

1 Lincoln D. Bandlow, Esq. (CA #170449)
Fox Rothschild LLP
2 10250 Constellation Blvd., Suite 900
Los Angeles, CA 90067
3 Tel.: (310) 598-4150
Fax: (310) 556-9828
4 bandlow@foxrothschild.com
Attorneys for Plaintiff

5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

11 STRIKE 3 HOLDINGS, LLC,
12 Plaintiff,
13 vs.
14 JOHN DOE subscriber assigned IP address
75.25.143.119,
15 Defendant.
16

Case Number:
**COMPLAINT FOR COPYRIGHT
INFRINGEMENT - DEMAND FOR JURY
TRIAL**

17 Plaintiff, Strike 3 Holdings, LLC, brings this complaint against John Doe subscriber assigned IP
18 address 75.25.143.119, and alleges as follows:

19 **Introduction**

20 1. This is a case about the ongoing and wholesale copyright infringement of
21 Plaintiff’s movies by Defendant, currently known only by an IP address.

22 2. Plaintiff, Strike 3 Holdings, LLC (“Strike 3” or “Plaintiff”) is the owner of award
23 winning, critically acclaimed adult motion pictures.

24 3. Strike 3’s motion pictures are distributed through the *Blacked*, *Tushy*, and *Vixen*
25 adult websites and DVDs. With more than 20 million unique visitors to its websites each
26 month, the brands are famous for redefining adult content, creating high-end, artistic, and
27 performer-inspiring motion pictures produced with a Hollywood style budget and quality.

28 4. Defendant is, in a word, stealing these works on a grand scale. Using the

1 BitTorrent protocol, Defendant is committing rampant and wholesale copyright infringement by
2 downloading Strike 3's motion pictures as well as distributing them to others. Defendant did
3 not infringe just one or two of Strike 3's motion pictures, but has been recorded infringing 41
4 movies over an extended period of time.

5 5. Although Defendant attempted to hide this theft by infringing Plaintiff's content
6 anonymously, Defendant's Internet Service Provider ("ISP"), AT&T Inc. ("AT&T U-verse"),
7 can identify Defendant through his or her IP address 75.25.143.119.

8 6. This is a civil action seeking damages under the United States Copyright Act of
9 1976, as amended, 17 U.S.C. §§ 101 et seq. (the "Copyright Act").

10 **Jurisdiction and Venue**

11 7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
12 § 1331 (federal question); and 28 U.S.C. § 1338 (jurisdiction over copyright actions).

13 8. This Court has personal jurisdiction over Defendant because Defendant used an
14 Internet Protocol address ("IP address") traced to a physical address located within this District
15 to commit copyright infringement. Therefore (i) Defendant committed the tortious conduct
16 alleged in this Complaint in this State; and, (ii) Defendant resides in this State and/or;
17 (iii) Defendant has engaged in substantial – and not isolated – business activity in this State.

18 9. Plaintiff used IP address geolocation technology by Maxmind Inc. ("Maxmind"),
19 an industry-leading provider of IP address intelligence and online fraud detection tools, to
20 determine that Defendant's IP address traced to a physical address in this District. Over 5,000
21 companies, along with United States federal and state law enforcement, use Maxmind's GeoIP
22 data to locate Internet visitors, perform analytics, enforce digital rights, and efficiently route
23 Internet traffic.

24 10. Pursuant to 28 U.S.C. § 1391(b) and (c), venue is proper in this district because:
25 (i) a substantial part of the events or omissions giving rise to the claims occurred in this District;
26 and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this
27 State. Additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for
28

1 copyright cases) because Defendant or Defendant’s agent resides or may be found in this
2 District.

3 **Parties**

4 11. Strike 3 is a Delaware limited liability company located at 2140 S. Dupont Hwy,
5 Camden, DE.

6 12. Plaintiff currently can only identify Defendant by his or her IP address.
7 Defendant’s IP address is 75.25.143.119. Defendant’s name and address can be provided by
8 Defendant’s Internet Service Provider.

9 **Factual Background**

10 ***Plaintiff’s Award-Winning Copyrights***

11 13. Strike 3’s subscription based websites proudly boast a paid subscriber base that
12 is one of the highest of any adult-content sites in the world. Strike 3 also licenses its motion
13 pictures to popular broadcasters and Strike 3’s motion pictures are the number one selling adult
14 DVDs in the United States.

15 14. Strike 3’s motion pictures and websites have won numerous awards, such as
16 “best cinematography,” “best new studio,” and “adult site of the year.” One of Strike 3’s
17 owners, two-time director of the year Greg Lansky, has been dubbed the adult film industry’s
18 “answer to Steven Spielberg.”

19 15. Strike 3’s motion pictures have had positive global impact, leading more adult
20 studios to invest in better content, higher pay for performers, and to treat each performer with
21 respect and like an artist.

22 16. Unfortunately, Strike 3, like a large number of other makers of motion picture
23 and television works, has a major problem with Internet piracy. Often appearing among the
24 most infringed popular entertainment content on torrent websites, Strike 3’s motion pictures are
25 among the most pirated content in the world.

26 ***Defendant Used the BitTorrent File Distribution Network to Infringe Plaintiff’s Copyrights***

27 17. BitTorrent is a system designed to quickly distribute large files over the Internet.
28 Instead of downloading a file, such as a movie, from a single source, BitTorrent users are able

1 to connect to the computers of other BitTorrent users in order to simultaneously download and
2 upload pieces of the file from and to other users.

3 18. To use BitTorrent to download a movie, the user has to obtain a “torrent” file for
4 that movie, from a torrent website. The torrent file contains instructions for identifying the
5 Internet addresses of other BitTorrent users who have the movie, and for downloading the
6 movie from those users. Once a user downloads all of the pieces of that movie from the other
7 BitTorrent users, the movie is automatically reassembled into its original form, ready for
8 playing.

9 19. BitTorrent’s popularity stems from the ability of users to directly interact with
10 each other to distribute a large file without creating a heavy load on any individual source
11 computer and/or network. It enables Plaintiff’s motion pictures, which are often filmed in state
12 of the art 4kHD, to be transferred quickly and efficiently. Moreover, BitTorrent is designed so
13 that the more files a user offers for download to others, the faster the user’s own downloads
14 become. In this way, each user benefits from illegally distributing other’s content and violating
15 copyright laws.

16 20. Each piece of a BitTorrent file is assigned a unique cryptographic hash value.

17 21. The cryptographic hash value of the piece (“piece hash”) acts as that piece’s
18 unique digital fingerprint. Every digital file has one single possible cryptographic hash value
19 correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each
20 piece is properly routed amongst BitTorrent users as they engage in file sharing.

21 22. The entirety of the digital media file also has a unique cryptographic hash value
22 (“file hash”), which acts as a digital fingerprint identifying the digital media file (e.g. a movie).
23 Once infringers complete the downloading of all pieces which comprise a digital media file, the
24 BitTorrent software uses the file hash to determine that the file is complete and accurate.

25 23. Defendant used the BitTorrent file network to illegally download and distribute
26 Plaintiff’s copyrighted motion pictures.

27 24. Plaintiff’s investigator, IPP International U.G. (“IPP”) established direct TCP/IP
28 connections with the Defendant’s IP address as outlined on Exhibit A while Defendant was

1 using the BitTorrent file distribution network.

2 25. While Defendant was infringing, IPP downloaded from Defendant one or more
3 pieces of the digital media files containing Strike 3's motion pictures listed on Exhibit A
4 ("Works").

5 26. A full copy of each digital media file was downloaded from the BitTorrent file
6 distribution network, and it was confirmed through independent calculation that the file hash
7 correlating to each file matched the file hash downloaded by Defendant.

8 27. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's
9 Works without authorization.

10 28. At no point was Plaintiff's copyrighted content uploaded by IPP to any
11 BitTorrent user.

12 29. The digital media files have been verified to contain a digital copy of a motion
13 picture that is identical (or alternatively, strikingly similar or substantially similar) to Plaintiff's
14 corresponding original copyrighted Works.

15 30. Defendant's infringement is continuous and ongoing. Absent this lawsuit,
16 Plaintiff knows of no way to effectively prevent Defendant from infringing Plaintiff's motion
17 pictures.

18 31. Plaintiff owns the copyrights to the Works and the Works have either been
19 registered with the United States Copyright Office or have pending copyright registrations. The
20 United States Copyright Office registration information for the Works, including the registration
21 number, is outlined on Exhibit A.

22 32. For Plaintiff's Works that are still pending registration, a complete application,
23 fees, and deposit materials for copyright registration have been received by the Copyright
24 Office in compliance with the Copyright Act, 17 U.S.C. §§ 101, et seq. The application number
25 is listed on Exhibit A.

26 33. Plaintiff is entitled to seek statutory damages and attorneys' fees under 17 U.S.C.
27 § 501 of the United States Copyright Act.

COUNT I

Direct Copyright Infringement

34. The allegations contained in paragraphs 1-33 are hereby re-alleged as if fully set forth herein.

35. Plaintiff is the owner of the Works, which is an original work of authorship.

36. Defendant copied and distributed the constituent elements of Plaintiff’s Works using the BitTorrent protocol.

37. At no point in time did Plaintiff authorize, permit or consent to Defendant’s distribution of its Works, expressly or otherwise.

38. As a result of the foregoing, Defendant violated Plaintiff’s exclusive right to:

(A) Reproduce its Works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Distribute copies of the Works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted Works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the Works’ images in any sequence and/or by making the sounds accompanying the Works’ audible and transmitting said performance of the work, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101’s definitions of “perform” and “publically” perform); and

(D) Display the copyrighted Works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works non-sequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101’s definition of “publicly” display).

39. Defendant’s infringements were committed “willfully” within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant from continuing to infringe Plaintiff’s copyrighted Works;

(B) Order that Defendant delete and permanently remove the digital media files

1 relating to Plaintiff's Works from each of the computers under Defendant's possession, custody
2 or control;

3 (C) Order that Defendant delete and permanently remove the infringing copies of the
4 Works Defendant has on computers under Defendant's possession, custody or control;

5 (D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. §
6 504(a) and (c);

7 (E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. §
8 505; and

9 (F) Grant Plaintiff any other and further relief this Court deems just and proper.

10 **DEMAND FOR A JURY TRIAL**

11 Plaintiff hereby demands a trial by jury on all issues so triable.

12 Respectfully submitted,

13 By: /s/ Lincoln D. Bandlow
14 Lincoln D. Bandlow, Esq.
15 FOX ROTHSCHILD LLP
16 *Attorney for Plaintiff*
17
18
19
20
21
22
23
24
25
26
27
28

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
STRIKE 3 HOLDINGS, LLC
(b) County of Residence of First Listed Plaintiff Kent County, DE
(c) Attorneys (Firm Name, Address, and Telephone Number)
Fox Rothschild LLP, 10250 Constellation Blvd., Suite 900
Los Angeles, CA 90067, Tel.: (310) 598-4150

DEFENDANTS
JOHN DOE subscriber assigned IP address 75.25.143.119
County of Residence of First Listed Defendant <County> County
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes categories like Insurance, Marine, Miller Act, Negotiable Instrument, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation-Transfer
8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
17 U.S.C. § 101
Brief description of cause:
Copyright Infringement

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ 150000
CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
(Place an "X" in One Box Only) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 10/17/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Lincoln D. Bandlow

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.