



1           3.     As shown in Exhibit 1 of the May 6, 2013 Declaration of Corynne  
2 McSherry (Doc. No. 18), I exchanged correspondence with Plaintiff's attorney and  
3 informed her of SMACNA's intention to default (*i.e.*, not file a responsive pleading  
4 to Plaintiff's Complaint for declaratory relief). SMACNA's intention to default  
5 was based on its goal of ending the dispute without further cost to either party.  
6 SMACNA intended to default even though I believed, for the reasons stated in my  
7 prior correspondence with Plaintiff (*see e.g.*, Complaint at Ex. C) and the  
8 memorandum of law being filed with this Declaration, that SMACNA's copyright  
9 in the Disputed Copyrighted Publication was valid and enforceable.  
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12           4.     Plaintiff did not request any license to use the Disputed Copyrighted  
13 Publication.  
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15           5.     Plaintiff did not request that SMACNA enter into a covenant not to sue  
16 Plaintiff related to the Disputed Copyrighted Publication.  
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18           6.     As the Declaration of Vince Sandusky confirms, had Plaintiff  
19 requested such relief, it would have been provided by SMACNA. SMACNA's goal  
20 was to simply exit this litigation at the lowest cost possible.  
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22           7.     I expected that my email to Plaintiff's counsel would cease  
23 SMACNA's involvement in this matter. However, after being served with a  
24 voluminous brief and a request for attorneys' fees, I contacted counsel in California  
25 to ensure the Court had a complete understanding of SMACNA's: a) well-founded  
26 belief in its legal rights, b) good-faith efforts to exit the litigation at the lowest cost,  
27 and c) attempts to minimize disruption to the Court.  
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1 I declare under penalty of perjury of the laws of the United States that the  
2 foregoing is true and correct.

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4 Executed this 17<sup>th</sup> day of June, 2013.

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Jon L. Farnsworth