

1 if you don't accept this offer, then, you know, we are
2 going to part ways. So the offer was to be in house
3 counsel for Livewire, and so I was hired W2 employee for
4 this company which is a holding company of copyrights.

5 Q And you understood that one of the subsidiaries of
6 that company included AF Holdings; correct?

7 A That was my understanding, yeah.

8 Q When did you come to a different understanding?

9 A Oh. Well, during the deposition, I came to a
10 different understanding because obviously the deposition
11 was said what was said, and I asked Paul Hansmeier about
12 that.

13 Q And what we are talking about here is
14 Mr. Hansmeier's testimony that there was a trust that
15 owned AF --

16 A That is correct.

17 Q And before that testimony, you heard that
18 testimony, you understood as of January 1, that Livewire
19 would own --

20 A Yes.

21 Q Livewire would own AF Holdings?

22 A That is correct.

23 Q And that is why in at least one of the pleadings
24 you put that you are in house counsel for AF Holdings
25 because that was a company that was owned by Livewire;

1 correct?

2 A I was specifically told to sign as in house counsel
3 for AF Holdings by Paul Hansmeier in that case. I was
4 actually because of Mark Lutz' position as CEO, I was
5 trying to get his signature for that document, but Paul
6 Hansmeier said, no, you are in house counsel for Livewire
7 thereby in house counsel for AF Holdings, you sign it on
8 behalf of the client.

9 Q Is one of the other reasons you decided to leave
10 Livewire is because you learned that the stamp was being
11 used for your signature?

12 A Yes. Certain letters were sent out without my
13 knowledge. I never authorized them, never approved them.
14 When I questioned John about them, he was, like,
15 basically said, this is your role. This is what you have
16 to do. You have to send these letters out, and I said I
17 don't feel comfortable, these aren't even my cases,
18 essentially. And, you know, I actually e-mailed Mark
19 Lutz about that, and he said you got to talk with John
20 and Paul about this.

21 THE COURT: I'm sorry. What kind of letters are
22 we talking about? Is that the settlement letters?

23 THE WITNESS: Settlement letters. They had been
24 using -- they originally said they were going to do a
25 stamp for me for certain things, but I thought they were

1 only for my cases. And, you know, later, I found out
2 that stamp might have been used for cases that I never
3 even participated in or seen the letters before they went
4 out.

5 THE COURT: Let me make sure I understand now.
6 Livewire eventually became the parent of AF Holings and
7 Ingenuity 13 LLC?

8 THE WITNESS: That was my understanding. I was
9 told that, yeah. And that is why I was hired and a lot
10 of people were hired in terms of working as W2 employees
11 for Livewire. So it was the company that was a holdings
12 company that would do litigation as well as distribution.
13 That is what they told me.

14 THE COURT: And you were a W2 employee?

15 THE WITNESS: That's correct. And I still have
16 not been paid for that position.

17 Q BY MR. WAXLER: That was for a period of two months;
18 correct?

19 A That's correct. And I gave him my notice early
20 February essentially.

21 THE COURT: Where was Livewire's offices?

22 THE WITNESS: Livewire has an address of
23 Washington DC address, but, obviously, I don't know if it
24 has an office to be honest with you. It is just a matter
25 of, kind of a cloud type office. It might be a situation

1 where -- I am just speculating right now.

2 THE COURT: You have never visited Washington DC
3 offices?

4 THE WITNESS: No. I believe it is just a PO box
5 over there. That is just a mailing address for them.

6 THE COURT: Did that form letter requesting
7 payment of the settlement sums, did that letter change to
8 reflect that payment now should be sent to Livewire at
9 the Washington DC address?

10 THE WITNESS: Absolutely. It wasn't sent to me or
11 anything like that. It was sent to that mailbox, and
12 then I believe it would be sent back to somebody at some
13 point somewhere. But that is the kind of issues that I
14 started having, and along with a lot of other different
15 issues. So I just decided to -- I asked them if I could
16 go ahead and substitute out with Paul Duffy who had a
17 license in California. I talked to Paul Duffy about
18 that, he said sure, and then I proceeded to do that.

19 THE COURT: All right. So you substituted out.
20 Now, how long were you general counsel for Livewire?

21 THE WITNESS: Two months basically. I mean, I
22 guess you could say, I think the official documents were
23 signed. It never actually specified that I was in house
24 counsel, but that is what I was told. The documents were
25 just general employment documents, but that was from I

1 think January 7th on. That's when I signed the
2 documents.

3 Q BY MR. WAXLER: You were not general counsel. You
4 were in house counsel; right?

5 A In house counsel. Sorry.

6 Q You have never held the position of general
7 counsel, have you?

8 A No.

9 THE COURT: Did you know about any other employees
10 there?

11 THE WITNESS: Yes.

12 THE COURT: Was there a bookkeeper or an
13 accountant?

14 THE WITNESS: Yes.

15 THE COURT: Do you know whether -- well, okay.
16 Thank you.

17 MEMBER OF THE AUDIENCE: Your Honor?

18 THE COURT: You are?

19 MEMBER OF THE AUDIENCE: Jason (inaudible). I
20 represent Godfread and Cooper in some of the defamation
21 cases.

22 THE COURT: You represent Godfread?

23 MEMBER OF THE AUDIENCE: Yes.

24 THE COURT: So back in Minnesota, lawyers have
25 lawyers?

1 MEMBER OF THE AUDIENCE: I am from Massachusetts.

2 THE COURT: And how can I help you?

3 MEMBER OF THE AUDIENCE: I had a conversation with
4 Mr. Gibbs probably back in October regarding AF Holdings
5 where he told me that he was national counsel for AF
6 Holdings and that any settlement negotiations were to be
7 made through him. And the local counsel for that case
8 confirmed that he was the one who told me to contact
9 Mr. Gibbs.

10 THE COURT: Have you come to understand as have I
11 that every representation made by a lawyer associated
12 with Prenda is not necessarily true?

13 MEMBER OF THE AUDIENCE: I have known that for
14 three years.

15 THE COURT: Okay. Good. So you aren't shocked,
16 are you?

17 MEMBER OF THE AUDIENCE: No.

18 THE COURT: Nor am I, but thank you.

19 MEMBER OF THE AUDIENCE: You are welcome.

20 Q BY MR. WAXLER: Mr. Gibbs, you know you are under
21 penalty of perjury testifying here today?

22 A That is correct.

23 Q Have you ever made a representation to a court in
24 the Central District of California or any other court
25 that you know is untrue?

1 A No.

2 THE COURT: Well, that isn't exactly accurate, is
3 it? You have caused documents to be filed with, let's
4 just be kind and say falsified signatures.

5 THE WITNESS: Your Honor, I had no idea that these
6 were allegations --

7 THE COURT: That is "yes" or "no".

8 THE WITNESS: Your Honor, I think it is still an
9 open question.

10 THE COURT: Oh. No. It is not an open question.
11 We have had the individual testify under oath. Those
12 were not his signatures on these documents.

13 THE WITNESS: And that is the first time I have
14 heard in terms of him saying out loud that he absolutely
15 did not sign those papers, those exact papers. He said
16 before he was not associated with the companies, but that
17 is the first time I heard him say he did not sign those
18 exact papers.

19 THE COURT: Are you saying that you have had prior
20 conversations with him where he either admitted or
21 tacitly admitted that he signed?

22 THE WITNESS: No, your Honor. I haven't had any
23 conversations with Mr. Cooper.

24 THE COURT: That was my thought. I thought that
25 you had never met the man.

1 THE WITNESS: No. I never met the man. He never
2 met me, and I have never talked with him.

3 THE COURT: And you were acting on the
4 representation of John Steele that --

5 THE WITNESS: And Paul Hansmeier.

6 THE COURT: -- that they actually had the
7 signatures, the authentic signature of the real Alan
8 Cooper?

9 THE WITNESS: Yes. I was told that. And I
10 investigated that in terms of, you know, what is going on
11 here when the first Alan Cooper issue arose, and I was
12 told that there was no issue, that he -- that he did sign
13 the document. And so I also did a little bit of research
14 and found out that the assignor, even if the assignor is
15 invalid, it still is a valid document. So combining
16 those two things, I still believed -- I don't think I
17 filed a case after that. It was just a matter of kind of
18 addressing with these guys, and they were my sole
19 information for this type of thing.

20 THE COURT: Okay. You also indicated that you had
21 on file the original or notarized signature of Alan
22 Cooper, but you really don't, do you?

23 THE WITNESS: No. No. I never said I had on
24 file. No. Prenda law or Steele Hansmeier had it on
25 file. They told me they had it on file, and that is I

1 believe what was in the declaration. So I said, okay,
2 you know, do we have this notarized copy, do you guys
3 have it over there? I don't think I ever saw it, but
4 they told me, yes, we have copies of this, it is here,
5 and you can go ahead and file that based on our
6 representation to you.

7 THE COURT: Do you feel like you have been duped
8 by Hansmeier and Steele?

9 THE WITNESS: In a way, yes.

10 THE COURT: Okay. This has been very
11 enlightening.

12 Q BY MR. WAXLER: Mr. Gibbs -- I just have a few more
13 your Honor. Mr. Gibbs, have you ever been a 30(b)(6)
14 witness for AF Holdings?

15 A No.

16 Q Have you ever been a 30(b)(6) witness for Ingenuity
17 13?

18 A No.

19 Q Have you ever received client funds in any of your
20 capacities as counsel affiliated with Steele Hansmeier or
21 Prenda Law?

22 A No.

23 Q The court expressed some disappointment in the
24 manner in which you described how you determined the
25 location of the houses that sat on the lots, and the

1 router, the ability for the router to pick up people who
2 were not authorized to pick up that signal. And let me
3 ask you some questions about that.

4 A Sure.

5 Q It is your understanding that when wireless routers
6 are used and they determine what the distance is where
7 they would be able to pick up a signal, that those
8 determinations are made where there is an open field and
9 not placed in the middle of a structure?

10 A Yeah. I have read some reports on that and that
11 the projections are basically favorable to them because
12 there is no obstacles in the middle, there is nothing
13 like walls or fences or bushes or trees which have a
14 great effect on wireless signals.

15 Q Tell me how you described the Denton residence and
16 what facts you had to support your description of the
17 Denton residence?

18 THE COURT: Which city? Is this Santa Maria or
19 West Covina?

20 THE WITNESS: I believe it is the second one.

21 MR. WAXLER: I will find it, your Honor.

22 MR. PIETZ: Your Honor, I might suggest we look at
23 Exhibit II which is the picture, the geographical Google
24 maps picture of the two residences.

25 THE COURT: That is why I wanted to know. I mean,

1 I went to Google Earth as well, and I just want to know
2 which one we are talking about because in West Covina,
3 you made some representations of fact that you cannot
4 possibly know to be true.

5 THE WITNESS: Well, your Honor, based on my
6 personal knowledge of wireless networks, I believed they
7 were true.

8 THE COURT: I am talking about of the residence
9 itself. It is a gated community.

10 I'm sorry. I didn't mean to interrupt you.

11 MR. WAXLER: I am happy to address that, your
12 Honor.

13 Q Mr. Gibbs, the map that you have seen that was
14 offered by Mr. Gibbs and Mr. Pietz -- and I apologize if
15 I am butchering your name, by the way --

16 MR. PIETZ: Pietz.

17 MR. WAXLER: Pietz.

18 Q That is not the type of map that you saw; correct?

19 A No, that is not.

20 Q Please describe the map that you looked at when you
21 made the representations in the filings that we have done
22 in this courthouse.

23 A It was a map that you could go down the street, it
24 is actually focused on the house, not on an overview like
25 that, but it is on, basically, there is like a street

1 view on Google that allows you to, like, look around the
2 house essentially. Kind of. It is limited to a certain
3 extent though.

4 Q What did you see when you looked at that map?

5 A I saw a house that I believed it was likely not
6 something that wifi could have broadcasted out to
7 neighbors.

8 Q Did you see a gate?

9 A I did see a gate.

10 Q Did you see several structures?

11 A I did.

12 Q Did you see bushes and shrubs and trees around,
13 between the house structure and the street where someone
14 might be driving by?

15 A I did. Actually, the aerial view, I think, is even
16 covering the house if I remember correctly. So, yeah, it
17 is -- I mean, in terms of trees, there is a lot of trees
18 there.

19 Q And it is your understanding that the wireless
20 signal doesn't just fly over these trees, does it?

21 A No. Actually, I mean, there is just certain things
22 that -- I mean, I think everyone kind of knows when they
23 go into certain people's houses and say, hey, I want to
24 use the wifi connection, there are certain rooms in the
25 house that don't get, even in the same house that don't

1 get the wifi connection. So, yes, walls, trees, these
2 things definitely have a dramatic effect. Sometimes,
3 concrete wall, for instance, sometimes it just altogether
4 stops something. That is my understanding of it.

5 Q Was your description of the residence in West
6 Covina when you signed your declaration and submitted
7 these papers and we submitted these papers on your behalf
8 accurate to the best of your knowledge.

9 A Yes, it was. It was based on my personal
10 knowledge. Yes.

11 Q And do you still believe it is accurate despite the
12 very different map that was submitted to the court?

13 A That is correct. I believe that map might be -- I
14 don't even know where the yards come, or I don't know how
15 that works.

16 Q Would the same be true for the residence in Santa
17 Maria?

18 A It was the same analysis essentially. It was just
19 part of the full analysis, but yeah.

20 Q In other words, there were walls, there were
21 buildings, there were shrubs, all of which would block
22 the signal and reduce by a great extent the range of the
23 wireless network?

24 A Yes. That was my impression from them, the street
25 maps from Google.

1 MR. WAXLER: May I have one moment, your Honor?

2 THE COURT: Certainly.

3 Q BY MR. WAXLER: Mr. Gibbs, did you knowingly violate
4 the discovery orders from this court?

5 A No.

6 Q Did you cause to be served on the ISP providers the
7 October 19, 2012 discovery order by this court?

8 A Yes. I mean, at least, I thought I did. I had
9 requested it.

10 Q And it was your understanding that that was done?

11 A It was my understanding. I confirmed it
12 afterwards, and they said it was taken care of.

13 Q And the first time you learned that an ISP may not
14 have received a copy of that order was when?

15 A I believe it was in the response by the ISP, AT&T
16 possibly.

17 MR. WAXLER: I have nothing further, your Honor.
18 Thank you.

19 THE COURT: Okay. Thank you. But you started
20 getting responses from some of the Internet service
21 providers, didn't you?

22 THE WITNESS: I didn't get the responses.

23 THE COURT: All right. You filed a status report
24 with the court?

25 THE WITNESS: Yes.

1 THE COURT: Right?

2 THE WITNESS: Yes.

3 THE COURT: And at the time you filed that status
4 report, there had been no returns on those subpoenas;
5 right?

6 THE WITNESS: Yes.

7 THE COURT: Then about a week later --

8 THE WITNESS: Well, sorry, let me qualify my
9 answer. There were -- at that point, there was nothing
10 in the computers that showed there was any returns on the
11 subpoenas.

12 THE COURT: Okay. That changed a few days later.

13 THE WITNESS: It changed, I think, on the 7th.
14 Yes.

15 THE COURT: And, of course, you updated that
16 status report, you advised the court, then -- right --
17 that suddenly, for whatever reason, people are now
18 starting to send you information on your subscribers;
19 right? You updated your filing, didn't you?

20 Actually, no, you didn't.

21 THE WITNESS: I didn't, your Honor, but if I can
22 explain why.

23 THE COURT: Yes.

24 THE WITNESS: Okay. So I did some investigation
25 on that, and what I was told, and, again, I don't handle

1 the subpoenas. These are handled out of the Chicago and
2 Minnesota offices. I was told that these things are
3 usually delivered and that either hand-delivered or I
4 believe mailed but most likely they are just a few blocks
5 away. Like CT Corporation is just a few blocks away,
6 that CT Corporation would send, mail back the
7 information.

8 I didn't realize that that information was
9 faxed back by Verizon. I never knew that. And I did
10 some investigation on it. And I, also, I talked to Paul
11 Duffy, and the exact date of the court's order in that
12 case, there had been -- he had had some eye surgery and
13 he also had some trauma related to it.

14 So what he said was he wasn't picking up his
15 mail as frequently during that time period. So I thought
16 that the information had been received essentially by,
17 through his mailbox at that point but hadn't been input
18 in the computer until later. So that was my
19 understanding. That was my understanding of what had
20 happened.

21 Q BY MR. WAXLER: Do you now regret not advising the
22 court when you learned on November 7th that Prenda Law
23 had received information in response to those subpoenas
24 and that there was information in the status report that
25 was not correct?

1 A Absolutely. Absolutely.

2 MR. WAXLER: Thank you, your Honor.

3 THE COURT: Mr. Pietz.

4

5 CROSS-EXAMINATION

6 BY MR. PIETZ:

7 Q Mr. Gibbs, I would ask you to refer to the binder
8 that is there with you to Exhibit EE which is the
9 substitution of counsel that was filed apparently with
10 your CM/ECF account listing you as in house counsel for
11 AF Holdings.

12 A Yes, I am familiar with that document.

13 Q So Mr. Gibbs, just to clarify, then, your testimony
14 is that when you filed that document, that was an
15 accurate representation -- correct -- that you were at
16 that moment in house counsel for AF Holding?

17 A When I filed that document, I believed I was. What
18 I was told afterwards and after the deposition was that
19 that merger or that acquisition hadn't happened therefore
20 it was still owned by the trust. So I, essentially, I
21 had been told to go ahead and file as in house counsel,
22 but, for some reason, Livewire didn't own AF Holdings at
23 that time.

24 Q So can you just pin down for me exactly when it was
25 that your capacity as in house counsel for AF Holdings

1 begun and exactly when it terminated?

2 A Well, my understanding was that -- my understanding
3 when I was told that I was in house counsel for Livewire
4 that I was therefore in house counsel for AF Holdings and
5 the other companies as well, Ingenuity and Guava.

6 And only did I find out later when I was
7 exiting and I was already leaving all these cases
8 essentially, only then, I found out that they had not
9 actually acquired -- Livewire had not acquired AF
10 Holdings according to Mr. Hansmeier.

11 Q Mr. Gibbs, have you ever authorized anyone else to
12 use your CM/ECF password?

13 A I don't -- I might have. I don't know.

14 Q Who?

15 A An individual by the name of Carl. He worked for
16 me, or he worked with me, I guess you would say. He
17 actually worked for Prenda Law.

18 Q How about John Steele?

19 A No. I don't think so. Not to my knowledge. I am
20 not saying -- in terms of authority, I did not, no.

21 Q How about Paul Hansmeier, did you ever authorize
22 him to use your CM/ECF password?

23 A I don't believe so. I mean, I know he had my -- he
24 had access to my passwords at one point, so he might
25 have, yeah.

1 Q What was your business telephone number while you
2 worked for Prenda Law?

3 A It was (415)325-5900.

4 Q And what was your business e-mail address when you
5 worked for Prenda Law?

6 A It was blgibbs@wefightpiracy.com.

7 Q Have you ever instructed Prenda local counsel to
8 file pleadings using your business e-mail and business
9 telephone number on the pleadings even though it was
10 their name and physical address?

11 A So, yes, my name is on -- my e-mail address and my
12 number and my phone number is on certain cases in other
13 states. I was instructed to do so like that by Paul
14 Hansmeier. And, essentially, the way that was explained
15 to me was that I would essentially forward all of the
16 communications to the outside counsel. Yeah. So.

17 MR. PIETZ: Before we move on any farther, I would
18 ask that Exhibit EE be admitted into evidence as Exhibit
19 13.

20 Q Mr. Gibbs, I have some copies of a few different
21 complaints, one that was filed by a local counsel in
22 Nebraska and three complaints filed by local counsel in
23 Florida all of which list the name of the local counsel,
24 a mailing address in those respective states and an
25 e-mail address, blgibbs@wefightpiracy.com and your 415

1 telephone number, is that consistent with your
2 understanding of what the normal practice was at Prenda
3 that your business e-mail and phone would be on pleadings
4 all around the country?

5 MR. WAXLER: Objection. Irrelevant, your Honor.

6 THE COURT: Overruled.

7 THE WITNESS: That was what I was instructed to do
8 by Prenda, yeah, was to do that because I was essentially
9 helping those guys out on their cases. It was their
10 case, but, yes.

11 Q BY MR. PIETZ: I would ask Mr. Ranallo to pass out
12 No. 2 which is the declaration of Matt Catlett, an
13 attorney in Nebraska, and he is authenticating the
14 service copy of the complaint filed in Nebraska listing
15 Mr. Gibbs. I would ask that that be admitted into
16 evidence as Exhibit 14.

17 Similarly, Mr. Ranallo, if you would be so
18 kind as to pass out 3, 4 and 5 which are the complaint in
19 Sunlust v. Nguyen, First Time Video. Here is Sunlust v.
20 Nguyen. That is Middle District, Florida. We also have
21 First Time Videos v. Paul Uphold and Openmind Solutions
22 v. Barry Wolfson.

23 MR. WAXLER: Your Honor, I would object to the
24 introduction of those exhibits.

25 THE COURT: Right. We don't need this. We have

1 basically got his testimony.

2 MR. PIETZ: Fair enough.

3 THE COURT: And we have got the testimony on the
4 reason why, but I got to tell you, that doesn't sound
5 reasonable to me that you would be inviting telephone
6 calls, litigation in Florida on a case that you know
7 nothing about. How do you field these calls?

8 THE WITNESS: No, sir. I would pass the messages
9 on to the other attorneys.

10 THE COURT: Back to Florida?

11 THE WITNESS: Yes. I would pass the messages on
12 to them because, essentially, it was just easy for them
13 at that point. I was like their secretary essentially,
14 and that is the way that Prenda wanted to do it.

15 THE COURT: Why?

16 THE WITNESS: I don't know. I mean, they changed
17 the practice at some point where people were putting
18 their own e-mails, their own numbers, but I don't know
19 why that was the way it was structured originally.

20 And I don't know. I mean, I don't know who
21 had access to my e-mail either. So I don't know, like, I
22 have no idea if I was sent something or if someone else
23 read it.

24 Q BY MR. PIETZ: Did John Steele have access to your
25 e-mail?

1 A He did. I don't know if he did throughout, but he
2 did.

3 Q Would he routinely respond to e-mail inquiries at
4 the blgibbs@wefightpiracy.com e-mail address?

5 A I never knew it because he didn't CC me on them, or
6 he didn't let me know he was doing them. But I believe
7 he did.

8 Q Did Paul Hansmeier have access to that e-mail
9 address?

10 A I think he had access. I have no idea whether he
11 used it or not.

12 Q How about Mr. Duffy, Paul Duffy, did he have access
13 to that e-mail account?

14 A I don't think so.

15 Q Mr. Gibbs, earlier, you testified that some things
16 were sent out with your signature stamped on there that
17 didn't have your approval. I would like to refer now --
18 actually, before I venture any farther afield, I would
19 ask that the court take judicial notice of the complaints
20 I have just identified as Exhibits, I think, 15, 16 and
21 17.

22 In any event, moving on, now, to what has been
23 previously identified in this action as Exhibit X, ask
24 that it be admitted now as Exhibit 18.

25 Essentially, I would just like to ask you a

1 question to confirm.

2 A Sure.

3 Q Is this the kind of letter you are talking about?

4 This was a demand letter sent in the Guava, St. Clair
5 County, Illinois case. I note that it is dated -- what
6 is the date on it? January 30th. And it is,
7 essentially, a, you know, a demand letter. And then I
8 will go to the last page there. It has a pleading in
9 there. So, in any event, on the last page of the letter
10 itself, there is a stamped signature, what appears to be
11 a stamped signature that says Brett Gibbs. Is it your
12 testimony that this letter was sent out without your
13 authorization?

14 A That is my testimony.

15 Q You had no knowledge whatsoever that this letter
16 was being sent out?

17 A No. Not with my name on it. I don't even
18 remember -- no one ever told me about this before I found
19 out. I actually found out through an opposing counsel
20 that contacted me and wrote me a letter saying,
21 basically, you know, you have nothing on my client, and
22 you communicate through me. So I was kind of confused,
23 but I eventually saw the letter, and it had my stamped
24 signature on it.

25 Q Mr. Gibbs -- I will represent to the court that

1 this letter has been sent to over 300 Internet users
2 across the country. Have you done anything to correct
3 the fact that this letter went out with your signature on
4 it without your authorization? I note that it was filed
5 in late January.

6 A Yeah. I actually talked with Mark Lutz, and Mark
7 said, I said, Mark, do not send any of these letters out
8 anymore that are, you know, please contact me and let me
9 know what is happening before you send out these letters.
10 And the response from Mr. Lutz was I don't control those
11 types of things, you have to talk with Paul and John.

12 Q Fair enough. Mr. Gibbs, have you ever hired local
13 counsel for Prenda Law?

14 A Actually, the hiring, no, because the hiring
15 process was done by John Steele.

16 Q Are you familiar with an attorney in Florida named
17 Matthew Wasinger?

18 A Yes. Yes.

19 Q Are you aware of the fact that Mr. Wasinger
20 testified under oath in federal court in Florida at the
21 Sunlust hearing that you hired him and that, as far as he
22 understood, you were a principal of Prenda law? Are you
23 aware of that, Mr. Gibbs?

24 MR. WAXLER: Objection, your Honor. It is
25 irrelevant. It is also hearsay.

1 MR. PIETZ: I am asking Mr. Gibbs if he is aware
2 of it.

3 THE COURT: Sustained. I have got the picture.
4 Okay. And I appreciate it. Thank you.

5 MR. PIETZ: I will move along, your Honor.

6 THE COURT: Okay. To what? Give me a blueprint.

7 MR. PIETZ: Fair enough, your Honor. I will
8 explain the broad strokes of the categories I have, and
9 whatever the court is interested in, we will move to
10 that.

11 In addition to a few more things about
12 Mr. Gibbs hiring, firing and even threatening local
13 counsel, I have evidence on him being delegated
14 independent authority to settle cases which he actually
15 concluded. Contrary to Mr. Gibbs' assertion which is a
16 little confusing in light of the fact that he says I
17 spoke to Mark Lutz, in any event, with respect to his
18 assertion that he never had any direct client contact, I
19 have a number of documents which actually show -- some of
20 which are Mr. Gibbs' own prior words showing that, in
21 fact, at least according to him, he was communicating
22 back and forth with the client, whatever that means, and
23 my theory is that that may mean John Steele.

24 But in any event, beyond the direct client
25 interaction, you know, I could ask Mr. Gibbs about his

1 investigation in the case, about the petition, but those
2 are the broad strokes, your Honor. If the court has got
3 the picture, I don't need to necessarily get into all the
4 documents.

5 THE COURT: I do have the picture, and I know who
6 the client is. We have talked about the client, and the
7 client has been running everything. Yeah, I know who the
8 client is.

9 MR. PIETZ: Very good.

10 THE COURT: Okay. Thank you.

11 Gentlemen. Mr. Brodsky, you look bored.

12 MR. BRODSKY: I am not bored, your Honor.

13 THE COURT: All right.

14 MR. WAXLER: We have no further questions, your
15 Honor.

16 THE COURT: All right.

17 Unless anyone has anything else in terms of
18 evidence to offer, the matter will stand submitted. All
19 right.

20 Thank you, sir. You may step down?

21 THE WITNESS: Thank you, your Honor.

22 THE COURT: Good luck to you.

23 All right. How about this, I will leave this
24 up to counsel, if you wish. If you would like to sum up
25 your position, you may do so at this time. It is not

1 necessary. I am just making that offer.

2 MR. WAXLER: Thank you, your Honor for giving us
3 the opportunity to clear Mr. Gibbs' name, and what I
4 would like to add to the declarations that he has
5 submitted and the papers that we have submitted is that
6 Mr. Gibbs did not intend to disrespect this court or
7 disobey any orders of this court. Mr. Gibbs had no
8 knowledge that perhaps others may have knowingly or
9 unknowingly disregarded some orders of this court in
10 terms of the service of the knowledge of the October 17th
11 order.

12 The order itself, you know, did not require
13 service on the ISP's, but that was what Mr. Gibbs wanted
14 to do. And that is the undisputed testimony here today
15 that that is what he wanted to do was to have those ISP's
16 notified of that. And he took no action whatsoever, your
17 Honor, to do discovery, formal discovery of those ISP's
18 or ask the ISP's to follow-up on the information
19 provided.

20 So Mr. Gibbs stands before you, your Honor, he
21 is I think we could say humbled by this experience, and I
22 think he is regretful that he has perhaps been put in a
23 position where the court at least in the original OSC
24 made comments suggesting that he was a culpable party
25 here. And he is not, your Honor. And I hope you see it

1 that way too.

2 And I thank you very much for your time.

3 Appreciate the opportunity you have given us to clear his
4 name.

5 THE COURT: Thank you, counsel.

6 Anything from this side? You don't have to.

7 MR. PIETZ: I will keep it very brief, your Honor.

8 I can appreciate that there may be more
9 parties, other people who are more culpable than
10 Mr. Gibbs with respect to what has occurred in these
11 cases. However, I think the assertion that Mr. Gibbs is
12 merely an independent contract attorney is simply not
13 credible. I would just simply leave it at this, there is
14 ample evidence showing that Mr. Gibbs was been involved
15 since day one or at least very shortly thereafter on a
16 key level exercising operational control over this
17 litigation on a national basis.

18 So while I am sympathetic that perhaps to a
19 certain extent, maybe there are other people more
20 culpable, I will just leave it that certainly there is
21 ample evidence showing that Mr. Gibbs indeed played a key
22 role in all of this.

23 Thank you, your Honor.

24 THE COURT: Okay. I just have one question,
25 gentlemen. As a licensed attorney in this state,

1 particularly when it is only your name on the pleadings,
2 don't you think you have some responsibility to assure
3 the accuracy of those pleadings? Or is it permissible
4 simply to go they told me to do so or the senior partner
5 said it is okay, it may not have sounded right to me, but
6 they said it was okay. Could you do that really?

7 MR. WAXLER: Your Honor, I am going to suggest
8 that that is not what happened on a key issue.

9 THE COURT: Okay.

10 MR. WAXLER: On a key issue, the issue involving
11 Alan Cooper, there was not one shred of information that
12 Alan Cooper wasn't Alan Cooper until Mr. Gottfried's
13 letter in November of 2012 at which point Mr. Gibbs
14 immediately questioned whether this was accurate or not.
15 And the most important thing is that Mr. Gibbs filed no
16 further pleadings after that time which purported to rely
17 on Mr. Cooper being the assignee of AF Holdings. And so
18 Mr. Gibbs reacted to the notion.

19 He investigated and he did nothing further on
20 it. He was assured that Alan Cooper was Alan Cooper, but
21 so he -- he did something other than said somebody told
22 me. And on the other issues, your Honor, these were not
23 examples of him relying on anybody else to do things that
24 were improper. He was doing discovery. He was doing
25 investigations. They were supervising him, but he was

1 acting like a California lawyer doing what he thought in
2 his best judgment should be done as a California lawyer
3 in these cases.

4 THE COURT: All right.

5 MR. WAXLER: Thank you.

6 THE COURT: Thank you, counsel.

7 All right. Again, the matter stands
8 submitted. We are adjourned.

9 MR. WAXLER: Thank you, your Honor.

10 MR. PIETZ: Thank you, your Honor.

11 (Proceedings concluded.)

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CERTIFICATE

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I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Date: March 17, 2013

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

Exhibit G

Paul D:

Attached are .pdf documents for a new case to file in Illinois, Western District. I also put this in [REDACTED]

All you will need to do is draft the civil cover sheet, and file these (they are already in .pdf form).

Please email or call me with any questions.

--
Brett L. Gibbs, Esq. (SBN 251000)
Of Counsel to Prenda Law Inc.
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Attachments

| | | | | |
|----------|------|---|-----------------|--------|
| Download | View | untitled-[1.2] | text/html | 2.1 kB |
| Download | View | 1 COMPLAINT [REDACTED] | application/pdf | 137 kB |
| Download | View | 1-1 EXHIBIT A [REDACTED] | application/pdf | 152 kB |
| Download | View | 2 CORPORATE DISCLOSURE STATEMENT [REDACTED] | application/pdf | 89 kB |

[REDACTED]

I am giving you your first (and likely not last) Hacker Case for Minnesota. Because of the unique non-filing process (i.e. pocket service) in Minnesota, you (with the help of [REDACTED] will be able to initiate this suit on Monday. All of the necessary documents are attached.

In light of Minnesota's Rules on "Pocket Service," this Complaint *won't* be filed initially. Instead, *copies *(not the original) of the executed Summons and Complaint will be personally served on* [REDACTED] (via a process server -- I assume [REDACTED] will help you coordinate that), and after the process is completed, the server will need to fill out the Affidavit of Service (attached), and return this to you. A copy of the Summons, Complaint, and Affidavit of Service should be scanned and put up on [REDACTED]

[REDACTED] Also, any further documents you receive in this case (such as the Answer), or future cases, should all be docketed [REDACTED].

Please note that my information is everywhere that it can legally be. This is because we are trying to drive all of the phone calls to me, so we don't have to burden local counsel with settlement discussions. If, for instance, [REDACTED] would like to serve you personally, and contacts me to initiate that process, I will be in touch with you.

Please contact me if you have any questions. Remember, while this is going to be your case, you can still talk to me about it (and future ones) at any time. Understandably, considering this is the first time in Minnesota (for both of us), having a quick pre-service conversation to iron out any concerns or questions might be helpful. Please feel free to call me: 415-341-5318 or 415-381-3104.

Thanks, [REDACTED]

--
Brett L. Gibbs, Esq. (SBN 251000)
Of Counsel to Prenda Law Inc.
38 Miller Avenue, #263
Mill Valley, CA 94941
415-341-5318
blgibbs@wefightpiracy.com

Matt:

I talked with the Unauthorized Practice of Law Department in Florida, and got an explanation from an attorney over there about my ability to participate in this case. Rule 4-5.5 Unlicensed Practice of Law; Multi-Jurisdictional Practice of Law is the key.

At this point, applying to the Court for pro-hac vice counsel, at this point, is not the move. According to the attorney, and the Rule, I can still participate in these cases if I have reasonable expectation of being allowed to be admitted in pro-hac vice if I were to apply. The limit is 3 pro-hac vice's per 365-day calendar year, and as long as I qualify for that I am good with the California bar, I am fine negotiating with [REDACTED] because I have can reasonably expect to be admitted pro hac if need be.

That said, it seems that I can only enter on [REDACTED] and [REDACTED], as these are the clients whom are in the same state as I am licensed, thus the ones that I can reasonably expect to enter as pro hac counsel. (Rule 4-5.5(c)(3)(A)).

That said, feel free to tell [REDACTED] to contact me for settlement negotiations on the [REDACTED] clients. From there, he might get a good idea of where we stand on [REDACTED]

Thanks,

Brett Gibbs
(415) 325-5900

Matt:

We have noticed that there are two motions to dismiss in the cases involving [REDACTED] (i.e. [REDACTED]). The responses to those motions are due *Tomorrow*.

While we are drafting the Responses, we need to make sure that you are available tomorrow to file them.

I called you earlier today, and left you a message, but couldn't get in touch with you. Please give me a call tomorrow (around 9:00 am (PST)), or simply email back saying that you will be around tomorrow, and will be able to file the responses that we are currently drafting.

Thanks,

--
Brett L. Gibbs, Esq. (SBN 251000)
Of Counsel to Prenda Law Inc.
38 Miller Avenue, #263
Mill Valley, CA 94941
415-341-5318
blgibbs@wefightpiracy.com

Good sign... educating the judicial system, one judge at a time.

Though, how arrogant is this judge? "No, your honor, we are not the idiots here... it is clearly you and your staff without with requisite mental facilities"

Of well, a win is a win.

Exhibit H

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE OTIS D. WRIGHT
UNITED STATES DISTRICT JUDGE PRESIDING

- - -

Ingenuity 13 LLC,)
PLAINTIFF,)
VS.) NO. CV 12-8333 ODW
John Doe, et al.,)
DEFENDANT,)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
LOS ANGELES, CALIFORNIA
TUESDAY, APRIL 2, 2013

KATIE E. THIBODEAUX, CSR 9858
U.S. Official Court Reporter
312 North Spring Street, #436
Los Angeles, California 90012

1 APPEARANCES OF COUNSEL:

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12 San Francisco, CA 94108

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1 LOS ANGELES, CALIFORNIA; TUESDAY, APRIL 2, 2013

2 10:00 A.M.

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6 THE CLERK: Calling Item No. 1, CR 12-8333, ODW,
7 Ingenuity 13, LLC, versus John Doe, et al.

8 Counsel, please state your appearances.

9 MR. PIETZ: Morgan Pietz, P-I-E-T-Z, for the
10 putative John Doe defendant in 12-CV-8333.

11 MR. RANALLO: And Nicholas Ranallo for the same
12 Doe.

13 THE COURT: Morning, counsel.

14 MR. WAXLER: Andrew Waxler and Barry Brodsky, both
15 for Brett Gibbs who is here today.

16 THE COURT: By the way, thank you for your
17 submittal with respect to your efforts to effect service.
18 Thank you.

19 MR. BAKER: Phil Baker and Dan Leonard specially
20 appearing for Paul Hansmeier.

21 MR. LEONARD: Morning, your Honor.

22 MR. BAKER: And he is present today.

23 THE COURT: Where?

24 MR. BAKER: Mr. Hansmeier, will you stand up.

25 THE COURT: Front row.

1 MR. HALLORAN: Morning your Honor. My name is Tim
2 Halloran, Thomas Mazzacco on behalf of John Steele who is
3 also present.

4 THE COURT: Mr. Steele.

5 MR. STEELE: Yes.

6 MS. ROSING: Morning, your Honor. Heather Rosing
7 with Klinedinst PC with my colleagues Phil Vineyard and
8 Dave Majchrzak appearing on behalf of Paul Duffy, Angela
9 Van Den Hemel and Prenda Law, and Mr. Duffy and
10 Ms. Van Den Hemel are in the audience today.

11 THE COURT: Thank you.

12 Is that it?

13 MR. BAKER: Your Honor?

14 THE COURT: Yes.

15 MR. BAKER: There are other individuals pursuant
16 to your order here. They are not represented.

17 THE COURT: Mark Lutz?

18 MR. BAKER: Yes, he is present.

19 MR. LUTZ: Yes.

20 THE COURT: Mr. Lutz, welcome, sir. Did Alan --
21 well, do we have an Alan Cooper? Any Alan Cooper?

22 (No response.)

23 THE COURT: All right. Peter Hansmeier?

24 MR. HANSMEIER: Yes, your Honor.

25 THE COURT: Good morning, sir.

1 MR. HANSMEIER: Morning.

2 THE COURT: Any representatives of any other
3 representatives of Prenda Law, Livewire Holdings, AF
4 Holdings other than Mr. Lutz, Ingenuity 13 other than
5 Mr. Lutz and 6881 Forensics, LLC.

6 MS. ROSING: Mr. Duffy is appearing on behalf of
7 Prenda Law, your Honor.

8 THE COURT: All right. Here is my interest, and
9 we can proceed in any way that seems to make sense. I am
10 pleasantly surprised that we have everyone here.
11 Otherwise, I was going to be forced to draw reasonable
12 inferences from the facts as I know them.

13 It should be clear by now that this court's
14 focus has now shifted dramatically from the area of
15 protecting intellectual property rights to attorney
16 misconduct such misconduct which I think brings discredit
17 to the profession. That is much more of a concern now to
18 this court than what this litigation initially was about.

19 Mr. Steele -- well, let me do it this way. I
20 have questions of Mr. Steele. Mr. Steele can choose to
21 answer those questions or not. The same applies for
22 Mr. Duffy and Mr. Hansmeier.

23 Now, as the attorneys, how do you all propose
24 we proceed?

25 MR. BAKER: May I take the podium, your Honor?

1 THE COURT: Well, actually, we don't have one, but
2 we do have a lecturn and you are free to use it.

3 MR. MAZZUCCO: Thomas Mazzucco on behalf of
4 Mr. Steele.

5 Your Honor, in light of some of the
6 information that was in the transcript of March 11th,
7 2013 in this courtroom and some of the concerns that this
8 court has mentioned, at this point in time, if Mr. Steele
9 is called to testify, he is going to exercise his Fifth
10 Amendment privilege against forced testimony.

11 And we state for two reasons, one, there were
12 serious allegations made by the court and others of not
13 just attorney misconduct but the word fraud was used
14 several times in the transcript.

15 THE COURT: Should have been.

16 MR. MAZZUCCO: The next step is there is also an
17 issue involving attorney-client privilege. If Mr. Steele
18 was to testify, that privilege belongs to the client.

19 THE COURT: Which client might that be?

20 MR. MAZZUCCO: That would be several of his
21 clients. Mr. Halloran is going to handle that part of
22 the argument, but that is a two pronged argument, your
23 Honor.

24 THE COURT: Are you talking about AF Holdings,
25 Ingenuity 13, those clients?

1 MR. MAZZUCCO: Yes.

2 THE COURT: And you think there is a difference
3 between those clients and Mr. Steele?

4 MR. MAZZUCCO: I think there is, your Honor, yes.

5 THE COURT: From what I know about this case,
6 there is no difference at all, but that is why I am glad
7 Mr. Steele is here. Maybe he can clarify some of those
8 things, but if you say answering those kinds of questions
9 would incriminate him, I'll take you at your word.

10 MR. MAZZUCCO: No, your Honor. I'm not saying
11 they are going to incriminate him. I said it is his
12 Fifth Amendment privilege against forced testimony.
13 There was language on the record from March 11th where
14 this court made some accusatory statements about fraud
15 upon the court, things that were in the transcript.

16 THE COURT: Yes.

17 MR. MAZZUCCO: You leave my client with no
18 alternative but.

19 THE COURT: To rebut those statements.

20 MR. MAZZUCCO: He can rebut those statements in
21 the proper venue, your Honor. This is an order to show
22 cause in front of this court.

23 THE COURT: Let's cut to the chase. I am really
24 not interested in -- I want to know if some of my
25 conjecture is accurate. The only way I can find out is

1 to have the principles here and answer those questions.

2 Now, if you say he will not answer those
3 questions, then I will draw whatever inferences I think
4 are reasonable from the facts as I know them. This is an
5 opportunity for him to protect himself, to defend and
6 protect himself. It is up to him. So you are saying he
7 doesn't want to answer any questions, fine. I am not
8 going to go through the charade of asking the questions
9 and have him assert the Fifth.

10 MR. MAZZUCCO: Your Honor, he is not going to
11 respond to your questions.

12 THE COURT: All right. Fine.

13 What about Mr. Hansmeier? What is his
14 position, the same?

15 MR. BAKER: The exact same, your Honor.

16 THE COURT: All right. You may be seated.

17 Mr. Duffy.

18 MS. ROSING: Your Honor, Mr. Duffy and
19 Ms. Van Den Hemel will also be taking the fifth
20 amendment. Though, in response to your desire for
21 additional information, I do have approximately 25
22 minutes of argument, and I do have some exhibits that are
23 judicially noticeable.

24 THE COURT: On what? Relevant to what?

25 MS. ROSING: To the seven issues pending before

1 this court.

2 THE COURT: Give me the Cliff Note version. Just
3 give me a summary, what it is that you would like to --

4 MS. ROSING: Well, your Honor, what I would like
5 to argue because my clients are entitled to a reasonable
6 opportunity to be heard, we weren't allowed --

7 THE COURT: Excuse me. They are giving up that
8 right to be heard. Now, what have you got to say that is
9 under oath?

10 MS. ROSING: Well, your Honor, my arguments are
11 legal arguments.

12 THE COURT: I know. I am looking for facts. I
13 really am. I am not a looking for legal arguments.

14 MS. ROSING: Well, your Honor --

15 THE COURT: Can you tell me, for example, who
16 directs the litigation here in California? Who makes the
17 decision as to whether or not cases are dismissed or
18 settled for how much money? Can you tell me that?

19 MS. ROSING: Your Honor, I can't testify.

20 THE COURT: "Yes" or "no", please. Because we
21 need to move through this. Can you tell me that?

22 MS. ROSING: I personally cannot tell you that,
23 your Honor.

24 THE COURT: All right. Do you know whether or not
25 there is another Alan Cooper other than the one that was

1 here at the last hearing?

2 MS. ROSING: I am not aware of another Alan
3 Cooper, your Honor.

4 THE COURT: All right. Good.

5 What happens to the settlement money?

6 MS. ROSING: Your Honor, obviously, I represent
7 Mr. Duffy and Ms. Van Den Hemel. I don't have personal
8 knowledge of any of this.

9 THE COURT: Why weren't notices of related cases
10 filed? Who made the decision to hide from the court the
11 fact that all of these cases were related.

12 MS. ROSING: I do have a judicially noticeable
13 document on that, your Honor, where the Northern District
14 declined to relate the cases.

15 THE COURT: That is a different thing. That is
16 consolidating them.

17 MS. ROSING: It is actually an order declining to
18 relate them.

19 THE COURT: Same plaintiff, same firm, same causes
20 of action, and they are not related? Excuse me?

21 Okay. Tell me this. Who made the decision
22 not to disclose to the court the fact that the law firms
23 have a financial interest in the outcome of this
24 litigation?

25 MS. ROSING: Your Honor, there is no evidence

1 before this court at all that the law firm or any, well,
2 certainly, my clients, Paul Duffy or Angela Van Den
3 Hemel, have any financial interest in the outcome of this
4 litigation.

5 THE COURT: Excuse me. Did you read Hansmeier's
6 deposition?

7 MS. ROSING: Yes, I did, your Honor.

8 THE COURT: And then you make the statement you
9 just made?

10 MS. ROSING: Your Honor, there is no evidence that
11 Mr. Duffy or Ms. Van Den Hemel who is a W2 paralegal at
12 Prenda Law --

13 THE COURT: I understand that.

14 MS. ROSING: And I would be happy --

15 THE COURT: Wait a minute. The money goes to
16 Prenda Law's trust account; right?

17 MS. ROSING: Your Honor, I have no personal
18 knowledge, and I can't testify. But I do have an
19 argument I would like to present to your Honor.

20 THE COURT: Relative to what? To anything I just
21 asked?

22 MS. ROSING: Well, your Honor, it is a legal
23 argument with some objections and some judicially
24 noticeable documents.

25 THE COURT: Relative to what?

1 MS. ROSING: Well, the seven issues before the
2 court, the Alan Cooper issue, the discovery order issue,
3 the Wagar investigation, the Denton investigation, Form
4 CV30, the relationships, and March 11, the things that
5 are noticed in this court's OSC.

6 But, your Honor, we would be happy to submit
7 this in a brief if that would be more --

8 THE COURT: Good. Do that. Thank you.

9 We are done.

10 (Proceedings concluded.)
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CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Date: April 5, 2013

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

Exhibit I

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

INGENUITY 13 LLC,
Plaintiff,
v.
JOHN DOE,
Defendant.

Case No. 2:12-cv-8333-ODW(JCx)
ORDER ISSUING SANCTIONS

“The needs of the many outweigh the needs of the few.”
—Spock, *Star Trek II: The Wrath of Khan* (1982).

I. INTRODUCTION

Plaintiffs¹ have outmaneuvered the legal system.² They’ve discovered the nexus of antiquated copyright laws, paralyzing social stigma, and unaffordable defense costs. And they exploit this anomaly by accusing individuals of illegally downloading a single pornographic video. Then they offer to settle—for a sum

¹ The term “Plaintiffs” used in this order refers to AF Holdings LLC, Ingenuity 13 LLC, as well as related entities, individuals, and attorneys that collaborated in the underlying scheme fronted by AF Holdings and Ingenuity 13.

² This order concerns conduct committed in the following related cases: *AF Holdings LLC v. Doe*, No. 2:12-cv-6636-ODW(JCx) (C.D. Cal. filed Aug. 1, 2012); *AF Holdings LLC v. Doe*, No. 2:12-cv-6669-ODW(JCx) (C.D. Cal. filed Aug. 2, 2012); *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6662-ODW(JCx) (C.D. Cal. filed Aug. 2, 2012); *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6668-ODW(JCx) (C.D. Cal. filed Aug. 2, 2012); *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-8333-ODW(JCx) (C.D. Cal. filed Sept. 27, 2012).

1 calculated to be just below the cost of a bare-bones defense. For these individuals,
2 resistance is futile; most reluctantly pay rather than have their names associated with
3 illegally downloading porn. So now, copyright laws originally designed to
4 compensate starving artists allow, starving attorneys in this electronic-media era to
5 plunder the citizenry.

6 Plaintiffs do have a right to assert their intellectual-property rights, so long as
7 they do it right. But Plaintiffs' filing of cases using the same boilerplate complaint
8 against dozens of defendants raised the Court's alert. It was when the Court realized
9 Plaintiffs engaged their cloak of shell companies and fraud that the Court went to
10 battlestations.

11 II. PROCEDURAL HISTORY

12 The Court issued its February 7, 2013 Order to Show Cause re Sanctions to
13 allow counsel, Brett Gibbs, to explain why he ignored the Court's discovery-stay
14 Order, filed complaints without reasonable investigation, and defrauded the Court by
15 asserting a copyright assignment secured with a stolen identity. (ECF No. 48.) As
16 evidence materialized, it turned out that Gibbs was just a redshirt.

17 Gibbs's behavior in the porno-trolling collective was controlled by several
18 attorneys, under whom other individuals also took their orders. Because it was
19 conceivable that these attorneys (and others) were culpable for Gibbs's conduct, the
20 Court ordered these parties to appear.

21 The following additional parties were ordered to appear: (a) John Steele, of
22 Steele Hansmeier PLLC, Prenda Law, Inc., and/or Livewire Holdings LLC; (b) Paul
23 Hansmeier, of Steele Hansmeier PLLC and/or Livewire Holdings LLC; (c) Paul
24 Duffy, of Prenda Law, Inc.; (d) Angela Van Den Hemel, of Prenda Law, Inc.;
25 (e) Mark Lutz, of Prenda Law, Inc., AF Holdings LLC, and/or Ingenuity 13 LLC;
26 (f) Alan Cooper, of AF Holdings LLC; (g) Peter Hansmeier, of 6881 Forensics, LLC;
27 (h) Prenda Law, Inc.; (i) Livewire Holdings LLC; (j) Steele Hansmeier PLLC; (k) AF
28 Holdings LLC; (l) Ingenuity 13 LLC; (m) 6881 Forensics, LLC; and (n) Alan Cooper,

1 of 2170 Highway 47 North, Isle, MN 56342. (ECF Nos. 66, 86.) These parties were
2 ordered to show cause why they should not be sanctioned for their behind-the-scenes
3 role in the conduct facially perpetrated by Gibbs. These parties were also ordered to
4 explain the nature of their operations, relationships, and financial interests.

5 III. LEGAL STANDARD

6 The Court has a duty to supervise the conduct of attorneys appearing before it.
7 *Erickson v. Newmar Corp.*, 87 F.3d 298, 301 (9th Cir. 1996). The power to punish
8 contempt and to coerce compliance with issued orders is based on statutes and the
9 Court's inherent authority. *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512
10 U.S. 821, 831 (1994). Though this power must be exercised with restraint, the Court
11 has wide latitude in fashioning appropriate sanctions to fit the conduct. *See Roadway*
12 *Express, Inc. v. Piper*, 447 U.S. 752, 764–65 (1980).

13 Under the Court's inherent authority, parties and their lawyers may be
14 sanctioned for improper conduct. *Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001).
15 This inherent power extends to a full range of litigation abuses, the litigant must have
16 engaged in bad faith or willful disobedience of a court's order. *Id.* at 992. Sanctions
17 under the Court's inherent authority are particularly appropriate for fraud perpetrated
18 on the court. *See Chambers v. NASCO, Inc.*, 501 U.S. 32, 54 (1991).

19 IV. DISCUSSION

20 A. Findings of fact

21 Based on the evidence presented on the papers and through sworn testimony,
22 the Court finds the following facts, including those based on adverse inferences drawn
23 from Steele, Hansmeier, Duffy, and Van Den Hemel's blanket refusal to testify.³

24 1. Steele, Hansmeier, and Duffy ("Principals") are attorneys with shattered
25 law practices. Seeking easy money, they conspired to operate this enterprise and

26
27 ³ Even if their refusal was based on the Fifth Amendment privilege against self-incrimination, the
28 Court still may draw adverse inferences against them in this civil proceeding. *Baxter v. Palmigiano*,
425 U.S. 308, 318 (1976).

1 formed the AF Holdings and Ingenuity 13 entities (among other fungible entities) for
2 the sole purpose of litigating copyright-infringement lawsuits. They created these
3 entities to shield the Principals from potential liability and to give an appearance of
4 legitimacy.

5 2. AF Holdings and Ingenuity 13 have no assets other than several
6 copyrights to pornographic movies. There are no official owners or officers for these
7 two offshore entities, but the Principals are the de facto owners and officers.

8 3. The Principals started their copyright-enforcement crusade in about 2010,
9 through Prenda Law, which was also owned and controlled by the Principals. Their
10 litigation strategy consisted of monitoring BitTorrent download activity of their
11 copyrighted pornographic movies, recording IP addresses of the computers
12 downloading the movies, filing suit in federal court to subpoena Internet Service
13 Providers (“ISPs”) for the identity of the subscribers to these IP addresses, and
14 sending cease-and-desist letters to the subscribers, offering to settle each copyright-
15 infringement claim for about \$4,000.

16 4. This nationwide strategy was highly successful because of statutory-
17 copyright damages, the pornographic subject matter, and the high cost of litigation.
18 Most defendants settled with the Principals, resulting in proceeds of millions of
19 dollars due to the numerosity of defendants. These settlement funds resided in the
20 Principals’ accounts and not in accounts belonging to AF Holdings or Ingenuity 13.
21 No taxes have been paid on this income.

22 5. For defendants that refused to settle, the Principals engaged in vexatious
23 litigation designed to coerce settlement. These lawsuits were filed using boilerplate
24 complaints based on a modicum of evidence, calculated to maximize settlement
25 profits by minimizing costs and effort.

26 6. The Principals have shown little desire to proceed in these lawsuits when
27 faced with a determined defendant. Instead of litigating, they dismiss the case. When
28 pressed for discovery, the Principals offer only disinformation—even to the Court.

1 7. The Principals have hired willing attorneys, like Gibbs, to prosecute these
2 cases. Though Gibbs is culpable for his own conduct before the Court, the Principals
3 directed his actions. In some instances, Gibbs operated within narrow parameters
4 given to him by the Principals, whom he called “senior attorneys.”

5 8. The Principals maintained full control over the entire copyright-litigation
6 operation. The Principals dictated the strategy to employ in each case, ordered their
7 hired lawyers and witnesses to provide disinformation about the cases and the nature
8 of their operation, and possessed all financial interests in the outcome of each case.

9 9. The Principals stole the identity of Alan Cooper (of 2170 Highway 47
10 North, Isle, MN 56342). The Principals fraudulently signed the copyright assignment
11 for “Popular Demand” using Alan Cooper’s signature without his authorization,
12 holding him out to be an officer of AF Holdings. Alan Cooper is not an officer of AF
13 Holdings and has no affiliation with Plaintiffs other than his employment as a
14 groundskeeper for Steele. There is no other person named Alan Cooper related to AF
15 Holdings or Ingenuity 13.

16 10. The Principals ordered Gibbs to commit the following acts before this
17 Court: file copyright-infringement complaints based on a single snapshot of Internet
18 activity; name individuals as defendants based on a statistical guess; and assert a
19 copyright assignment with a fraudulent signature. The Principals also instructed
20 Gibbs to prosecute these lawsuits only if they remained profitable; and to dismiss
21 them otherwise.

22 11. Plaintiffs have demonstrated their willingness to deceive not just this
23 Court, but other courts where they have appeared. Plaintiffs’ representations about
24 their operations, relationships, and financial interests have varied from feigned
25 ignorance to misstatements to outright lies. But this deception was calculated so that
26 the Court would grant Plaintiffs’ early-discovery requests, thereby allowing Plaintiffs
27 to identify defendants and exact settlement proceeds from them. With these granted
28 requests, Plaintiffs borrow the authority of the Court to pressure settlement.

1 **B. Sanctions**

2 Although the Court originally notified the parties that sanctions would be
3 imposed under Federal Rule of Civil Procedure 11(b)(3) and Local Rule 83-3, the
4 Court finds it more appropriate to sanction the parties under its inherent authority. *See*
5 *In re DeVille*, 361 F.3d 539, 550 (9th Cir. 2004) (“[T]he bankruptcy court’s failure to
6 specify, in advance of the disciplinary proceedings, that its inherent power was a basis
7 for those proceedings, did not serve to undercut its sanctioning authority.”). The
8 sanctions for Plaintiffs’ misconduct are as follows.

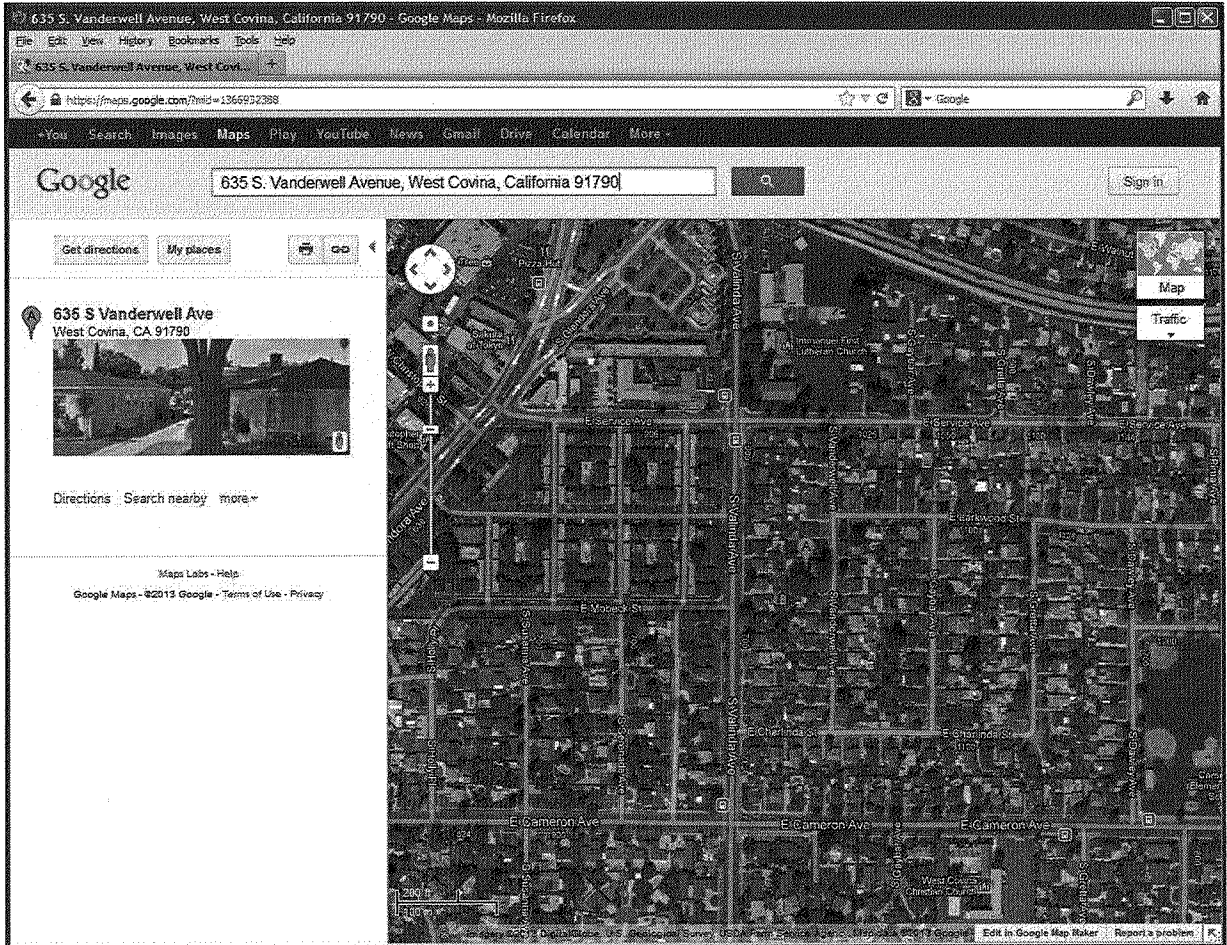
9 1. *Rule 11 sanctions*

10 The Court maintains that its prior analysis of Plaintiffs’ Rule 11 violations is
11 accurate. (ECF No. 48.) Plaintiffs can only show that someone, using an IP address
12 belonging to the subscriber, was seen online in a torrent swarm. But Plaintiffs did not
13 conduct a sufficient investigation to determine whether that person actually
14 downloaded enough data (or even anything at all) to produce a viewable video.
15 Further, Plaintiffs cannot conclude whether that person spoofed the IP address, is the
16 subscriber of that IP address, or is someone else using that subscriber’s Internet
17 access. Without better technology, prosecuting illegal BitTorrent activity requires
18 substantial effort in order to make a case. It is simply not economically viable to
19 *properly* prosecute the illegal download of a single copyrighted video.

20 Enter Plaintiffs and their cottage-industry lawsuits. Even so, the Court is not as
21 troubled by their lack of reasonable investigation as by their cover-up. Gibbs argued
22 that a deep inquiry was performed *prior* to filing. Yet these arguments are not
23 credible and do not support Gibbs’s conclusions. Instead, Gibbs’s arguments suggest
24 a hasty after-the-fact investigation, and a shoddy one at that.

25 For instance, Gibbs characterized Marvin Denton’s property as “a very large
26 estate consisting of a gate for entry and multiple separate houses/structures on the
27 property.” (ECF No. 49, at 19.) He stated this to demonstrate the improbability that
28 Denton’s Wi-Fi signal could be received by someone outside the residence. But

1 Denton's property is not a large estate; it is a small house in a closely packed
2 residential neighborhood. There are also no gates visible.



20 Gibbs's statement is a blatant lie. His statement resembles other statements
21 given by Plaintiffs in this and their other cases: statements that sound reasonable but
22 lack truth. Thus, the Court concludes that Gibbs, even in the face of sanctions,
23 continued to make factual misrepresentations to the Court.

24 Nevertheless, Rule 11 sanctions are inappropriate here because it is the wrong
25 sanctions vehicle at this stage of litigation. The cases have already been dismissed
26 and monetary sanctions are not available. Fed. R. Civ. P 11(c)(5)(B) (a court cannot
27 impose a monetary sanction on its own unless it issued the show-cause order before
28 voluntary dismissal). The more appropriate sanction for these Rule 11 violations is

1 what the Court had already imposed: denial of requests for early discovery. (ECF
2 No. 28.)

3 2. *Sanctions under the Court's inherent authority*

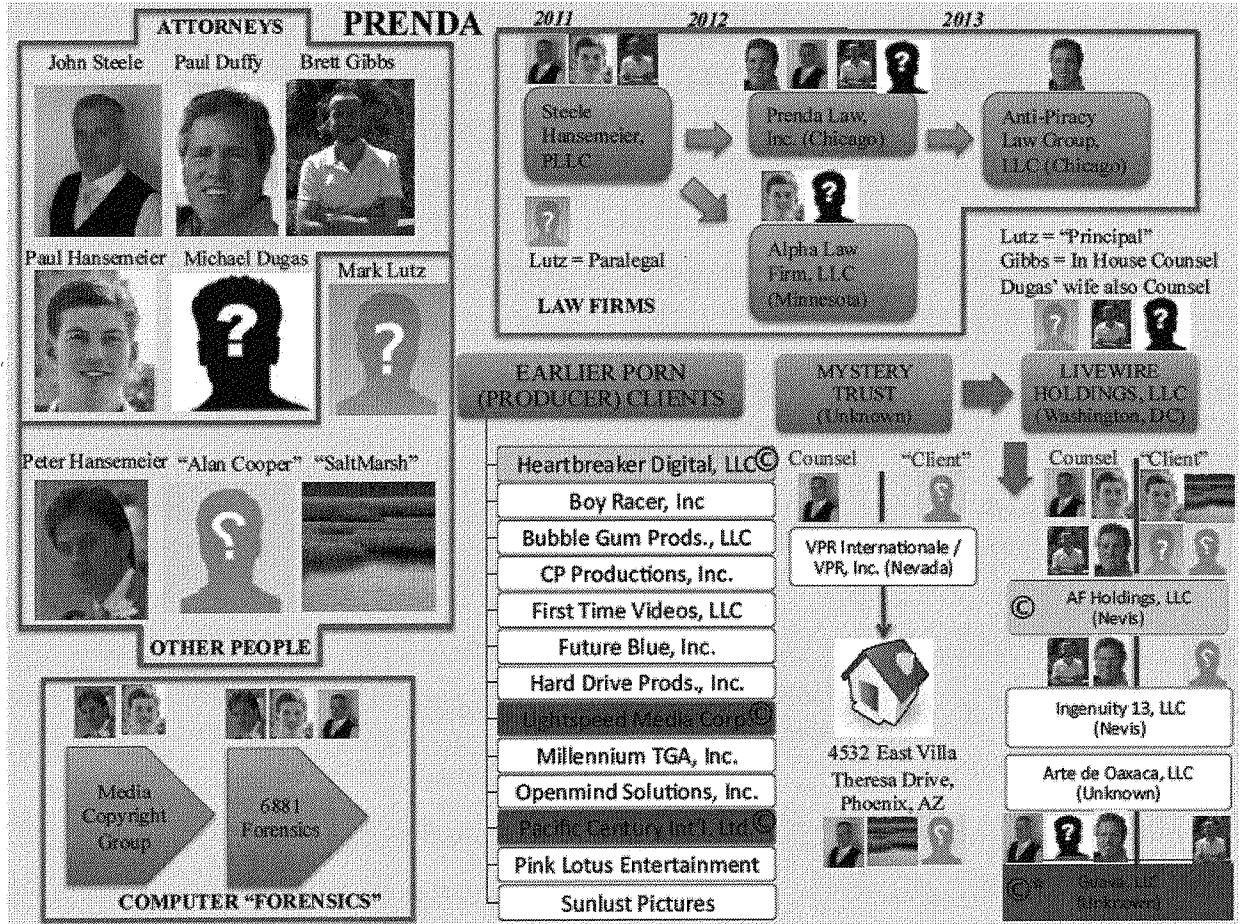
4 In addition to Gibbs's misrepresentations, there is the matter of the ignored
5 Court Order vacating early discovery. (ECF No. 28.) The evidence does not show
6 that the Order was ignored because of miscommunication among Plaintiffs. The
7 Order was purposely ignored—hoping that the ISPs were unaware of the vacatur and
8 would turn over the requested subscriber information.

9 Then there is the Alan Cooper forgery. Although a recipient of a copyright
10 assignment need not sign the document, a forgery is still a forgery. And trying to pass
11 that forged document by the Court smacks of fraud. Unfortunately, other than these
12 specific instances of fraud, the Court cannot make more detailed findings of fraud.

13 Nevertheless, it is clear that the Principals' enterprise relies on deception. Part
14 of that ploy requires cooperation from the courts, which could only be achieved
15 through deception. In other words, if the Principals assigned the copyright to
16 themselves, brought suit in their own names, and disclosed that they had the sole
17 financial interest in the suit, a court would scrutinize their conduct from the outset.
18 But by being less than forthcoming, they defrauded the Court. They anticipated that
19 the Court would blindly approve their early-discovery requests, thereby opening the
20 door to more settlement proceeds.

21 The Principals also obfuscate other facts, especially those concerning their
22 operations, relationships, and financial interests. The Principals' web of
23 disinformation is so vast that the Principals cannot keep track—their explanations of
24 their operations, relationships, and financial interests constantly vary. This makes it
25 difficult for the Court to make a concrete determination.

26 Still, the Court adopts as its finding the following chart detailing Plaintiffs'
27 relationships. Though incomplete, this chart is about as accurate as possible given
28 Plaintiffs' obfuscation.



As for Van Den Hemel, Lutz, and Hansemeier, they are not without fault even though they acted under orders from the Principals. They were not merely assimilated; they knowingly participated in this scheme, reaping the benefits when the going was good. Even so, their status as non-attorneys *and* non-parties severely limits the sanctions that could be levied against them.

Despite these findings, the Court deems these findings insufficient to support a large monetary sanction—a seven-digit sanction adequate to deter Plaintiffs from continuing their profitable enterprise. Even if the Court enters such a sanction, it is certain that Plaintiffs will transfer out their settlement proceeds and plead paucity. Yet Plaintiffs’ bad-faith conduct supports other more fitting sanctions.

///

1 First, an award of attorney's fees to Defendants is appropriate. This award
2 compensates them for expenses incurred in this vexatious lawsuit, especially for their
3 efforts in countering and revealing the fraud perpetrated by Plaintiffs.

4 So far, only Morgan Pietz and Nicholas Ranallo have appeared.⁴ Upon review,
5 the Court finds Pietz's expenditure of 120.5 hours at an hourly rate of \$300 reasonable
6 based on his experience, work quality, and quantity of necessary papers filed with the
7 Court. (ECF No. 102.) Although many of these hours were spent after the case was
8 dismissed, these hours were spent in connection with the sanction hearings—time well
9 spent. Similarly, the attorney's fees and costs incurred by Ranallo also appear
10 reasonable.

11 Therefore, the Court awards attorney's fees and costs in the sum of \$40,659.86
12 to Doe: \$36,150.00 for Pietz's attorney's fees; \$1,950.00 for Ranallo's attorney's fees;
13 \$2,226.26 for Pietz's costs; and \$333.60 for Ranallo's costs. As a punitive measure,
14 the Court doubles this award, yielding \$81,319.72.⁵ This punitive multiplier is
15 justified by Plaintiffs' brazen misconduct and relentless fraud. The Principals, AF
16 Holdings, Ingenuity 13, Prenda Law, and Gibbs are liable for this sum jointly and
17 severally, and shall pay this sum within 14 days of this order.

18 Second, there is little doubt that that Steele, Hansmeier, Duffy, Gibbs suffer
19 from a form of moral turpitude unbecoming of an officer of the court. To this end, the
20 Court will refer them to their respective state and federal bars.

21 Third, though Plaintiffs boldly probe the outskirts of law, the only enterprise
22 they resemble is RICO. The federal agency eleven decks up is familiar with their
23 prime directive and will gladly refit them for their next voyage. The Court will refer
24 this matter to the United States Attorney for the Central District of California. The
25 will also refer this matter to the Criminal Investigation Division of the Internal
26

27 ⁴ They appeared on behalf of the Doe Defendant in the case *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-
8333-ODW(JCx) (C.D. Cal. filed Sept. 27, 2012).

28 ⁵ This punitive portion is calculated to be just below the cost of an effective appeal.

1 Revenue Service and will notify all judges before whom these attorneys have pending
2 cases. For the sake of completeness, the Court requests Pietz to assist by filing a
3 report, within 14 days, containing contact information for: (1) every bar (state and
4 federal) where these attorneys are admitted to practice; and (2) every judge before
5 whom these attorneys have pending cases.

6 4. *Local Rule 83-3 sanctions*

7 For the same reasons stated above, the Court will refer Duffy and Gibbs to the
8 Standing Committee on Discipline (for this District) under Local Rule 83-3.

9 **V. CONCLUSION**

10 Steele, Hansmeier, Duffy, Gibbs, Prenda Law, AF Holdings, and Ingenuity 13
11 shall pay, within 14 days of this order, attorney's fees and costs totaling \$81,319.72 to
12 Doe. The Court enters additional nonmonetary sanctions in accordance with the
13 discussion above.

14 **IT IS SO ORDERED.**

15 May 6, 2013

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OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE

Exhibit J

ORIGINAL

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In Propria Persona

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FILED
CLERK, U.S. DISTRICT COURT
MAY 17 2013
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INGENUITY 13 LLC,

Plaintiff,

v.

JOHN DOE,

Defendant.

CASE NO. 2:12-CV-8333-ODW (JCx)

Judge: Hon. Otis D. Wright, II
Magistrate Judge: Hon. Jacqueline Chooljian

**JOHN STEELE'S NOTICE OF APPEAL
AND REPRESENTATION STATEMENT**

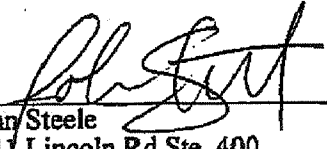
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NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that John Steele hereby appeals to the United States Court of Appeals for the Ninth Circuit from: (1) the Court's May 6, 2013 Order Issuing Sanctions (ECF No. 130), attached as Exhibit A; (2) the Court's Order Granting Request for Leave to File a Reply (ECF No. 116) attached as Exhibit B; (3) the Court's March 14, 2013 Order to show cause (ECF No. 86) (amending and incorporating ECF No. 48) attached as Exhibit C; and (4) the Court's Order to appear (ECF No. 66) attached as Exhibit D.

Respectfully submitted,

DATED: May 17, 2013



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