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Attorney for Plaintiff

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

AF HOLDINGS LLC,

Plaintiff,

v.

DOES 1-135,

Defendants.

No. C-11-03336 LHK

**NOTICE OF VOLUNTARY DISMISSAL
 OF ACTION WITHOUT PREJUDICE
 AS TO ANONYMOUS DOE DEFENDANT
 USING MULTIPLE IP ADDRESSES;
~~[PROPOSED]~~ ORDER**

**NOTICE OF VOLUNTARY DISMISSAL OF ACTION WITHOUT PREJUDICE AS TO
 ANONYMOUS DOE DEFENDANT USING MULTIPLE IP ADDRESSES**

NOTICE IS HEREBY GIVEN that, pursuant to Federal Rule of Civil Procedure 41(a)(1), Plaintiff voluntarily dismisses all claims without prejudice brought in this action against a single anonymous Doe Defendant associated with the following Internet Protocol (“IP”) addresses: 24.7.48.145 and 98.234.197.192. As noted on Exhibit A to Plaintiff’s Complaint, these IP addresses were issued by Comcast Cable Communications, and Doe Defendant was personally observed by Plaintiff’s agents using these IP addresses in this particular swarm in this case unlawfully infringing Plaintiff’s copyrighted works in April and June of 2011.¹ Further, from other information gained

¹ 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 from Plaintiff's agents' proprietary technology and general research, this Doe Defendant appears to
2 have not only infringed upon Plaintiff's copyrighted works, but also used another IP address to
3 infringe upon the works of separate and distinct copyright holder in different case in the Northern
4 District of California. (See *Pacific Century International Ltd v. Does 1-129*, Case No. 11-CV-03681,
5 ECF No. 14). Considering the volatile nature of this District, and in light of the egregious
6 infringements committed by this serial pirate, Plaintiff hereby chooses to dismiss Doe Defendant
7 associated with IP addresses 24.7.48.145 and 98.234.197.192 *without prejudice* to pursue that
8 individual together with the other harmed party in a consolidated lawsuit focus on this single lawsuit
9 and his or her multiple IP addresses.
10

11 In light of the above, two (2) motions pending in this case – Motion of Nonparty to Quash or
12 Vacate Subpoena (ECF No. 17) and Motion of Nonparty to Quash or Vacate Subpoena (ECF No.
13 18) – that are associated with this Doe Defendant and IP addresses 24.7.48.145 and 98.234.197.192,
14 respectively, are hereby moot, and should be denied by the Court on such grounds. Likewise,
15 obviates any response from Plaintiff or a hearing on these motions.
16

17 In accordance with Federal Rule of Civil Procedure 41(a)(1), the Doe Defendant has neither
18 filed an answer to Plaintiff's Complaint, nor a motion for summary judgment. Dismissal under
19 Federal Rule of Civil Procedure 41(a)(1) is therefore appropriate. Inclusive of this dismissal, Doe
20 Defendant has hereby been dismissed from this action without prejudice, and, again, his or her
21 Motions of Nonparty to Quash or Vacate Subpoena (ECF Nos. 17 and 18) should hereby be denied
22 as moot as their associated IP addresses are no longer part of this suit and the subpoenas are no
23 longer active.
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1 Plaintiff still maintains claims against the other anonymous Doe Defendant(s) remaining in
2 this action, and reserves the right to name such individuals and/or serve them when in possession of
3 their identifying information in this case.

4 Respectfully Submitted,
5

6
7 STEELE HANSMEIER PLLC,

8 **DATED: September 29, 2011**

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

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14 *Attorney for Plaintiff*

15 **[PROPOSED] ORDER**

16 In light of the above, Doe Defendant associated with IP addresses 24.7.48.145 and
17 98.234.197.192 are hereby DISMISSED from this case without prejudice, and, therefore are no
18 longer part of this suit. Additionally, his or her Motions of Nonparty to Quash or Vacate Subpoena
19 (ECF Nos. 17 and 18) are DENIED as the issues raised therein are now MOOT.
20

21 Further, it is ORDERED that Plaintiff serve copies of this Order onto the relevant ISPs.

22 This Order disposes of Docket Nos. 17 and 18.

23 **IT IS SO ORDERED.**

24
25 Dated: October 4, 2011

26 
Lucy H. Koh

27 United States District Court Judge
28