to serve a copy of Plaintiff's *Ex Parte* Application
4 for Leave to Take Expedited Discovery. Though Plaintiff has diligently found the IP addresses of
5 Doe Defendants, due to Doe Defendants' covert actions, their real names, addresses, email addresses
6 and MAC addresses still elude detection. Unfortunately, Plaintiff cannot perfect service on Doe
7 Defendants IP addresses.
8

9 4. In granting Plaintiff's *Ex Parte* Application for Leave to Take Expedited Discovery,
10 thus permitting expedited discovery as outlined, the Court is permitting Plaintiff to defend its
11 copyright. Through the information supplied by via the subpoenas, Plaintiff will have sufficient
12 information to name Defendants for purposes of issuing summonses, making reasonable attempts to
13 serve them, and proceeding with the case. Once presented with their names, Plaintiff by and through
14 its attorneys will contact these Doe Defendants and either settle matters, or begin formal service and
15 naming of each Doe.
16

17 5. Plaintiff requests that its *Ex Parte* Application be addressed as soon as possible for
18 good reason. This is because, while Plaintiff currently has valid IP addresses belonging to actual
19 infringers, the ISPs consistently purge their own IP logs. A lengthy delay in granting Plaintiff's *Ex*
20 *Parte* Application for Leave to Take Expedited Discovery could allow these Doe Defendant
21 infringers slip through the system undetected, and prevent Plaintiff from adequately address the
22 wrongs that have been levied against it.
23

24 6. As referenced in the Application, this request is not unique. There are plenty of
25 decisions made by this Court that support granting Plaintiff's request, including recent unpublished
26 decisions by Your Honor. *See, e.g., Boy Racer, Inc. v. Does 1-60*, Case No. C-11-01738, Order
27 Granting Plaintiff's Application for Leave to Take Discovery Prior to Rule 26(f) Conference
28

1 (DKT#7) (N.D. Cal. April 12, 2011) (James). With the growth of the Internet, and the wrongful
2 behavior occurring therein, the necessity for these applications have only increased of late.

3 7. I declare under penalty of perjury that the foregoing is true and correct based on my
4 own personal knowledge, except for those matters stated on information and belief, and those
5 matters I believe to be true. If called upon to testify, I can and will competently testify as set forth
6 above.
7

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9 **DATED: May 26, 2011**

10 By: /s/ Brett L. Gibbs,
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