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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 LHF PRODUCTIONS, INC.,

11 Plaintiff,

12 v.

13 DOE 1, et al.,

14 Defendants.

Case No. C16-1273RSM

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

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16 This matter comes before the Court on Plaintiff's motion for reconsideration. Dkt. #54.
17 On February 23, 2017, the Court granted Defendant Jose Sosa's motion to dismiss. Dkt. #53. In
18 its Order, the Court overlooked the response filed by Plaintiff. See Dkt. #32. The Court
19 apologizes for this oversight. However, consideration of Plaintiff's response does not alter the
20 outcome of this matter.
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22 As noted in the Court's prior Order, "while it is possible that Mr. Sosa participated in the
23 BitTorrent 'swarm,' it is also possible that someone else with access to Mr. Sosa's IP address is
24 the actual infringer." Dkt. #53 at 4. Because Plaintiff is "faced with two possible explanations,
25 only one of which can be true and only one of which results in liability," it must allege
26 something more, "such as facts tending to exclude the possibility that [an] alternative
27 explanation is true." *Id.* (quoting *In re Century Aluminum Co. Sec. Litig.*, 729 F.3d 1104, 1108
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ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION — 1

1 (9th Cir. 2013)). Because Plaintiff did not plead “facts tending to exclude the possibility that
2 [an] alternative explanation is true,” its claim against Mr. Sosa warrants dismissal.

3 The Court remains unpersuaded by citations to cases presented for the first time in
4 Plaintiff’s motion for reconsideration. *See* Dkt. #54 at 2-3. As stated in Local Civil Rule 7(h),
5 the Court will only consider “new facts or legal authority which could not have been brought to
6 its attention earlier with reasonable diligence.” Plaintiff did not bring these cases to the Court’s
7 attention in its response to Mr. Sosa’s motion. *See* Dkt. #32. Accordingly, the Court will not
8 consider them now. For these reasons, the Court DENIES Plaintiff’s motion for reconsideration.
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10 It is so ORDERED.

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12 Dated this 28 day of February, 2017

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15 RICARDO S. MARTINEZ
16 CHIEF UNITED STATES DISTRICT JUDGE
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