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7 *Attorney for Plaintiff*

11/23/2011

8 IN THE UNITED STATES DISTRICT COURT FOR THE  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 BOY RACER, INC., )  
12 )  
13 Plaintiff, )  
14 v. )  
15 DOES 2-72, )  
16 Defendants. )

**No. C-11-02833 EJD**  
**NOTICE OF VOLUNTARY**  
**DISMISSAL OF ACTION WITHOUT**  
**PREJUDICE ONLY AS TO ONE**  
**ANONYMOUS DOE DEFENDANT**

17 **NOTICE OF VOLUNTARY DISMISSAL OF ACTION WITHOUT PREJUDICE ONLY AS**  
18 **TO ONE ANONYMOUS DOE DEFENDANT**

19 **NOTICE IS HEREBY GIVEN** that, pursuant to Federal Rule of Civil Procedure 41(a)(1),  
20 Plaintiff voluntary dismisses all claims *without prejudice* brought in this action against a single  
21 anonymous Doe Defendant associated with the following Internet Protocol ("IP") address:  
22 98.255.135.206. As noted on Exhibit A to Plaintiff's original Complaint (*see* 5:cv-11-01958, ECF  
23 No. 1), this IP address was issued by Comcast Cable Communications, and Doe Defendant was  
24 personally observed by Plaintiff's agents using this IP address in the particular swarm identified in  
25 this case unlawfully infringing Plaintiff's copyrighted works in March of 2011.<sup>1</sup> Further, from other  
26  
27

28 <sup>1</sup> This of course, is not the only times this Doe Defendant was in the swarm, but rather the only times personally observed and his or her available information captured by Plaintiff's agents' proprietary technology.

1 information gained through Plaintiff's agents' proprietary technology and general research, this Doe  
2 Defendant appears to have not only infringed upon Plaintiff's copyrighted works in this case, but  
3 also used the same IP address to infringe upon other works produced by Plaintiff. Plaintiff hereby  
4 chooses to dismiss Doe Defendant associated with IP addresses 98.255.135.206 *without prejudice*  
5 to pursue that individual in a separate consolidated lawsuit.  
6

7 In accordance with Federal Rule of Civil Procedure 41(a)(1), the Doe Defendant has neither  
8 filed an answer to Plaintiff's Complaint, nor a motion for summary judgment. Dismissal under  
9 Federal Rule of Civil Procedure 41(a)(1) is therefore appropriate.

10 Plaintiff still maintains its claims against the other active anonymous Doe Defendant(s)  
11 remaining in this action, and reserves the right to name such individuals and/or serve them when in  
12 possession of their identifying information in this case.  
13

14 Respectfully Submitted,

15  
16 PRENDA LAW INC.,

17 **DATED: November 20, 2011**

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

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 20, 2011, 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.