

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

FIRST TIME VIDEOS, LLC,	)	
	)	
Plaintiff,	)	Case No. 11 C 3831
	)	
v.	)	Judge Elaine E. Bucklo
	)	
DOES 1-76,	)	
	)	
Defendants.	)	

**REPLY IN SUPPORT OF  
MOTIONS OF DOES 71.239.21.116 AND 24.15.217.102 TO QUASH SUBPOENA,  
DISMISS THIS DEFENDANT FOR IMPROPER JOINDER,  
AND RECOVER ATTORNEY'S FEES AND COSTS**

Defendant Does identified with Internet Protocol Address No. 71.239.21.116 and 24.15.217.102 ("Certain Does") reply in support of their respective motions. Certain Does lack the financial resources to discuss the many authorities cited in the 15-page briefs of Plaintiff First Time Videos ("FTV"). Most of these citations are from outside of this Circuit, anyway. We will touch on the most salient points in this reply.

\* \* \*

FTV's attorney, John Steele, has filed approximately 40 suits like this one in the Northern District of Illinois since September 2010. (Exhibit A.) The approach is the same. Steele moves the Court *ex parte* to allow expedited discovery. The discovery consists of subpoenas to Internet Service Providers ("ISP") for names and address of the ISPs' customers associated with particular Internet Protocol ("IP") addresses. In most of these cases, the District Judges have allowed expedited discovery. The exception appears to be Judge Shadur, who immediately dismisses this type of lawsuit.

We note that Judge Baker of the Central District of Illinois recently denied Steele's motion for expedited discovery in a very thoughtful opinion (attached as Exhibit B). We adopt his reasoning and authorities in this motion, and we respectfully ask this Court to review his decision and do the same.

In the majority of Steele's mass copyright actions, no one files a motion to quash or dismiss. This means that Steele gets lists of names and addresses from the ISPs. Steele uses these names and addresses to send out demand letters, in which Steele asks for \$2900 or so in exchange for anonymity and a release. (See Exhibit C.) These settlement demands are in addition to the demands that Steele makes on Does and their attorneys who contact him upon receipt of the ISP subpoenas.

In some of these mass copyright actions, like this one, one or more putative defendants files a motion to quash and/or dismiss. These motions have led to very contradictory responses from the Judges in this District, and the Seventh Circuit's guidance is years away. The right of a defendant in the Chicago area to avoid embarrassment, and to avoid being a party to an improper legal proceeding, unfortunately depends on the assignment process.

Here are the widely divergent approaches that the Judges in this District have taken, to the best of our knowledge:

**Judge Shadur** – dismisses entire case for improper service under FRCP 4.

**Judge Conlon** – dismisses first named defendant for lack of personal jurisdiction, dismisses remaining defendants for improper joinder under FRCP 20-21.

**Judge Manning** – denies the motion to dismiss first named defendant, dismisses the remaining defendants for improper joinder under FRCP 20-21.

**Judge Lindberg** – denies motions to quash, tentatively rules for Plaintiff on joinder.

**Judge Pallmeyer** – denies motions to quash, enters protective order prohibiting the naming of defendants or the filing of an amended complaint without leave of Court.

**Judge Kendall** – denies motions to quash, holds that motions to dismiss are premature.

**Judge Holderman** – denies motions to quash, tentatively rules for Plaintiff on joinder.

**Judge Castillo** – dismisses all but first defendant without prejudice, lets motions to quash sit fully briefed without ruling (so far).

We respectfully ask this Court to follow the Conlon-Manning approach, instead of the Lindberg-Pallmeyer-Kendall-Holderman approach. We view the former approach as the one that seeks to reach a just and fair result without undue delay or prejudice to the putative defendant class, with an eye on conserving judicial resources. With respect, we view the latter approach as one that focuses on perceived technical and procedural accuracy, to the detriment of the interests of justice. From a practical standpoint, the difference in these two approaches is that only the latter allows Steele to continue to use a single case and filing fee to milk dozens or hundreds of people for settlement payments while the case rolls forward.

\* \* \*

To understand the perils of being named as parties to this suit, and the reason why many of the Does are innocent, this Court needs to meet Malcolm Riddell. The full story from the Miami Herald-Tribune is attached as Exhibit D. Essentially, Riddell is a Harvard-educated attorney who awoke one morning to find the FBI at his door, executing a warrant for child pornography. As it turns out, Riddell was an innocent man with an unsecure wireless internet connection. A captain on a boat docked near his high rise, *along with five other people*, had been piggybacking off of Riddell's Internet connection.

Then there is the woman, a retired widow and grandmother in her 70s, whom Steele and an adult-content-providing client sued in California. According to the article in the San

San Francisco Chronicle, attached as Exhibit E, she cannot afford an attorney to respond to Steele's settlement demand, which she said "smacks of extortion."

So what do these anecdotal stories prove? First, that we should not rush to conclude that the 76 Does named in this case ever illegally downloaded anything. There can be a multitude of innocent explanations for being named as a defendant in Steele's lawsuits, including a mistake at Steele's end in identifying the ISP in the first place. There is an obvious reason why Steele is able to extract so many settlement payments – the equally high cost of defense.

Second, we should carefully consider the practical impact of the sequence and content of the rulings on our motions. This Court needs to appreciate that the 3 represented Does in this case, and the 1 *pro se* Doe, have limited resources with which to contest this proceeding. As Judges Conlon and Manning recognized, if you are going to decide that this case violates the joinder rules, justice dictates that the decision can and should be reached now – not six months, and another round of motions, from now. The issues in our motions are fully briefed ready to be decided.

\* \* \*

One of Steele's primary arguments is that "Movants are not yet parties, and parties cannot be dismissed from an action. At this time, movants are merely third parties who are on notice of their potential status as party defendants." (Doc. 22, p. 2.)

This is a remarkable argument, given that Steele has filed pleadings in this district that directly contradict this position. As one of many examples, Exhibit F is a notice of dismissal that Steele signed and filed in a FTV case pending before Judge Castillo. This notice states, "Plaintiff First Time Videos, LLC, pursuant to Fed.R.Civ.P. 41(a)(1)(A)(i), provides this notice that all claims against that certain defendant identified in the Complaint as associated with IP

address 76.124.148.5, should be, and hereby are, dismissed with prejudice." (Case 10 C 6254, Doc. 38.) Steele has filed many similar documents in his other mass copyright cases, including a recent Rule 41(a)(1) notice in this action (Doc. 33).

Rule 41(a)(1)(A)(i) governs voluntary dismissal "before the opposing party serves either an answer or a motion for summary judgment." Thus, Steele's notices admit that each of the Does associated with an IP address is an "opposing party." If these Does were not opposing parties, and were "merely third parties," there would be no reason to dismiss them under Rule 41.

We hope the Court sees this obvious contradiction in Steele's opportunistic litigation tactics as further evidence that these mass copyright cases are procedurally flawed and inherently unfair, and should be dealt with accordingly.

\* \* \*

The response brief of FTV largely consists of citations to district court decisions that it likes, while ignoring the decisions that have gone in the opposite direction. Although we lack FTV and Steele's resources, and their war chest of settlement money, at least we were candid enough in our pleadings to recognize the divergent results that Steele and his clients have obtained in these novel mass copyright actions. We expect that other Districts have had conflicting decisions, too.

Ultimately this Court must do what it thinks is legally warranted and fair under the circumstances. But let there be no mistake about the consequences of allowing these cases to proceed. Steele will spawn a whole swarm of opportunistic lawyers who will flood this Court with mass intellectual property cases. This Court will have many more awkward encounters with anonymous *pro se* defendants. The jury trials that Steele has demanded will start to occur in 2012. Certain Does in this action, at least, have no intention of settling.

In sum, FTV and Steele's misuse of the legal process warrants bold and decisive action by this Court at this early stage of the action.

Respectfully submitted,

Does 71.239.21.116 and 24.15.217.102

By /s/ Jay R. Hoffman  
Does' Attorney

Jay R. Hoffman (6193213)  
Suite 1900  
20 South Clark Street  
Chicago, IL 60603  
(312) 899-0899  
Fax: (312) 899-8201  
[jay@hoffmanlegal.com](mailto:jay@hoffmanlegal.com)

**CERTIFICATE OF SERVICE**

Jay R. Hoffman, an attorney, certifies that on August 10, 2011, he caused the foregoing pleading to be filed with the Clerk of the Court using the ECF system, and thereby served on all counsel of record.

/s/ Jay R. Hoffman

# EXHIBIT A

## Select A Case

**This person is a party in 39 cases.**

<u>1:10-cv-05603</u>	Millenium TGA, Inc. v. Does 1-100	filed 09/02/10
<u>1:10-cv-05604</u>	Lightspeed Media Corporation v. Does 1-100	filed 09/02/10 closed 04/11/11
<u>1:10-cv-05606</u>	Hard Drive Productions, Inc. v. Does 1-1000	filed 09/02/10
<u>1:10-cv-06254</u>	First Time Videos LLC v. Does 1-500	filed 09/29/10 closed 05/06/11
<u>1:10-cv-06255</u>	CP Productions, Inc. v. Does 1-300	filed 09/29/10 closed 02/07/11
<u>1:10-cv-06256</u>	Future Blue, Inc. v. Does 1 - 300	filed 09/29/10 closed 06/08/11
<u>1:10-cv-06677</u>	MGCIP, LLC v. Does 1-316	filed 10/15/10
<u>1:10-cv-07675</u>	MCGIP, LLC v. Does 1-1,164	filed 12/02/10 closed 07/18/11
<u>1:11-cv-00209</u>	Lightspeed Media Corporation	filed 01/12/11 closed 02/10/11
<u>1:11-cv-00385</u>	Lightspeed Media Corporation v. Doe	filed 01/19/11 closed 02/07/11
<u>1:11-cv-00898</u>	Achte/Neunte Boll Kino Beteiligungs GMBH & Co KG v. Novello	filed 02/09/11
<u>1:11-cv-00903</u>	Achte/Neunte Boll Kino Beteiligungs GMBH & Co KG v. Famula	filed 02/09/11
<u>1:11-cv-00935</u>	MCGIP, LLC v. Doe	filed 02/10/11
<u>1:11-cv-00937</u>	MCGIP, LLC v. Doe	filed 02/10/11



<u>1:11-cv-02798</u>	Hard Drive Productions, Inc. v. Does	filed 04/27/11
<u>1:11-cv-02828</u>	Hard Drive Productions, Inc. v. Does 1-44	filed 04/27/11
<u>1:11-cv-02829</u>	Hard Drive Productions, Inc. v. Does 1-24	filed 04/27/11
<u>1:11-cv-02860</u>	Heartbreaker Productions, Inc. v. Does 1-71	filed 04/28/11
<u>1:11-cv-02887</u>	MCGIP, LLC v. Does 1-14	filed 04/29/11
<u>1:11-cv-02890</u>	First Time Videos, LLC v. Does 1-27	filed 04/29/11
<u>1:11-cv-02980</u>	Hard Drive Productions, Inc. v. Does 1-10	filed 05/04/11
<u>1:11-cv-02981</u>	Hard Drive Productions, Inc. v. Does 1-14	filed 05/04/11
<u>1:11-cv-02982</u>	First Time Videos, LLC v. Does 1-28	filed 05/04/11
<u>1:11-cv-02984</u>	Boy Racer, Inc. v. Does 1-22	filed 05/04/11 closed 05/09/11
<u>1:11-cv-02985</u>	MCGIP, LLC v. Does 1-24	filed 05/04/11
<u>1:11-cv-03048</u>	Pink Lotus Entertainment, LLC v. Does 1-20	filed 05/06/11
<u>1:11-cv-03097</u>	Boy Racer, Inc. v. Does 1-17	filed 05/09/11 closed 05/11/11
<u>1:11-cv-03098</u>	MCGIP, LLC v. Does 1-44	filed 05/09/11
<u>1:11-cv-03108</u>	Hard Drive Productions, Inc. v. Does 1-16	filed 05/10/11
<u>1:11-cv-03118</u>	Pacific Century International LTD v. Does 1-14	filed 05/10/11
<u>1:11-cv-03831</u>	First Time Videos, LLC v. Does 1-76	filed 06/06/11
<u>1:11-cv-03837</u>	First Time Videos, LLC v. Does 1-63	filed 06/06/11 closed 06/15/11

1:11-cv-03857 Pacific Century International LTD v. Does 1-34 filed 06/07/11

1:11-cv-03863 Hard Drive Productions, Inc. v Does 1-27 filed 06/07/11

1:11-cv-03864 Hard Drive Productions, Inc. v. Does 1-25 filed 06/07/11

1:11-cv-03866 Hard Drive Productions, Inc. v. Does 1-35 filed 06/07/11

1:11-cv-04486 MCGIP, LLC v. DOES 1-20 filed 07/01/11

1:11-cv-04488 MCGIP, LLC v. DOES 1-24 filed 07/01/11 closed 07/13/11

1:11-cv-04825 Pacific Century International LTD v. Does 1-44 filed 07/18/11

PACER Service Center			
Transaction Receipt			
08/09/2011 14:22:07			
PACER Login:	jh0257	Client Code:	
Description:	Search	Search Criteria:	Last Name: Steele First Name: John Type: aty
Billable Pages:	1	Cost:	0.08

Select A Case

This person is a party in 2 cases.

1:10-cv-06498 Media Copyright Group, LLC v. Legacy 21, LLC filed 10/11/10 closed 10/15/10

3:11-cv-50062 MCGIP, LLC v. DOES 1-17 filed 03/09/11

PACER Service Center			
Transaction Receipt			
08/09/2011 14:22:47			
PACER Login:	jh0257	Client Code:	
Description:	Search	Search Criteria:	Last Name: Steele First Name: John Type: aty
Billable Pages:	1	Cost:	0.08

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF ILLINOIS

VPR INTERNATIONALE,	)	
	)	
Plaintiff,	)	11-2068
	)	
v.	)	
	)	
DOES 1 - 1017, individually and as	)	
representatives of a class,	)	
	)	
Defendants.	)	

ORDER

The plaintiff, VPR Internationale, is a Montreal, Quebec-based producer of adult entertainment content. VPR has filed this complaint against 1,017 Doe defendants identified only by Internet Protocol ("IP") address. VPR alleges that these defendants have distributed adult videos in violation of VPR's copyrights. To determine the identity of the 1,017 alleged copyright infringers, VPR filed an *ex parte* motion for expedited discovery so that it could immediately serve subpoenas on Internet service providers ("ISPs") to determine the subscriber and location associated with each IP address. The court denied the motion for expedited discovery [9]. VPR filed an *ex parte* motion for reconsideration, which was denied on March 22, 2011, by text order.

VPR has now filed a motion to certify for interlocutory review the court's denial of its motion for expedited discovery. VPR seeks certification for one controlling question of law:

Defendants' identities are unknown to the Plaintiff. Instead, each Defendant is associated with an Internet Protocol (IP) address. Internet Service Providers (ISPs) know identity and contact information associated with each IP address. Is the Plaintiff entitled to discover this information by serving ISPs with subpoenas *duces tecum* under Fed. R. Civ. P. 45?

Fed. R. Civ. P. 26(d)(1) prohibits a party from "seek[ing] discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order." In this case, VPR may seek expedited discovery only by court order.

Arguing in favor of certification, VPR directs the court's attention to its motion for reconsideration. In its memorandum, VPR concedes that the relief sought falls outside traditional adversarial procedure, and states that there is no legal basis to name the ISP providers as defendants. VPR compares the Doe defendants' IP addresses to "records of *who* rented *which* car at a busy car rental agency, in that IP addresses are like cars "leased by subscribers. If a

plaintiff was injured by a rental car, the plaintiff can discover the information on who leased the car from the agency by specifying the license plate of the offending vehicle and the date and time when the injury occurred. Without access to the agency's records, all the plaintiff has is the identity of the rental agency, but not who was driving the rental car." The comparison is not apt. The rental agency owns the car and is a potential defendant, so the adversarial process would yield the driver's information. And such information is not necessarily confidential; accident reports and police records may also identify the driver.

In this case, not a single one of the plaintiff's 1,017 potential adversaries has been identified. There is no adversarial process yet. Moreover, VPR ignores the fact that IP subscribers are not necessarily copyright infringers. Carolyn Thompson writes in an MSNBC article of a raid by federal agents on a home that was linked to downloaded child pornography. The identity and location of the subscriber were provided by the ISP. The desktop computer, iPhones, and iPads of the homeowner and his wife were seized in the raid. Federal agents returned the equipment after determining that no one at the home had downloaded the illegal material. Agents eventually traced the downloads to a neighbor who had used multiple IP subscribers' Wi-Fi connections (including a secure connection from the State University of New York). See Carolyn Thompson, *Bizarre Pornography Raid Underscores Wi-Fi Privacy Risks* (April 25, 2011), [http://www.msnbc.msn.com/id/42740201/ns/technology\\_and\\_science-wireless/](http://www.msnbc.msn.com/id/42740201/ns/technology_and_science-wireless/)

The list of IP addresses attached to VPR's complaint suggests, in at least some instances, a similar disconnect between IP subscriber and copyright infringer. The ISPs include a number of universities, such as Carnegie Mellon, Columbia, and the University of Minnesota, as well as corporations and utility companies. Where an IP address might actually identify an individual subscriber and address the correlation is still far from perfect, as illustrated in the MSNBC article. The infringer might be the subscriber, someone in the subscriber's household, a visitor with her laptop, a neighbor, or someone parked on the street at any given moment.

VPR argues that, if served with a subpoena, the ISPs are required by law to notify each targeted subscriber and the Does may then move the court to quash the subpoenas. The potential filing of a motion to quash is no reason to abandon the adversarial process. As VPR points out, *ex parte* motions for expedited discovery have been granted in similar cases in other districts; among the thousands of Does in those cases, relatively few motions to quash have been filed. In at least one case, counsel<sup>1</sup> has sought leave to amend the complaint to add more Doe defendants. See *Lightspeed Media Corp. v. Does 1 - 100*, Case No. 1:10-cv-05604, d/e 16 (N.D. Ill.) (seeking leave to add Does 101 - 1000 as defendants). In *Hard Drive Productions, Inc. v. Does 1 - 1000*, counsel sought leave to dismiss more than 100 Doe defendants, stating that some of the Does had "reached a mutually satisfactory resolution of their differences" with the plaintiff. *Hard Drive*,

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<sup>1</sup> VPR is represented by John Steele, Esq. Steele represents other adult entertainment producers in cases now (or recently) pending in the Northern and Southern Districts of Illinois.

Case No. 1:10-cv-05606, d/e 33 (N.D. Ill.).<sup>2</sup> Orin Kerr, a professor at George Washington University Law School, noted that whether you're guilty or not, "you look like a suspect."<sup>3</sup> Could expedited discovery be used to wrest quick settlements, even from people who have done nothing wrong? The embarrassment of public exposure might be too great, the legal system too daunting and expensive, for some to ask whether VPR has competent evidence to prove its case.

In its order denying the motion for expedited discovery, the court noted that until at least one person is served, the court lacks personal jurisdiction over anyone. The court has no jurisdiction over any of the Does at this time; the imprimatur of this court will not be used to advance a "fishing expedition by means of a perversion of the purpose and intent" of class actions. Order, d/e 9.

The motion to certify for interlocutory review [14] is denied.

Entered this 29th day of April, 2011.

**\sHarold. A. Baker**

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HAROLD A. BAKER  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> In *Lightspeed*, only one defendant has been named and his case severed; the ISP subpoenas have been quashed, the other Does are dismissed, and Steele has been ordered to notify the Does that they are no longer potential defendants in the case. *See* Case No. 1:10-cv-05604, d/e 57 (N.D. Ill.).

<sup>3</sup> MSNBC article, p. 2.

# **EXHIBIT C**



**Steele | Hansmeier, PLLC**  
*A leading anti-piracy law firm*

May 16, 2011

VIA U.S. MAIL

**Re: First Time Videos LLC. v. Does 1-500**  
**Case No. 1:10-cv-06254, Ref [REDACTED]**

Dear M [REDACTED]:

Steele | Hansmeier, PLLC has been retained by First Time Videos, LLC to pursue legal action against people who illegally downloaded their copyrighted content (i.e., "digital pirates"). Digital piracy is a very serious problem for adult content producers, such as our client, who depend on revenues to sustain their businesses and pay their employees.

On September [REDACTED] 2010 at [REDACTED] AM (UTC), our agents observed the IP address with which you are associated illegally downloading and sharing with others via the BitTorrent protocol the following copyrighted file(s):

***FTV Madeline 3000kbps***

*The ISP you were connected to: Comcast Cable*

*Your IP Address you were assigned during your illegal activity: [REDACTED]*

We have received a subpoena return from your ISP confirming that you are indeed the person that was associated with the IP address that was performing the illegal downloading of our client's content listed above on the exact date(s) listed above.

On September 29, 2010 we filed a lawsuit in United States Federal Court in the Northern District of Illinois against several anonymous digital pirates (Case No. 1:10-cv-06254). Under the Federal Rules of Civil Procedure, our lawsuit against you personally will not commence until we serve you with a Complaint, which we are prepared to do if our settlement efforts fail. While it is too late to undo the illegal file sharing associated with your IP address, we have prepared an offer to enable our client to recover damages for the harm caused by the illegal downloading and to allow both parties to avoid the expense of a lawsuit.

Legal Correspondence - Settlement Purposes Only - Not Admissible Under FRE 408

Fax: 312.893.5877 | 161 N. Clark St. 4700, Chicago, IL 60601 | Tel: 312.880.9160  
[www.wefightpiracy.com](http://www.wefightpiracy.com)

Under the Copyright Law of the United States, copyright owners may recover up to \$150,000 in statutory damages (in cases where statutory damages are applicable, which may or may not be the case here) per infringing file plus attorney's fees in cases, whereas here, infringement was willful. In at least one case where the Copyright Law has been applied to digital piracy and statutory damages were applicable, juries have awarded over \$20,000 per pirated file. During the RIAA's well-publicized campaign against digital music piracy, over 30,000 people nationwide settled their cases for amounts ranging from an average of \$3,000 to \$12,000. More recently, on December 22, 2010, a case in which a defendant was accused of illegally downloading 6 works via BitTorrent, a settlement was reached for \$250,000.

In light of these factors, we believe that providing you with an opportunity to avoid litigation by working out a settlement with us, versus the costs of attorneys' fees and the uncertainty associated with jury verdicts, is very reasonable and in good faith.

In exchange for a comprehensive release of all legal claims in this matter, which will enable you to avoid becoming a named Defendant in our lawsuit, our firm is authorized to accept the sum of **\$2,900.00** as full settlement for the claims. This offer will expire on **May 1, 2011 at 5:00 PM CST**. If you reject our settlement offers, we expect to serve you with a Complaint and commence litigation.

To reiterate: if you act promptly you will avoid being named as a Defendant in the lawsuit. You may pay the settlement amount by:

- (a) Mailing a check or money order payable to "Steele Hansmeier Trust Account" to Steele | Hansmeier, PLLC, 161 N Clark Street #4700, Chicago, Illinois 60601; or
- (b) Completing and mailing/faxing the payment authorization to Steele | Hansmeier, PLLC, 161 N Clark Street #4700, Chicago, Illinois 60601, Facsimile: (312) 893-5677.

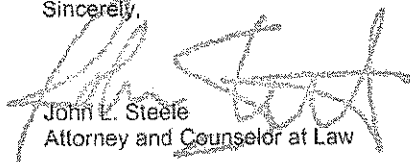
Be sure to reference your case number and your "Ref#" on your method of payment. Regardless of your payment method, once we have processed the settlement, we will mail you your signed Release as confirmation that your payment has been processed and that you have been released from the lawsuit.

Please consider this letter to constitute formal notice that until and unless we are able to settle our client's claim against you, we demand that you not delete any files from your computer or any other computers under your control or in your possession. If forced to proceed against you in a lawsuit, we will have a computer forensic expert inspect these computers in an effort to locate the subject content and to determine if you have deleted any content. If in the course of litigation the forensic computer evidence suggests that you deleted media files, our client will amend its complaint to add a "spoliation of evidence" claim against you. Be advised that if we prevail on this additional claim, the court could award monetary sanctions, evidentiary sanctions and reasonable attorneys' fees. If you are unfamiliar with the nature of this claim in this context, please consult an attorney.

We strongly encourage you to consult with an attorney to review your rights in connection with this matter. Although we have endeavored to provide you with accurate information, our interests are directly adverse to yours and you should not rely on the information provided in this letter for assessing your position in this case. Only an attorney who represents you can be relied upon for a comprehensive analysis of our client's claim against you.

Enclosed, please find a Frequently Asked Questions sheet, a payment authorization form and a sample of the Release that you will receive. We look forward to resolving our client's claim against you in an amicable fashion, through settlement.

Sincerely,



John L. Steele  
Attorney and Counselor at Law

Enclosures

## **FREQUENTLY ASKED QUESTIONS**

**Q: Why did I receive this letter?**

A: You received this letter because copyright infringement involving your Internet account was detected by our agents.

**Q: What are the benefits of settling?**

A: The benefits of settling include avoiding the time and expense of litigation and associated risks.

**Q: Will I remain anonymous if I settle?**

A: Yes, you will remain anonymous if you settle.

**Q: Has my privacy been violated?**

A: No. A copyright infringement was detected over the public Internet or a Peer-to-Peer (P2P) Network involving your internet connection.

**Q: I haven't infringed on a copyright, why did I receive a notice?**

A: If you are unfamiliar with the content, we normally find that the infringement was the result of a spouse, child, roommate, employee, or business associate uploading, downloading or otherwise sharing or displaying the copyright protected material over your internet connection. Infringements can also result from an unsecured wireless network. In any of these scenarios the Internet Service Provider (ISP) account holder may be held legally responsible for the infringement(s) and settlement fees.

**Q: What if I have an unsecured wireless network/router?**

A: The Internet Service Provider (ISP) account holder is responsible for securing the connection and may be legally responsible for any infringement(s) that result from an unsecured wireless network/router. This 'defense' has been raised in many criminal matters regarding such crimes as child pornography, and the courts have generally rejected this defense. As far as we are aware, this defense has never been successfully argued, in multiple contexts, including child pornography and civil copyright infringements actions.

**Q: What if I own a business and an employee infringed on a copyright?**

A: The Internet Service Provider (ISP) account holder may be responsible for securing the connection and may be legally responsible for any infringement(s) that occur. We normally find that business owners pass on out-of-pocket costs to the employee that was responsible for the infringement(s).

**Q: Will this go away if I just remove the file(s) from my computer(s)?**

A: No. In fact, removing the file(s) associated with your case(s) is a breach of your obligation to preserve electronic evidence.

**Q: How do I know that the IP Address listed in the notice is mine and not a fake?**

A: The notice, IP Address, and associated account holder have all been correlated by your Internet Service Provider (ISP) a third party organization that is not associated with us.

**Q: How do I make this go away?**

A: Paying the settlement fee will immediately release you from liability and close the case.

**Q: How do I know that you are legally authorized act on behalf of the copyright owner?**

A: If you wish to receive additional information proving that we are legally authorized to act on behalf of the copyright owner(s) please contact us.

**Q: Do I need to hire an attorney?**

A: The decision to hire an attorney is completely up to you. We cannot give you legal advice, but speaking with an attorney is generally highly advisable. In some cases the settlement offered by us is significantly lower than the costs associated with hiring an attorney.

**Q: Why are copyright lawsuits normally filed?**

A: Copyright owners file lawsuits because they have no other way to recover revenues lost to digital piracy.

**PAYMENT AUTHORIZATION**

I hereby authorize Steele | Hansmeier, PLLC to withdraw funds from the bank account or credit card listed below for the settlement amount and legal issue referred to on my Release and herein below.

Case Name and Ref#: \_\_\_\_\_

**PAYOR INFORMATION**

Payor's Name: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PAYMENT INFORMATION**

Payment amount: \$ \_\_\_\_\_

Name on Bank Account / Credit Card: \_\_\_\_\_

**If paying via bank account:**

Type of Account: \_\_\_\_\_ Checking / Savings

Routing Number: \_\_\_\_\_ Account Number: \_\_\_\_\_

**If paying via credit card:**

Card Number: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Card Type: ☐ Master Card ☐ Visa ☐ AmEx ☐ Discover

CID Number: \_\_\_\_\_ (this is the last three digits on the back of your Master Card, Visa, or Discover Card, or the four digit number in the upper right corner on the front of your AmEx)

**Fax or mail this authorization to:**

Steele | Hansmeier, PLLC.  
161 N. Clark Street, Suite 4700  
Chicago, IL 60601  
Fax: (312) 893-5677

Fax: 312.893.5677 | 161 N. Clark St. 4700, Chicago, IL 60601 | Tel: 312.880.9160  
[www.wefightpiracy.com](http://www.wefightpiracy.com)

## RELEASE

Company: First Time Videos LLC  
IN RE: *First Time Videos LLC. v. Does 1-500*, Case # 1:10-cv-06254

Settlement Purposes Only -  
Inadmissible Under FRE 408

BE IT KNOWN, that Steele | Hansmeier, PLLC on behalf of the Company named above, (hereinafter referred to as "Releasor"), for and in consideration of the sum of Two Thousand Nine Hundred (\$2,900.00) Dollars, and other valuable consideration received from or on behalf of \_\_\_\_\_, (hereinafter referred to as "Releasee"), provided that Releasee's payment in full in the amount of \$2,900.00 is received by Releasor within seven calendar days from the date of this release and such payment is made with no chargebacks, cancellations or revocations, does hereby remise, release, acquit, satisfy, and forever discharge the said Releasee, of and from all manner of actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, claims, and demands regarding the lawsuit referred to as *First Time Videos LLC. v. Does 1-500, Case # 1:10-cv-06254*, or any claim related to any act Releasor alleges that Releasee may or may not have done, which said Releasor ever had, now has, or which any personal representative, successor, heir or assign of said Releasor, hereafter can, shall or may have, against said Releasee, by reason of any matter, cause or thing whatsoever, from the beginning of time to the date of this instrument. In consideration for foregoing release and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Releasee hereby releases Releasor, Steele | Hansmeier, PLLC., Media Copyright Group, LLC., and the owners and operators of the foregoing entities from all manner of actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, claims and demands arising from or relating to the aforementioned lawsuit or any claim related to any act Releasor alleges that Releasee may or may not have done, which said Releasee ever had, now has, or which any heir, successor or assign of Releasee can, shall or may have against Releasor. Releasor and Releasee both agree that the terms of this agreement shall forever remain confidential, and both parties agree that they shall not discuss this agreement. Releasor specifically agrees to not disclose information it may have regarding Releasee, the litigation described herein, or any settlement discussions entered into between the parties unless ordered to do so by a valid court order or by permission of Releasee.

Written and Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

"RELEASOR"

\_\_\_\_\_  
John L. Steele, Esq.  
Representative of Steele | Hansmeier, PLLC.  
On behalf of First Time Videos LLC

# **EXHIBIT D**





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Printed on page A1

## Wireless router hijacked for child pornography

By Todd Ruger

Published: Monday, January 31, 2011 at 1:00 a.m.

Malcolm Riddell awoke at 6 a.m. one day last year to some of the most heart-sinking words a homeowner can hear: "FBI, open up."

When he did, a dozen armed FBI agents swarmed through the lawyer's lofty Palm Avenue condo in downtown Sarasota. They held him against the wall, separated him from his wife and then questioned him on the porch looking down 12 stories onto Sarasota Bay.

Riddell says he was not nervous or scared, just clueless. The FBI agents searched through his computer equipment for a while, then made it all clear: child pornography images were flowing through Riddell's wireless Internet connection.

Riddell's wireless router put him in the middle of a child pornography investigation that would eventually lead to a man who admitted possessing and sending 10 million illegal files from a boat in the Sarasota marina below Riddell's windows.

"How in the world could that be?" Riddell said. "We started discussing the possibilities."

The agents cleared Riddell that June morning of any suspicion. But for a short time, Riddell faced accusations of a felony crime that can lead to decades behind bars and a lifetime designation as a sex offender.

As the FBI searched his home, Riddell learned first-hand the dangers of leaving a home wireless router unprotected without a password, and open for others to jump on and use his Internet service.

Riddell, 58, considers himself tech-savvy, and he knew better than to leave the router unprotected, since all the online activity of strangers appears to be coming from his account.

A router is a device that allows for a wireless connection to the Internet. If not secured with a password, that connection can be used by anyone with a computer within range of the router's signal.

But on the 12th floor, in a building where the average resident is of retirement age, Riddell said he ignored the risks when he set it up.

"You're thinking, what's the point? I thought it was only 400 feet was the range," said Riddell, a Harvard University business school graduate whose fluency in Mandarin helped him forge business relationships in Asia.

But the dangers became clear when the FBI convinced Riddell to let them put a tracer on his router to see if they could catch the person using the screen names



STAFF PHOTO / DAN WAGNER

Sarasota attorney Malcolm Riddell details the dangers of not having a password for your router. The use of the router in his condo was stolen by a boat captain in Sarasota Bay to download 10 million files of child pornography.

"Hardalone243," "Hardpedo" and "Hard\_foryou68."

"At that point there were six people on my router," Riddell said. "We didn't know which one was the guy."

The FBI had been tracking "Hardalone243" since September 2009, but needed help identifying him, according to a special agent's affidavit filed in federal court.

Agents say they eventually tracked the images back to Mark Brown, 52, who was arrested Sept. 30 on a boat, "Aloan at Last."

Brown worked as the captain of the yacht, moored in the Sarasota Marina within view of Riddell's building. FBI agents say Brown used several unsecured, non-password protected wireless networks near the boat.

In interviews after his arrest, Brown told investigators he had more than 10 million files of child pornography photos and videos on his computer. Brown remains in custody while awaiting trial on a federal child pornography charge that could result in decades in prison if convicted.

Justin McClellan, a technician for We Fix Computers in Sarasota, said awareness of the need for security on wireless routers is growing. The technicians there see fewer unsecured routers during their calls for service.

Many Internet service providers will set up protections on the routers when they install them, and the routers from the store have better security built in, McClellan said.

And securing a wireless router with a password is also as simple as following step-by-step programs that come with those routers.

"The biggest security risk on routers if someone were to buy their own is they all come with a default username and password, and those are really well known," McClellan said.

Riddell came to a conclusion after the early-morning raid on his condo. "I'm going to encrypt this thing immediately," he said.

This story appeared in print on page A1

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# **EXHIBIT E**

## Lawsuit says grandma illegally downloaded porn

James Temple

Friday, July 15, 2011

Jane is in her 70s, a retired widow who spends her days doing volunteer work in the East Bay and fussing over her grandchildren. She also downloads porn illegally over BitTorrent.

That, at least, is the claim in an April lawsuit against her and dozens of other Jane and John Does by a Chicago law firm that's been busily filing similar cases around the country.

It's also made a habit of strongly suggesting that these "digital pirates" settle out of court for several thousand dollars. Letters to defendants helpfully remind them the amount is below what they'd probably pay in attorney's fees and that settling would avoid publicly linking their names to pornography.

This particular Jane (who didn't want her real name used for that very reason) said she's never downloaded porn and doesn't know what a BitTorrent is. She can't afford an attorney to make her case, but she's not about to settle either.

"It smacks of extortion," she said.

Some legal observers agree.

Steele Hansmeier PLLC filed the case against "Does 1-46" in U.S. District Court in San Francisco on behalf of Hard Drive Productions. The growing law firm has now lodged complaints on behalf of adult companies against about 10,000 defendants, partner John Steele said.

When asked about the allegations that their tactics amount to a shakedown, Steele said his firm is simply fighting back against the widespread copyright theft that threatens to put his clients out of business.

Other porn companies, media businesses and law firms have embraced similar strategies, which San Francisco digital rights group Electronic Frontier Foundation describes as "copyright trolling."

### Low settlement fees

The mass filings, embarrassing allegations and low settlement fees are all carefully calibrated to get people to pay up, regardless of whether they've done anything wrong, said Matt Zimmerman, senior staff attorney at the Electronic Frontier Foundation.

"It puts these defendants in a tough spot, especially with the coercive element of the porn allegation," he said.

The June letter to Jane emphasized that copyright owners can recover up to \$150,000 in damages per file. It mentions the possibility of naming her several times. And it invited her to quickly and quietly settle matters by paying \$3,400 via credit card.

A law firm representative followed up with a direct phone call to Jane just before the settlement offer expired.

To be clear, many - and maybe even most - of those accused in these cases probably downloaded the files. But it's easy to imagine scenarios where some didn't, yet still feel pressured to settle.

Like, say, a widow in her 70s who, when asked by a reporter, didn't know whether her wireless Internet service was password protected. She did know, however, that a handful of young men lived next door.

The letter from Steele suggests that someone else using an unsecured wireless network isn't a viable legal defense for the account holder, noting that downloaders of child pornography have employed this excuse to no avail.

But that's deliberately misleading, Zimmerman said.

"There is no legal doctrine that says you're responsible for what somebody else does on your Internet connection," he said.

In fact, there are examples of the precise opposite occurring.

### **Open networks**

Earlier this year, charges were dropped against a man in Buffalo, N.Y., accused of downloading child pornography, after police turned their attention to a neighbor allegedly using the man's open Wi-Fi network.

Jane said she'll go to trial without an attorney if necessary and "throw herself on the mercy of the court."

"I'd say to the judge, 'I have no idea how this happened,' " she said. "If Sony can get hacked, if the Pentagon can get hacked, my goodness, what chance does an individual have?"

But Steele's not buying such excuses. In an interview, he said anyone who fails to secure their Wi-Fi is as responsible for the subsequent crimes or tragedies as a parent who leaves a loaded gun within reach of a 3-year old.

Of course, nobody dies when the teenager next doors nabs a wireless signal for a glimpse of breasts.

None of the cases pursued by Steele Hansmeier has reached a final verdict at trial, but the firm has moved forward with claims against individuals, Steele said. Most people simply decide to settle, he added.

Steele stressed that the vast majority of these people have committed a crime and the few who haven't have every opportunity to defend themselves.

"There's no sort of sneaky, in-the-shadows efforts here," he said.

Dot-commentary runs Wednesdays, Fridays and Sundays. Follow @jtemple on Twitter or e-mail [jtemple@sfchronicle.com](mailto:jtemple@sfchronicle.com).

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/07/15/BUG51KA26R.DTL>

This article appeared on page **D - 1** of the San Francisco Chronicle

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# EXHIBIT F

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

FIRST TIME VIDEOS LLC	)	
	)	CASE NO.: 10-cv-06254
Plaintiff,	)	
	)	
v.	)	Judge: Ruben Castillo
	)	Magistrate Judge:
DOES 1 – 500	)	
	)	
Defendants.	)	
	)	
_____	)	

**NOTICE OF DISMISSAL AS TO CERTAIN DEFENDANT**

Plaintiff FIRST TIME VIDEOS LLC, pursuant to Fed.R.Civ.P. 41(a)(1)(A)(i), provides this notice that all claims against that certain defendant identified in the Complaint as associated with IP address **76.124.148.5**, should be, and hereby are, dismissed with prejudice.

Respectfully submitted,

First Time Videos LLC

**DATED:** February 8, 2011

By: /s/ John Steele  
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