

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**ELAINE SCOTT,**

**Plaintiff,**

**Vs.**

**SCRIBD, INC.,**

**Defendant.**

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**Civil Case No.** \_\_\_\_\_

**JURY TRIAL DEMANDED**

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## **PARTIES**

Elaine Scott is an author and citizen of Houston, Texas.

Scribd, Inc. is a Delaware corporation with its principal place of business at 211 Sutter Street, 2nd Floor, San Francisco, CA 94108, and accepting service of process through Business Filings Incorporated, 1232 Q. Street 1st Floor, Sacramento, CA 94108.

## **NOTICE OF ACTION AND FACTS**

1. Under the aegis of self-promoting mis-interpretations of federal statutes, the West coast technology industry has produced a number of startup firms premised on the notion that commercial copyright infringement is not illegal unless and until the injured party discovers and complains of the infringing activity and the infringer fails to respond to such complaints.

Apparently, they believe any business may misappropriate and then publish intellectual property as long as it ceases to use a stolen work when an author complains. Many millions of dollars have been invested in this business plan.

2. Scribd, Inc. (“Scribd”) is one such egregious infringer. The have built a technology that’s broken barriers to copyright infringement on a global scale and in the process have also built one of the largest readerships in the world. The company shamelessly profits from the stolen copyrighted works of innumerable authors. Scribd, in fact, takes the basic model one step further and both (a) creates a system whereby any user in the world can upload copyrighted works without permission; and (b) having created a vast new potential for theft of copyrighted works, Scribd – without permission – misappropriates copyrighted works for its copyright protection system.

3. Thus, Scribd is building two profitable businesses on a foundation of enterprise-wide copyright infringement – a website that provides storage, searching, and retrieval of documents,

and a copyright protection system fed by stolen works that is used to identify and prevent the uploading of unlicensed copyrighted works. The value of the copyright protection system may someday exceed (or already has) the value of the document storage and retrieval system, especially if it were illegal to operate a Scribd-type business unless the business also implemented a copyright filter.

4. Elaine Scott ("Plaintiff") is a successful children book author and victim of the Scribd enterprise.

5. Ms. Scott authored the copyrighted book "Stocks and bonds : profits and losses : a quick look at financial markets." ("Stocks and Bonds")

6. Ms. Scott wrote Stocks and Bonds in 1984. The work was published in March of 1985, and registered at the Copyright Office in May of 1985.

7. The Copyright Office registration number for Stocks and Bonds is TX0001591794 (see Exhibit 1).

8. Ms. Scott is the owner of all copyrights in Stocks and Bonds.

9. Around July 2009 Ms. Scott searched the document database at Scribd and discovered that Stocks and Bonds had been uploaded to the site and made available to the public. She reviewed the statistics about her work on the website. Stocks and Bonds had been downloaded more than 100 times. Ms. Scott had not licensed the work to either Scribd or any other person.

10. Ms. Scott sent a letter requesting the removal of her book from the Scribd website on July 23, 2009. Subsequently, Ms. Scott filed this suit.

11. As an author and lecturer, Ms. Scott regularly addresses the issues of plagiarism and the rights of authors. In her own words:

12. "I am frequently invited into classrooms across the country to speak to students about how I research and write my books. I begin by talking to students about the sacredness of words - theirs and mine - explaining that the words in my books are copyrighted to me, and therefore belong to me - just as the words they write belong to them. I add that their words are so important and valuable that the United States government considers them copyrighted too, even if their copyright isn't registered. Therefore, I say to my wide-eyed audience, stealing a classmate's words by copying them without permission is not only cheating, it is a form of copyright violation and technically is against U. S. law. I usually close this portion of the presentation by stating that stealing someone else's words is a little like stealing that person's lunch money. It simply is wrong."

13. "I bring this complaint, because I believe that just as it isn't right for children to steal words, it isn't right for websites like Scribd.com to do it, either. And just as it isn't right for students to receive an 'A' based on work others have done, websites should not receive advertising revenue based on infringed copyrights posted on their web pages. If that behavior is allowed to continue I believe it makes a mockery of the copyright laws of the United States and sets a terrible example for all."

14. Other authors have also voiced their concerns about the mass appropriation and publication model promoted by Scribd: "I'm an aspiring author - Scribd is the end of the professional author. The internet will be awash with drivel and written culture will be in the hands of government, corporate and personal patronage. Now that kind of worked in the Renaissance - but there was very little Art produced that was not propaganda for one body or

another. Scribd and its like will be the death of the written word as a significant cultural phenomenon."<sup>1</sup>

15. Scribd is a website focused on self-publishing and free access to a database of uploaded documents using extensive search facilities. The website and its contents can be accessed through a web browser directly, a programmatic interface, or by linking to a document on the Scribd website from a different website.

16. One special feature is iPaper, a proprietary format created by Scribd. When documents are uploaded to Scribd, they are converted into a special data format known as iPaper. Regardless of what format a document is in when it is uploaded, it is thereafter available in the iPaper format to any browser using the iPaper viewer (built with the Adobe Flash technology available in most web browser software).

17. The Scribd operation is described succinctly on their website (<http://www.scribd.com>):

Scribd began with a simple observation — that the desire for self-expression through the written word is as old as humanity itself. But even with the proliferation of blogs and other self-publishing tools, there was no easy way for average people to publish to a readership of millions.

Today, Scribd is the largest social publishing company in the world — the website where more than 60 million people each month discover and share original writings and documents.

Scribd's vision is to liberate the written word — to turn everyone into a publisher and create the best possible reading experience on the web and mobile platforms.

With Scribd's iPaper document reader, anyone can easily upload and immediately share their original works on Scribd.com or any other website. iPaper transforms "print" files like PDF,

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<sup>1</sup> Anonymous, April, 4, 2009, <http://bookseller-association.blogspot.com/2009/04/scribd-trips-out-of-litopia.html>.

Word or PowerPoint into web document — with all the fonts, layout and artwork that makes your document unique.

Your work can be shared with Scribd's community of passionate readers, and because your document is indexed for search engine optimization, your screenplay, novel or even sheet music and recipes can be discovered by the world.

At Scribd, we built a technology that's broken barriers to traditional publishing and in the process also built one of the largest readerships in the world.<sup>2</sup>

18. Trip Adler is CEO of Scribd and one of its founders. He has appeared in a number of interviews available on the internet and in print. He presents the clearest case for Scribd's illegal activity. In his own words (italicized):

19. *"Scribd makes it easy to share documents online."*<sup>3</sup>

20. *"If you want to publish online, with Scribd you can just take it, upload it, and its published online in a few seconds and the whole world can see it."*<sup>4</sup> More than 50,000 new documents are uploaded to Scribd every day.<sup>5</sup> Scribd purposely designed their system to attract as much content as possible. Much of the content is uploaded without license from the copyright holder.

21. *"[When] [s]omething copyrighted gets uploaded, which does often happen, we just remove it when the copyright holder complains."*<sup>6</sup> Scribd admits they regularly infringe copyrighted works. They incorrectly believe that they are immune from liability. According to their view, in the internet-enabled world - which spawns ten thousand businesses for every new

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<sup>2</sup> <http://www.scribd.com/about> (see Exhibit 2).

<sup>3</sup> Trip Adler, Interview on February 2, 2008, <http://www.fastcompany.tv/video/make-your-documents-social-objects-with-scribd-0> (see Exhibit 3).

<sup>4</sup> Trip Adler, Interview in 2007, <http://intruders.tv/en-tech/trip-adler-of-scribd-youtube-for-documents/> (see Exhibit 4).

<sup>5</sup> Spencer Ante, Interview in June, 2009, [http://www.businessweek.com/magazine/content/09\\_25/b4136054153678.htm](http://www.businessweek.com/magazine/content/09_25/b4136054153678.htm) (see Exhibit 5).

<sup>6</sup> Adler, *supra* note 4.



business model - a copyright holder must now devote substantial time to monitoring the content of innumerable websites and sending out takedown notices to receive protection from the law. In pursuit of this radical re-characterization of intellectual property rights, Scribd continues to promote widespread infringement of copyrighted works.

22. *"We can't control it [copyright infringement]... We'd like them to let us know to take it down."*<sup>7</sup>

23. *"We've actually gone above and beyond the DMCA by implementing a copyright filter so that anytime something that's uploaded that's already been taken down before is automatically recognized we just remove it immediately. This keeps a lot of copyrighted books and other documents that were being uploaded frequently off the site completely."*<sup>8</sup> Without permission of the authors, Scribd maintains copies of author's works for use in a copyright protection system. Once a copyrighted work is uploaded to Scribd without the copyright holder's permission, the infringement is ongoing and permanent. Even if the work becomes unavailable for download by users, Scribd illegally copies the work into its copyright protection system, without permission or compensation to the author.

24. Scribd admits on their website that all "content removed from Scribd via a DMCA copyright infringement takedown notice are added to our text-matching copyright protection system."<sup>9</sup> This system of infringement is presented as an example of how Scribd helps "protect

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<sup>7</sup> Matt Marhsall, Scribd, the "YouTube for Documents", Copyright Violations and All (March 28, 2007), <http://venturebeat.com/2007/03/28/scribd-the-youtube-for-documents-copyright-violations-and-all/> (see Exhibit 6).

<sup>8</sup> Adler, *supra* note 4.

<sup>9</sup> <http://support.scribd.com/forums/33563/entries/25057> (see Exhibit 7).

the rights of authors."<sup>10</sup> In fact, the copyright protection system is built and maintained without compensation to the authors of the works that provide the only real value for the copyright filter.

25. Ms. Scott did not give Scribd permission to make use of her work in their copyright protection system. Even in their purported attempts to "help" authors, Scribd continues to infringe for private gain.

26. *"We've created an ad system for documents."*<sup>11</sup> Scribd isn't a non-profit, public service – they do what they do for profit.

27. *"Our belief is that all the documents out there on the web right now are not being monetized, and we'd like to change that"*<sup>12</sup>

28. *"There's a ton of documents that are not being monetized"*<sup>13</sup>

29. *"Documents are viewed in a web browser, so you can have ads inside and around the document"*<sup>14</sup>

30. *"We got access to this special Google API so that we can display Google AdSense inside of [iPaper] documents"*<sup>15</sup>

31. *"Ultimately we want to monetize the hundreds of millions of PDFs and other kinds of documents on the web."*<sup>16</sup> Scribd reaps substantial and direct financial benefit from copyright infringement. Their misuse of copyrighted works attracts more users to their website, which in turn increases the advertising revenues for the website.

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<sup>10</sup> *Id.*

<sup>11</sup> Adler, *supra* note 4.

<sup>12</sup> Adler, *supra* note 3.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

32. The attraction of the extensive library of unauthorized copyrighted works offered by Scribd is well known: "[w]hat attracts visitors to [Scribd]? Well, many things – but one thing Donna noticed immediately was what appeared to be a pirated copy of Harry Potter. Then the hunt was on, and we quickly discovered more and more illegal copies of books – just sitting there, all ready for anyone to download and steal."<sup>17</sup>

33. Scribd knowingly and willingly engages in copyright infringement. In documents published on their website, Scribd acknowledges that distribution of copyrighted content without the copyright's owner permission is illegal. For example, the FAQ on copyright and DMCA states: "[d]istributing copyrighted content without the copyright owner's permission is copyright infringement even if you give the document away for free."<sup>18</sup>

34. Scribd unlawfully creates derivative works when it takes uploaded documents and converts them into the iPaper format. In documents published on their website, Scribd admits this may be illegal. For example, the FAQ on copyright and DMCA states: "[e]ven if you used your creativity to make a new document that contained another person's copyrighted work, you may be liable for copyright infringement."<sup>19</sup>

35. Scribd asks authors to send a DMCA takedown notice to remove a copyrighted work from their system. Scribd lists the following information for the designated agent for takedown notices:

Scribd, Inc.  
Attn: Scribd DMCA copyright infringement notification  
539 Bryant St.  
Suite 200

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<sup>17</sup> Anonymous, Trip Adler, CEO of Scribd, Answers His Critics! Not (April 3, 2009), <http://www.litopia.com/podcast/litopia-after-dark-trip-adler-ceo-of-scribdcom-answers-his-critics-not/> (see Exhibit 8).

<sup>18</sup> <http://support.scribd.com/forums/33563/entries/25445> (see Exhibit 9).

<sup>19</sup> *Id.*

San Francisco, CA 94107  
USA

or fax to:  
415.896.9897  
Attn: Scribd DMCA copyright infringement notification

or email to:  
copyright@scribd.com  
Subject: Scribd DMCA copyright infringement notification<sup>20</sup>

36. The same information is required by the Copyright Act to be on file at the Copyright Office. However, the information listed at the Copyright Office for Scribd's putative designated agent is:

Jason Bentley  
211 Sutter Street  
Floor 2  
San Francisco, CA 94108  
phone: 415-839-7499  
fax: 650-745-0703  
[copyright@scribd.com](mailto:copyright@scribd.com)<sup>21</sup>

37. Scribd 's copyright filter (or protection) system is known as the "Copyright Management System." This system allows authors to contribute works to the system. Scribd uses this system to screen documents uploaded to the system, and will block the uploading of any document that is present in the Copyright Management System. The system is not free to authors. To include a work in the Copyright Management System voluntarily, an author must contractually relinquish her rights to sue Scribd for infringement violations unrelated to use of the Copyright Management System: "[y]ou understand that Scribd complies with the Digital Millennium Copyright Act ('DMCA'), 17 U.S.C. 512, including but not limited to its counter-notification provisions. You understand and agree that the Copyright Management System does

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<sup>20</sup> <http://support.scribd.com/forums/33563/entries/22981> (see Exhibit 10).

<sup>21</sup> See Exhibit 11.

not give Scribd the right and ability to control content uploaded to or hosted by Scribd. You further agree that to the extent any of Your works appear on Scribd without Your permission, You will send DMCA-compliant take-down notices to Scribd."<sup>22</sup>

38. Scribd also reserves the right to change the terms of the agreement related to the Copyright Management System at any time. And it does not guarantee that your waiver of rights to sue will insure that your works will no longer be uploaded and made available on the system. Several clauses in the agreement specifically waive any liability for Scribd if the Copyright Management System fails to protect the author's rights.<sup>23</sup> Thus, an author must either consent to the legality of the entire Scribd system to receive some level of protection, or they receive no protection at all, and face the substantial harm caused by Scribd's operations.

39. Since its inception, Scribd has acknowledged that it engages in widespread infringement of copyrights. Scribd's system shifts risk, unfairly burdens authors, and disingenuously offers unreliable protection only when authors are willing to waive their right to sue the very system that is responsible for the theft of their works. The sweep of this illegal activity threatens to severely disrupt the traditional balance of rights between Authors, Readers, and the Merchants of Copyright. Ms. Scott doubts that Congress intended to enfranchise the wholesale theft of intellectual property. She doubts that Congress or the authors of our Constitution ever imagined that mass appropriation of protected works holds any place in a free society.

40. For infringement of her work, and on behalf of all similarly situated authors, Ms. Scott brings this suit to recover damages, enjoin Scribd from continuing to operate their website in a manner that promotes copyright infringement, promote the literary arts by asserting the

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<sup>22</sup> <http://support.scribd.com/forums/33939/entries/38439> (see Exhibit 12).

<sup>23</sup> *Id.*

statutory and constitutional rights coincident with Authorship, uphold the moral tradition of respect for the intellectual property of others, and plead for enforcement of the fundamental rights guaranteed to all Authors.

### JURISDICTION AND VENUE

41. This is a civil action seeking damages, declaratory relief, and injunctive relief from copyright infringement under the Copyright Act, 17 U.S.C. 101 et seq.

42. This Court has original subject matter jurisdiction over all claims pursuant to 28 U.S.C. 1331 and 1338(a).

43. This Court has personal jurisdiction over Scribd. On information and belief, Scribd conducts continuous and systematic business in Texas and this District, and derives substantial revenues from services offered and rendered in Texas. Scribd has also committed infringing acts outside of Texas that caused injury to Plaintiff and other class members in Texas. Plaintiff has her personal residence in Texas and this District.

### STANDING

44. Plaintiff and class members have constitutional standing to assert their claims. Scribd willfully engages in wholesale infringement of copyrighted works, which it has acknowledged in public interviews. The injuries suffered by Plaintiff and class members are readily traceable to the acts of Scribd. Further, copyright infringement is a redressable wrong in and of itself, and plaintiffs can obtain statutory damages even when evidence of actual damages is not presented. See *Atlantic Recording Corp. v. Lopez* 2007 WL 2010752, 1 (S.D.Tex.) (S.D.Tex.,2007) (“Thus, authorities have interpreted the [Copyright Act] to mean that a Plaintiff need not present evidence of actual damages in order to recover statutory damages.”). Therefore, standing to sue is clearly present in this case. See *Hein v. Freedom From Religion Foundation, Inc.*, 127 S. Ct. 2553, 2562 (2007) (quoting *Allen v. Wright*, 468 U.S. 737, 751

(1984)) ("A plaintiff must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief").

### CLASS ALLEGATIONS

45. Plaintiff brings this action on behalf of herself and every author who owns a valid, registered copyright in a work infringed by Scribd. This action satisfies the prerequisites of F.R.C.P. 23(a)(1) - (4) for maintenance as a class action. Scribd is now the 50th or 60th largest website in the world, larger than the New York Times website, and often described as the "YouTube for documents."<sup>24</sup> It is estimated that over 50,000 new documents are uploaded to Scribd every day.<sup>25</sup> How many of these documents are copyrighted works uploaded without the author's permission is difficult to estimate, but illegal uploading of copyrighted works "does happen often" according to Trip Adler, CEO of Scribd. If the rate of illegal uploading was just 1%, that would amount to over 180,000 copyrighted works uploaded each year without permission. Therefore, the class of authors described here is too numerous for joinder. The information necessary to define the class with respect to infringed works where the author requested the website to take down the work is uniquely in the possession of Scribd. Information regarding the authors of infringed works available on Scribd without the knowledge of the authors is also uniquely within the possession of Scribd.

46. The class member's claims turn on at least the following common questions of fact and law: (1) does Scribd violate the Copyright Act when copyrighted works are uploaded, processed, stored, searched, and downloaded from their system without authorization of the copyright holder; (2) does Scribd violate the Copyright Act when copyrighted works are added to

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<sup>24</sup> Ante, *supra* note 5.

<sup>25</sup> *Id.*

Scribd's copyright protection system without authorization of the copyright holder; and (3) does Scribd qualify for the safe harbor provisions of the DMCA. 17 U.S.C. 512(a) - (d).

47. This case presents only issues of federal law, and there is no threat of the complications that arise when state law issues are present.

48. Plaintiff is an adequate class representative. She is an author of several books and has never licensed or authorized use of her works to Scribd or its affiliates. Her claims are largely identical with the claims of other class members. Counsel for Plaintiff are experienced trial and class action lawyers who have also litigated copyright and technology issues.

49. Certification is appropriate under F.R.C.P. 23(b)(1)(A), 23(b)(2), and 23(b)(3). Regarding F.R.C.P. 23(b)(1)(A): the core issue in this case is whether the safe harbor provisions of the DMCA protect Scribd. 17 U.S.C. 512. Inconsistent rulings on the applicability of the DMCA would leave authors uncertain about the protection of their works under the Copyright Act. Scribd operates a single website accessible globally, and its operations could grow to impact potentially all of humankind's literary works. Consistent adjudication for class members is of the highest import.

50. Regarding F.R.C.P. 23(b)(2): The party opposing the class - Scribd - has acted in a manner that affects all class members similarly. A single ruling as to injunctive or declaratory relief would be appropriate.

51. Regarding F.R.C.P. 23(b)(3): For reasons not apparent to Plaintiff, the issues presented by this case remain largely un-litigated. Plaintiff is aware of only one other case, filed in August, 2009, by a potential class member and arising out of the same issues.<sup>26</sup> Thus, this case is ideally suited for a class action, as it may be the only vehicle through which class

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<sup>26</sup> *Larry Williams v. Scribd, Inc.*, Case No. 09-CV-1836LAB (S.D.Cal.).



members could achieve legal satisfaction. The cost of litigating these issues has likely been a strong deterrent for many class members. Perhaps a further deterrent is evolving case law in the Ninth Circuit that is popularly interpreted as favoring Scribd's presumed defense that its actions are protected by the DMCA. Plaintiff believes that her case factually varies in a dispositive manner from previous cases decided in the Ninth Circuit; and to the extent the Ninth Circuit precedent would favor Scribd, that precedent does not reflect Fifth Circuit law and good policy. While a split among the circuits is not an objective sought, the issues here are so fundamentally important to the evolution of intellectual property law that a hearing of these cases in different circuits can only benefit the eventual resolution of the difficult questions presented.

52. Plaintiff believes that common representation of the rights of authors is critical to the protection of those rights. Also, due to the unique and common mechanisms employed by Scribd to infringe Plaintiff's and class member's works, litigating this matter as a class action will likely be no more difficult to manage than individual litigation of Plaintiff's cause of action.

## CAUSES OF ACTION

### I. Copyright Infringement

53. The elements of copyright infringement are (1) ownership of a valid copyright, and (2) the defendant copied constituent elements of the plaintiff's work that are original. *Gen. Universal Sys., Inc. v. Lee*, 379 F.3d 131, 141 (5th Cir.2004). The elements of copyright infringement are met in this case because Plaintiff and class members have valid registered copyrights in their books and other documents, such works are not and were never licensed to Scribd, and Scribd willfully infringed and continues to infringe those works by, for example, making unauthorized copies of the works for various purposes including storage in internal databases and inclusion in a copyright protection system. Further, the DMCA safe harbor provisions do not protect Scribd. See 17 U.S.C. 512(a) - (d).

## II. Contributory and Vicarious Copyright Infringement

54. A contributory infringer is one who, with knowledge of the infringing activity, induces, causes, or materially contributes to the infringing conduct of another. *Cooper v. Sony Music Entertainment Inc.* 2002 WL 391693, 4 (S.D.Tex.,2002) citing *Alcatel USA, Inc.*, 166 F.3d at 790, citing *Gershwin Pub. Corp. v. Columbia Artists Management, Inc.*, 443 F.2d 1159, 1162 (2nd Cir.1971). Contributory infringement may also be found where a party contributes “machinery or goods that provide the means to infringe.” 3 MELVILLE B. NIMMER & DAVID NIMMER, NIMMER ON COPYRIGHT § 12.04[A] [2], at 12-72 (2001). Scribd has actual and constructive knowledge that its users employ the Scribd website to infringe copyrighted works. Further, Scribd induces this activity for its private financial gain, and materially contributes to this activity of its users through the provision of its website and programmatic interfaces.

55. Vicarious liability may be imposed when an individual has the right and ability to supervise the infringing activity and also has a direct financial interest in the activities. *Cooper v. Sony Music Entertainment Inc.* 2002 WL 391693, 4 (S.D.Tex.,2002) citing *Playboy Enters. Inc. v. Webworld, Inc.*, 991 F.Supp. 543, 553 (5th Cir.1997). As with direct copyright infringement, intent or knowledge of the infringement is not an element of a claim for vicarious liability. *Playboy Enters. Inc. v. Webworld, Inc.*, 991 F.Supp. 543, 553 (5th Cir.1997) citing *Peer Int'l Corp. v. Luna Records, Inc.*, 887 F.Supp. 560, 565 (S.D.N.Y.1995). Scribd manages and transforms documents uploaded by users into its system, and has the right and ability to supervise these infringing acts, which include (a) converting documents to iPaper format; (b) storing and displaying documents; and (c) copying documents into the copyright protection system. Scribd’s collection of advertising revenues for advertisements viewed by website visitors in relation to displayed infringed works constitutes a direct financial interest. Scribd may have other direct financial interests in the infringing activities.

### **III. Declaratory Judgment that Scribd Is Not Protected by DMCA Safe Harbor Provisions**

56. In the interest of efficiency and just procedure, Plaintiff intends to bring a Motion for Expedited Declaratory Ruling to adjudge that Scribd is not exempt from monetary and injunctive relief in accord with 17 U.S.C 512. Plaintiff contends that Scribd (a) is a publisher and not a "service provider" under 17 U.S.C. 512; (b) receives a financial benefit directly attributable to infringing activity and has the right and ability to control such activity; (c) has actual knowledge that material or activities using material on their system or network are infringing; (d) has not both made available through its service, including on its website in a location accessible to the public, and provided to the Copyright Office, substantially conforming information about a designated agent; and (e) such other acts and omissions that make Scribd ineligible for protection under 17 U.S.C. 512.

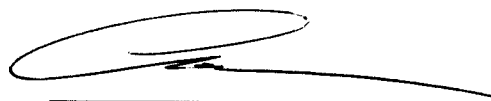
### **PRAYER FOR RELIEF**

For the foregoing reasons, Plaintiff and class members respectfully request:

1. certification of the class described;
2. trial by jury;
3. declaratory ruling that Scribd is not protected by DMCA safe harbor provisions;
4. actual damages and disgorgement or statutory damages as allowed by 17 U.S.C. 504;
5. temporary and/or final injunctions commanding Scribd to cease and desist all current infringing activities and all operations likely to result in future infringing activity, in accordance with 17 U.S.C. 502;
6. costs and attorneys fees in accordance with 17 U.S.C. 505;
7. such other relief at law and equity to which Plaintiff and class members are entitled.

Respectfully submitted,

Camara & Sibley LLP



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K.A.D. Camara  
Federal Bar No. 870498  
State Bar No. 24062646  
2339 University Boulevard  
Houston, Texas 77005  
713-893-7973  
713-447-2766 (fax)  
[camara@camarasibley.com](mailto:camara@camarasibley.com)

ATTORNEY FOR PLAINTIFF  
ELAINE SCOTT

**1**

Type of Work: Text

Registration Number / Date:  
TX0001591794 / 1985-05-31

Title: Stocks and bonds : profits and losses : a quick look at  
financial markets.

Notes: Cataloged from appl.

Copyright Claimant:  
Elaine Scott

Date of Creation: 1984

Date of Publication:  
1985-03-07

Authorship on Application:  
text: Elaine Scott.

Variant title: Stocks and bonds : profits and losses

Names: Scott, Elaine

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**2**



Search Books, Presentation

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## Quick Facts

### Stats

- Tens of millions of readers every month
- Millions of documents shared
- More than 35 billion words
- More than 5 million iPaper embeds
- 90 different languages

### The Company

- Launched: March 2007
- Headquarters: San Francisco
- Management:
  - Trip Adler, CEO & Co-Founder
  - Jared Friedman, CTO & Co-Founder
  - Tikhon Bernstam, COO & Co-Founder
  - George Consagra, President
  - Mike McGuinness, Vice President, Business Development
  - Tammy H. Nam, Vice President, Content & Marketing

### Who Uses Scribd (sampling)

- [Baltimore Police Department](#)
- [Barack Obama Presidential Campaign](#)
- [Carnegie Endowment for International Peace](#)
- [Dole Institute](#)
- [Dublin Chamber of Commerce](#)
- [Duke Medicine](#)
- [Ford](#)
- [FOXBusiness.com](#)
- [Harvard University](#)
- [Marriot](#)
- [Random House](#)



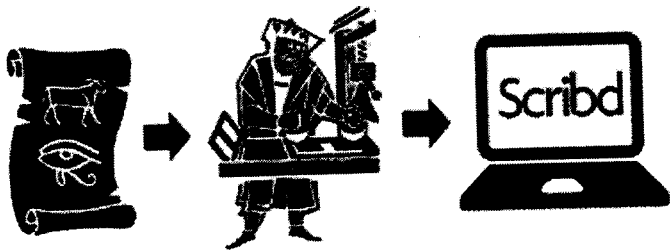
- [Simon & Schuster](#)
- [TechCrunch](#)
- [The MIT Press](#)
- [The New York Times](#)
- [UCLA Intellectual Property](#)
- [World Bank](#)
- [World Economic Forum](#)
- ... and millions of people exactly like you!

## About Us

Scribd began with a simple observation — that the desire for self-expression through the written word is as old as humanity itself. But even with the proliferation of blogs and other self-publishing tools, there was no easy way for average people to publish to a readership of millions.

Today, Scribd is the largest social publishing company in the world — the website where more than 60 million people each month discover and share original writings and documents.

Scribd's vision is to liberate the written word — to turn everyone into a publisher and create the best possible reading experience on the web and mobile platforms.



## Democratizing Publishing

With Scribd's [iPaper](#) document reader, anyone can easily upload and immediately share their original works on Scribd.com or any other website. iPaper transforms "print" files like PDF, Word or PowerPoint into web document — with all the fonts, layout and artwork that makes your document unique.

Your work can be shared with Scribd's community of passionate readers, and because your document is indexed for search engine optimization, your screenplay, novel or even sheet music and recipes can be discovered by the world.

At Scribd, we built a technology that's broken barriers to traditional publishing and in the process also built one of the largest readerships in the world.

## About

- [About Us](#)
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- [Contact](#)

**3**



Search

### Make Your Documents Social Objects with Scribd



Monday, March 10th, 2008

Why would you share your documents with the world? Well, Scribd's CEO, Trip Adler has the answer: by sharing documents you make them social objects that a community can add onto. He gives us a demo and talks to us about how he got funded and how he is working to build a new kind of business all around the sharing of documents. He demonstrates how people are putting a variety of documents up from poetry, book proposals, resumes, and more

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Back to Scobleizer TV Series (scobleizer-tv)

Next Episode (video/the-philosophy-myplace-with-vp-product-management)

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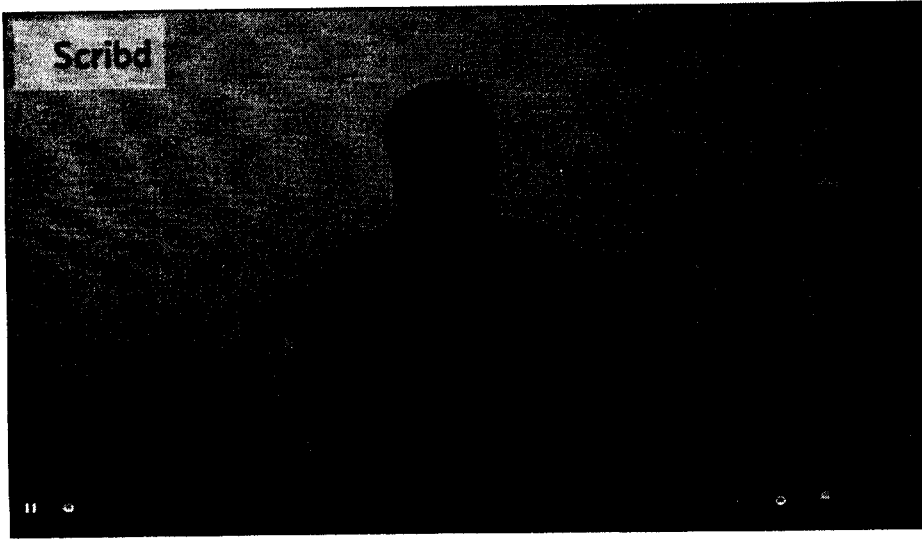
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## Trip Adler of Scribd – YouTube for documents

[click here to dim the lights!](#)

January 26th, 2008

Scribd lets you publish and discover documents online.

With its fast Flash-based document viewer and functionality that allows users to upload all of their documents that would otherwise have remained inaccessible to the rest of the world, Scribd has the potential to do for documents what YouTube did for videos.

In this interview recorded in late 2007, Trip Adler, one of the co-founders of Scribd, discusses the company's Boston roots, their Y Combinator experience where Scribd is today and how to correctly pronounce "Scribd" (it rhymes with script 😊).

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April 1st, 2009



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May 20th, 2009

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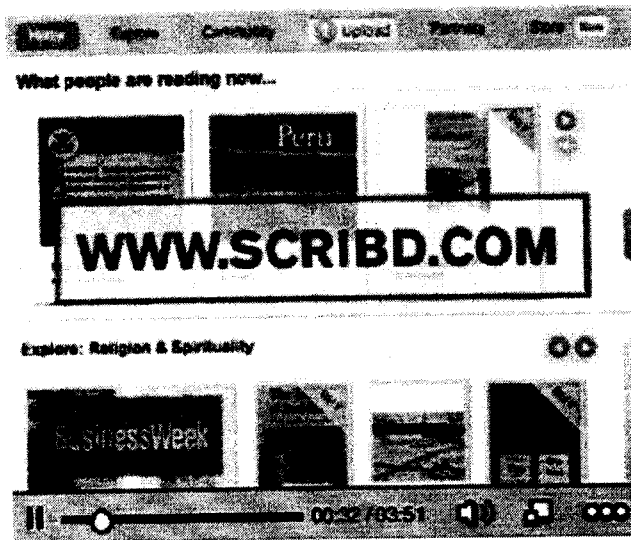
# BusinessWeek

INNOVATION & TECHNOLOGY June 11, 2009, 5:00PM EST

## Scribd: An E-Book Upstart with Unlikely Fans

Digital book site Scribd is wooing big publishers by offering greater control and more revenue than Amazon

By Spencer E. Ante



Last year author Bob Seidensticker flagged his publisher, Berrett-Koehler, that a digitized version of his book *Future Hype* had been posted on a Web site called Scribd. Anyone could read or print it for free. Berrett-Koehler warned Scribd the copy was illegal, and the company quickly took it down.

Then executives at the San Francisco publisher started checking out the site. It had a large and growing audience of readers, including many who actually went out and bought books. So last July, Berrett-Koehler began offering free excerpts on Scribd, a marketing move that led to the selections being viewed more than 325,000 times. Last month, when Scribd opened its online store, the publisher signed a deal to sell 400 electronic books through the company. "They get so much more traffic than our Web site," says Johanna Vondeling, vice-president of Berrett-Koehler. "We are pretty optimistic about it."

### SIMON & SCHUSTER DEAL

Scribd, shorthand for scribbled, is a sort of YouTube ([GOOG](#)) for publishing, where anyone can upload digital versions of books, research reports, and other printed matter and share them easily across the Web. With 60 million visitors a month, it's the most popular of several such document-sharing Web sites. On June 12 the San Francisco startup is scheduled to announce its first deal with a major publishing house. Simon & Schuster plans to offer 4,500 e-books for sale on the site, as well as previews of thousands of other titles. "Scribd is an exciting new platform," says Elinor Hirschhorn, Simon & Schuster's chief digital officer. "There is a very robust book reader audience there, and we want to be where our readers are."

The agreement between an Internet upstart and a traditional media giant highlights the potential rewards and risks as publishers move into the digital era. With the public becoming more comfortable reading books in digital form, publishers would like to capture this small yet fast-growing source of revenue while lowering their costs. But they're worried about piracy and losing control of their business. They're also a bit leery that Amazon.com (AMZN), the largest online bookseller and creator of the Kindle reader, could become as dominant in publishing as Apple (AAPL) is in music. "Most publishers see e-books as inevitable," says Sarah Rotman Epps, analyst with Forrester Research (FORR). "But they want control over the distribution and pricing."

The three twentysomething co-founders of Scribd—Jared Friedman, Trip Adler, and Tikhon Bernstam—see these concerns as an opportunity. The two-year-old site, which already generates enough money from online advertising that it's profitable, gives authors or publishers the ability to choose their own level of copyright protection and set the price for their work. Scribd keeps a 20% cut of sales. In contrast, Amazon sets the price for e-books and usually takes a bigger cut. By offering a more open and flexible system, Scribd hopes to create a viable alternative to the giant retailer. "The [online] store could be huge," says CEO Adler. Scribd says it's in talks with other big publishers and is working to make its content available on the Kindle and Apple's iPhone.

There's no guarantee, of course. Publishers are less concerned with which book site triumphs than with having a variety of outlets that help them keep control over sales and distribution. Still, Scribd is helping soothe their concerns about the risks of digital books. "[They've got] a very attractive package," says Adrian Zackheim, publisher of Penguin Portfolio.

*Ante is an associate editor for BusinessWeek.*

The McGraw-Hill Companies



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# VentureBeat

## Scribd, the "YouTube for documents," copyright violations and all

March 28, 2007 | Matt Marshall | Comments

Updated

### Scribd

Scribd, the new Silicon Valley company pitching itself as the "Youtube for documents" is getting some good traction, in part because it hosts copyrighted material.

Scribd launched three weeks ago, and is attracting 100,000 unique visitors a day. Those are the viewers. Far fewer have signed up to upload documents — about 10,000 users have uploaded 13,000 documents.

Why, we asked initially, are people coming to a site to post documents, when all they have to do is post them on their own blog? One reason is because Scribd makes it dead simple — just like YouTube makes it easy to post videos. Whatever document you want to upload (Pdf, Powerpoint, .lit, .ps, .txt, Word, etc), Scribd throws it into a convenient Flash player format, so that it can be easily read by anyone. It converts simpler documents to HTML.

This saves hassle: If you want to load say, 30 documents online, most blogging software converts them to links that you paste into your blog, and which require visitors to download them for viewing. Scribd lets you upload readable files to its site within ten seconds. Scribd makes documents both searchable and taggable. It lets you zoom in on text. Scribe wants to foster a community around the documents (like YouTube's community around video), with comments and ratings. Each person who posts gets their own profile (here's the person who uploaded the Da Vinci Code, apparently copyrighted material; the person's profile links to a 17-year-old Myspace user).

Scribd offers more features than competitor sites such as Slideshare.net, which is only for Powerpoint documents.

Adobe has not released Flash tools in a way that consumers can easily create a display player on their own blogs (perhaps because Adobe wanted to avoid cannibalizing its other product, the Pdf).

The second reason for Scribd's popularity is apparently because you can read copyrighted material there without being tracked (posters of material do have to disclose an email address to Scribd, though that can be spoofed).

Scribd has received 30 copyright take-down notices already, according to co-founder Trip Adler. He has removed hundreds of documents, he told VentureBeat today. The problem is acute because Scribd lets you easily download the documents (there's a prominent download button, and you can download in multiple formats: .pdf, .doc, .txt, and .mp3 files), something YouTube doesn't let you do easily.

VentureBeat found a couple of copyrighted Harry Potter books online, and Adler said he was aware of them, but at the time hadn't been able to take them down — he was in his car during our interview, and besides, Scribd is just three guys: "We can't control it," he said. He added: "We'd like them to let us know to take it down." Adler did email us later today to say he'd taken the Potter books down, and pointed to his copyright policy, to indicate Scribd is DMCA compliant. However, another book hosted at Scribd that he was aware of, The Da Vinci Code, is still up several hours later, as of this writing. See screenshot below.

How will Scribd make money? Advertising can be targeted to the text of documents. Scribd may offer premium accounts for various services, from licensing document conversion tools to other sites (perhaps at five cents per conversion), to printing, to allowing authors to sell documents through Scribd.

Scribd is raising venture capital, and should close a round soon. It received \$12,000 from Y Combinator, and \$300,000 from angel investors (as reported by Techcrunch) in convertible notes, but has spent a total of only \$30,000 to date, Adler said. Joining Adler is Jared Friedman, 21, and Tikhon Bernstram, 27. Adler and Friedman studied at Harvard, and they met Dernstan, from Dartmouth, at

the Y Combinator school in Cambridge, Mass. last summer. Adler studied biophysics, while Friedman and Dernstan studied computer science.

**Scribd**

# The Da Vinci Code

**Dan Brown**

**FOR BLYTHE... AGAIN. MORE THAN EVER**

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Tags: co:Scribd, Y-Combinator

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Info, FAQs, and Forums / FAQ: Copyright and DMCA / How does Scribd help prot...

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## How does Scribd help protect the rights of authors?

Submitted Feb 26 by [Jason Bentley](#)

All content removed from Scribd via a DMCA copyright infringement takedown notice are added to our text-matching copyright protection system. This system makes a "fingerprint" of the copyrighted work and stores it in a database that's inaccessible to the public. After a new document is uploaded, it is checked against the "fingerprints" in our copyright database. If there's a significant match, the content is removed from Scribd.

The text-matching system is still in development, and the sheer number of uploads each day means there is a lag time between upload and detection. But so far it's been highly effective at detecting and blocking hundreds of unauthorized uploads every day.

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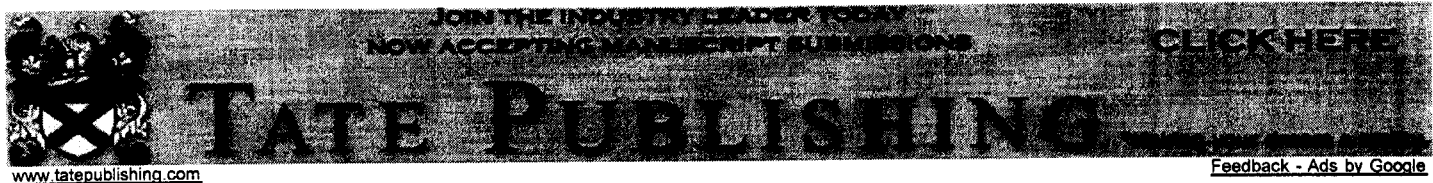
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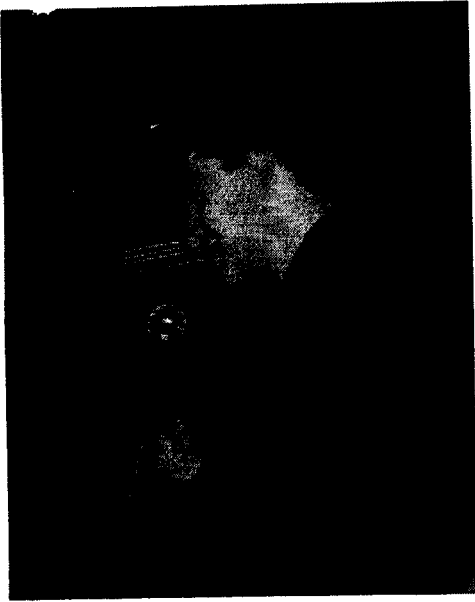
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## **Trip Adler, CEO of Scribd.com Answers His Critics! Not.**

Friday, April 3rd, 2009



Trip Adler, CEO of Scribd.com

Sadly, Trip Adler, 26-year old CEO of Scribd.com, the website that has been accused of wholesale copyright infringement, failed to accept our invitation to appear on tonight's show.

You will know if you're a regular listener that, two weeks ago on **LITOPIA AFTER DARK**, panelist Dave Bartram first raised the issue of website Scribd.com. It's basically a huge document repository – they are supposed to have about 50,000 uploads every day, and as many as 55 million visitors a month. What attracts visitors to this site?



Scribd team one-year anniversary party

Well, many things – but one thing Donna noticed immediately was what appeared to be a pirated copy of *Harry Potter*. Then the hunt was on, and we quickly discovered more and more illegal copies of books – just sitting there, all ready for anyone to download and steal.

It's a tribute to the reach of **LITOPIA AFTER DARK** and its panelists that this issue has been quickly picked up by the UK media.





Caviar and Vodka at Scribd team one-year anniversary party

In fact, the resulting media furore in the UK still hasn't died down – with front-page coverage in *The Times*, a big piece in *The Guardian*, *Channel Four News*, *Sky News*, the BBC... the story continues to roll, as well it should. Because although we know pirated copies of books, films and other digital publications can indeed be found on some very dark corners of the net, Scribd.com is big – *very* big - bold and blatant. And many would say, that they are getting rich by profiting from other's piracy.

We were hoping that Scribd's CEO, Trip Adler, would appear on tonight's show to answer his critics.

He did not. His absence speaks volumes. But we still had a good time.

Also on tonight's show:

- **Is there such a thing as perfect structure?** We examine why Orson Welles' *Citizen Kane* is identical to Macaulay Culkin's *Home Alone*...
- **Imagine banning Burns, Robert Louis Stevenson, and Sherlock Holmes author Arthur Conan Doyle.** Well, it looks like they're up for the chop as English Schools ban Scottish writers...
- **We're talking a lot about piracy tonight** – and it's not just Scribd – this time it's unauthorized copies of e-book files on E-Bay!
- **And just when you thought it was safe to turn the pages of a paper book**, we find out the many ways in which reading can be a danger, an actual danger, to your health.

On tonight's panel – we welcome from London publishing business guru **Martyn Daniels**, who blogs for the [Booksellers' Association here](#), from bonnie Edinburgh *Litopia Daily's* voice of *Eve's Salmagundi Club*, writer **Eve Harvey**, from England's west country *Litopia* stalwart **Dave Bartram**, and from Fort Lauderdale, Florida, leading lawyer, author and *Litopia Daily's* newshound, **Donna Ballman**.

[Download the show as mp3 file](#)

Photos by [joeywan](#)

## Related Shows:

- [Harry Potter and the Copyright Pirate](#)
- [Publishers - Get Your House In Order](#)
- [Litopia Daily 173: Beautiful Words](#)
- [Here Is The News](#)

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[Return to Scribd](#)

[Info, FAQs, and Forums](#) / [FAQ: Copyright and DMCA](#) / [What happens when I uploa...](#)

## What happens when I upload content for which I don't own or control the copyright?

Submitted Feb 28 by [Jason Bentley](#)

This is called *copyright infringement*, and it is illegal.

If we are notified that a document you have uploaded to Scribd infringes someone else's copyright, we will take down the document immediately, as required by law, and we will notify you of the removal. If you persist in uploading unauthorized content, we will permanently ban your account and IP address from the Scribd, pursuant to our repeat infringer policy.

Some important facts about copyright infringement:

- You can be sued for copyright infringement even if your account has been suspended.
- The length of a copied document does not matter, nor does the amount you may have copied: even a copying a small portion of a document may cause you to be liable for copyright infringement. See "Fair Use"
- A copyright notice (©) is generally not required for a work to be protected by copyright law.
- Distributing copyrighted content without the copyright owner's permission is copyright infringement even if you give the document away for free.
- There is no exception for unauthorized copying and distribution for "private" use. Even if you share a work with only a small group of your friends or family, you could still be liable for copyright infringement.
- There is no exception for the unauthorized copying and distribution of copyrighted content for educational or non-commercial use.
- You can be liable for copyright infringement even if you give attribution to the owner or author of the copyrighted content.
- Even if you used your creativity to make a new document that contained another person's copyrighted work, you may be liable for copyright infringement.
- Even if there are documents on the Scribd site similar to the one you uploaded, you may be liable for copyright infringement if you upload an unauthorized document.

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**10**

Info, FAQs, and Forums / FAQ: Copyright and DMCA / DMCA copyright infringeme...

[Return to Scribd](#)

## DMCA copyright infringement takedown notification policy

Submitted Feb 13 by Jason Bentley

It is our policy to respond to clear, legally valid notices of alleged copyright infringement that comply with the criteria established by Digital Millennium Copyright Act ("DMCA") of 1998. In addition, we terminate without notice the accounts of users that we determine are repeat infringers based on a "three-strikes" policy.

### DMCA Copyright Infringement Takedown Notification

If you are a copyright owner or an agent thereof, and you believe that any content hosted on our web site ([www.scribd.com](http://www.scribd.com)) infringes your copyrights, then you may submit a notification pursuant to the DMCA by providing Scribd's Designated Copyright Agent with the following information in writing or via email (please consult your legal counsel or see 17 U.S.C. Section 512(c)(3) to confirm these requirements):

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
2. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works on the Scribd web site are covered by a single notification, a representative list of such works at that site.
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity that is to be removed or access to which is to be disabled. Include a direct link (URL) to each and every claim of infringement. We cannot action nonspecific claims based on keywords, search queries, title, name, or resemblance (physical or otherwise) to another document.
4. Information reasonably sufficient to permit Scribd to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
6. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

**Please note that under Section 512(f) of the DMCA, any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability.**

Scribd reserves the right to send copies of false, misleading, or malicious takedown notices to the Chilling Effects Clearinghouse and other DMCA watchdog groups for publication.

[Click here for a legally valid DMCA takedown request template](#)

Send the written communication to the following address:

Scribd, Inc.  
Attn: Scribd DMCA copyright infringement notification  
539 Bryant St.  
Suite 200  
San Francisco, CA 94107  
USA

or fax to:  
415.896.9897  
Attn: Scribd DMCA copyright infringement notification

or email to:  
[copyright@scribd.com](mailto:copyright@scribd.com)  
Subject: Scribd DMCA copyright infringement notification



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**11**

**Amended Interim Designation of Agent to Receive Notification of Claimed Infringement**

Full Legal Name of Service Provider: Scribd, Inc.

Alternative Name(s) of Service Provider (including all names under which the service provider is doing business): Nowigo, Scribd.com

Address of Service Provider: 211 Sutter St., Floor 2, San Francisco, CA 94108

Name of Agent Designated to Receive Notification of Claimed Infringement: Jason Bentley

Full Address of Designated Agent to which Notification Should be Sent (a P.O. Box or similar designation is not acceptable except where it is the only address that can be used in the geographic location):  
211 Sutter St., Floor 2, San Francisco, CA 94108

Telephone Number of Designated Agent: (415) 839-7499

Facsimile Number of Designated Agent: (650) 745-0703

Email Address of Designated Agent: copyright@scribd.com

Identify the Interim Designation to be Amended, by Service Provider Name and Filing Date, so that it may be Readily Located in the Directory Maintained by the Copyright Office: \_\_\_\_\_

Scribd, Inc. filed on April 7, 2008 (amending a filing by Nowigo, Inc. filed on September 15, 2007; amending a filing by Nowigo, Inc. filed on September 12, 2006; amending a filing by Nowigo, Inc. filed on March 7, 2007).

Signature of Officer or Representative of the Designating Service Provider: \_\_\_\_\_

[Signature] Date: September 2, 2008

Typed or Printed Name and Title: Jishnu Menon, Attorney at Law

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Info, FAQs, and Forums / Terms and policies / Copyright Management Syst...

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## Related topics

- API Terms of Service
- DMCA copyright infringement takedown notification policy
- DMCA copyright infringement takedown notification policy
- DMCA counter-notification policy
- General Terms of Use

# Copyright Management System Terms of Use

Submitted May 28 by James

May 28, 2009

The following Terms of Use for the Scribd Copyright Management System is a legal contract between You, either an individual user of at least 13 years of age ("You" or, collectively, "Users"), and Scribd, Inc. ("Scribd") regarding Your use of, and provision of information, documents and/or other content to, the Scribd Copyright Management System ("Scribd Copyright Management System" or "Copyright Management System").

PLEASE READ CAREFULLY THE FOLLOWING TERMS OF USE. BY ACCESSING, PROVIDING INFORMATION OR DOCUMENTS FOR, AND/OR UPLOADING ANY CONTENT TO THE SCRIBD COPYRIGHT MANAGEMENT SYSTEM, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS, INCLUDING ANY ADDITIONAL GUIDELINES AND FUTURE MODIFICATIONS (COLLECTIVELY, THE "TERMS"). IF AT ANY TIME YOU DO NOT AGREE TO THESE TERMS, PLEASE IMMEDIATELY TERMINATE YOUR USE OF AND/OR PROVISION OF DOCUMENTS TO THE COPYRIGHT MANAGEMENT SYSTEM AND PROVIDE SCRIBD WITH A NOTICE OF SUCH TERMINATION AS SET FORTH IN SECTION 5 BELOW.

## 1. Limited License and Release

In order for the Copyright Management System to operate with regard to Your content, You must upload the content You wish to be incorporated into the Copyright Management System ("Uploaded Content"). You hereby grant Scribd a non-exclusive, worldwide, royalty-free, fully paid-up, transferable, and sublicensable license under all rights necessary for Scribd to copy, review, convert file format, host, and otherwise use the Uploaded Content in conjunction with Scribd's operation of the Copyright Management System. For clarity, the foregoing license permits, but does not obligate, Scribd to store a copy of the Uploaded Content and otherwise use the Uploaded Content in order to render the Copyright Management System effective (including, without limitation, allowing third parties to run queries against the Copyright Management System for such third party websites and other uses). You further understand and agree that the foregoing license to Scribd does not obligate Scribd to operate or continue to operate the Copyright Management System or any other similar service.

To the extent permissible by applicable law, You hereby expressly release Scribd and its licensees from any and all claims, demands, liabilities, or causes of action whether now known or unknown, for copyright or other proprietary right infringement, violation of moral right, and invasion of the rights to privacy, publicity, or personality or any similar matter, based upon or relating to the use and exploitation of Uploaded Content in conjunction with the Copyright Management System. In addition, You hereby acknowledge and knowingly, freely and voluntarily waive the benefits of California Civil Code Section 1542, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

## 2. Representations and Warrants

You hereby represent and warrant that: (i) You own, or are an authorized agent or representative of the owner of, any Uploaded Content and have the necessary authority, license, right, consent, and/or release and permission to use and to authorize Scribd to use Uploaded Content in the manner contemplated by this Agreement; and (ii) Uploaded Content does not and will not: (a) infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right or (b) slander, defame, or libel any other person.

You further represent and warrant that You: (i) have read the terms of the Agreement; (ii) understand these terms; and (iii) agree to these terms.

## 3. Indemnity

You agree to indemnify, defend, and hold Scribd harmless from and against all third-party claims, costs, damages, losses, liabilities, fines, penalties, and expenses (including without limitation reasonable attorneys' fees) arising as a result of or in connection with any breach or alleged breach by You of Your covenants, representations, or warranties set forth in Section 2, above. Scribd reserves the right to participate in the defense of the claims for which it is indemnified hereunder with counsel of its own choosing, at its own cost and expense.

## 4. Digital Millennium Copyright Act (17 U.S.C. 512)

For each piece of Uploaded Content, You hereby assert, represent and warrant UNDER PENALTY OF PERJURY, that: (i) You are the owner, or authorized agent or representative of the owner, of an exclusive right in the Uploaded Content; and (ii) You have a good-faith belief that the presence of the Uploaded Content on Scribd would not and could not be authorized by You and/or the owner of the Uploaded Content, any other entity, or the law, as applicable.

Further, You understand that Scribd complies with the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. 512, including but not limited to its counter-notification provisions. You understand and agree that the Copyright Management System does not give Scribd the right and ability to control content uploaded to or hosted by Scribd. You further agree that to the

extent any of Your works appear on Scribd without Your permission, You will send DMCA-compliant take-down notices to Scribd.

## 5. Term; Termination

This Agreement shall continue in perpetuity unless terminated pursuant to this Section 5. Either Party may terminate this Agreement at any time upon thirty (30) days prior written notice thereof to the other Party. Upon final termination of this Agreement, Scribd shall delete all copies of Uploaded Content from the Copyright Management System that were provided to Scribd by You. For clarity, nothing in this Agreement shall obligate Scribd to delete copies of Uploaded Content that may appear on Scribd that were uploaded by third parties.

## 6. Disclaimer; Limitation of Liability

You understand that no Copyright Management System is perfect and that it is possible that copies of Uploaded Content may still appear on Scribd even after You have uploaded them for use in the Copyright Management System. You agree that Scribd does not and cannot guarantee, promise, warrant, or otherwise represent that copies of Uploaded Content or portions thereof will never appear on Scribd after You have uploaded them for use in the Copyright Management System. ACCORDINGLY, SCRIBD, AND ITS AFFILIATES, PARTNERS, AND SUPPLIERS, DISCLAIM ALL WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS.

ADDITIONALLY, UNDER NO CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, WILL SCRIBD OR ITS AFFILIATES, CONTRACTORS, EMPLOYEES, AGENTS, OR THIRD-PARTY PARTNERS, LICENSORS, OR SUPPLIERS BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE, OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES ARISING FROM ANY UNSUCCESSFUL COURT ACTION OR LEGAL DISPUTE, LOST BUSINESS, LOST REVENUES OR LOSS OF ANTICIPATED PROFITS OR ANY OTHER PECUNIARY OR NON-PECUNIARY LOSS OR DAMAGE OF ANY NATURE WHATSOEVER) ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF SCRIBD OR A SCRIBD AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT WILL SCRIBD OR ITS AFFILIATES, CONTRACTORS, EMPLOYEES, AGENTS, OR THIRD-PARTY PARTNERS, LICENSORS, OR SUPPLIERS TOTAL LIABILITY TO CONTENT PROVIDER FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR CONTENT PROVIDER'S USE OF THE COPYRIGHT MANAGEMENT SYSTEM OR SCRIBD'S USE OF UPLOADED CONTENT (IN EACH CASE, WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE, WARRANTY, OR OTHERWISE), EXCEED ONE HUNDRED US DOLLARS.

## 7. Miscellaneous

Your use and/or provision of content for the Copyright Management System is subject at all times to the Scribd Terms of Use, as updated from time to time (available at <http://www.scribd.com/terms>). The Scribd Terms of Use are hereby incorporated by reference. In case of any inconsistency between this Agreement and the Scribd Terms of Use, the terms in this Agreement shall control. For information regarding how Scribd collects, uses and discloses Your personal information, please see the Scribd Privacy Policy. Scribd may freely assign this Agreement (i) to any of its affiliates, (ii) in connection with any merger, spin-out, consolidation, reorganization, sale of all or substantially all of its related assets, by operation of law or otherwise, or similar transaction; or (iii) as otherwise set forth in this Agreement. This Agreement inures to the benefit of and shall be binding on the Parties' permitted assignees, transferees and successors. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, without reference to the choice of law doctrine of California. The Parties agree that the federal and state courts in Santa Clara County, California will have exclusive jurisdiction over this Agreement, and the Parties hereby agree to submit to such jurisdiction exclusively. This Agreement does not constitute and may not be construed as constituting a partnership or joint venture among the Parties hereto, or an employee-employer relationship. No Party shall have any right to obligate or bind any other Party in any manner whatsoever, and nothing herein contained shall give, or is intended to give, any rights of any kind to any third parties. All notices under the terms of this Agreement must be given in writing and sent by electronic mail actually received, registered mail or facsimile transmission with machine confirmation or must be delivered by hand to the party giving notice at the addresses set forth below. All notices will be presumed to have been received when hand delivered, five business days of mailing of the notice by registered mail, or upon receipt of a successful facsimile transmission delivery receipt. No single or partial exercise of any right or remedy under this Agreement will preclude any other or further exercise of any other right or remedy in this Agreement or as provided at law or in equity. Rights and remedies provided in this Agreement are cumulative and not exclusive of any right or remedy provided at law or in equity. Section or paragraph headings used in this Agreement are for reference purposes only, and may not be used in the interpretation hereof. Words in the singular include the plural and vice-versa and words in one gender include all genders. The terms "including" and "includes" will be deemed to be followed by the statement "without limitation" and neither of these terms will be construed to limit any word or statement it follows to the specific or similar terms or matters immediately following it. No provision of this Agreement will be construed against either party as the drafter thereof. All amendments of these Terms must be made: (a) in writing and executed by both parties; (b) by Your online acceptance of updated Terms or (c) by Your continued participation in the Scribd Copyright Management System after such terms have been updated by Scribd. Scribd will always make a reasonable effort to notify You if we do change these Terms. No trade usage or other regular practice or method of dealing between the Parties may modify, interpret, supplement or alter in any manner the express terms of this Agreement. If any provision, or portion thereof, of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such determination will not impair or affect the validity, legality, or enforceability of the remaining provisions of this Agreement, and each provision, or portion thereof, is hereby declared to be separate, severable, and distinct. A waiver of any provision of this Agreement will only be valid if provided in writing and will only be applicable to the specific incident and occurrence so waived. The failure by either Party to insist upon the strict performance of this Agreement, or to exercise any term hereof, will not act as a waiver of any right, promise or term, which will continue in full force and effect. This Agreement set forth the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements other than those agreements incorporated herein by reference.

JS 44 (Rev. 12/07)

### CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p><b>I. (a) PLAINTIFFS</b> Elaine Scott</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Harris</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p><b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number) Camara &amp; Sibley LLP, 2339 University Boulevard, Houston, Texas 77005; 713-893-7973</p>	<p><b>DEFENDANTS</b> Scribd, INC.</p> <p>County of Residence of First Listed Defendant <u>Santa Clara Co., CA.</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p><b>PROPERTY RIGHTS</b></p> <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p><b>LABOR</b></p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p><b>IMMIGRATION</b></p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

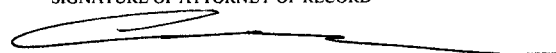
1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from another district (specify)     6 Multidistrict Litigation     7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
17 USC 101 et seq.

Brief description of cause:  
copyright infringement

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23    DEMAND \$ \_\_\_\_\_    CHECK YES only if demanded in complaint: JURY DEMAND:  Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 09/18/2009    SIGNATURE OF ATTORNEY OF RECORD: 

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_