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9
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

11 **MILLENNIUM FILMS, INC.,**
12 **LHF PRODUCTIONS, INC., and**
13 **CRIMINAL PRODUCTIONS, INC.,**

14 Plaintiffs,

15 v.

16 **DOE-76.170.195.248,**

17 Defendant.

Case No.: 2:16-cv-04716

COMPLAINT;
EXHIBIT 1 & 2

COPYRIGHT INFRINGEMENT

DEMAND FOR JURY TRIAL

18 **COMPLAINT**

19 Plaintiffs Millennium Films, Inc., LHF Productions, Inc., and Criminal
20 Productions, Inc., complain and allege as follows:
21

22 ///

23
24 Millennium Films, Inc. / Nu Image, Inc.
25 6423 Wilshire Blvd.
Los Angeles, California 90048

COMPLAINT
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JURISDICTION AND VENUE

1. This is a suit for copyright infringement under 17 U.S.C. §§ 101 et seq. (“The Copyright Act”).

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a) as the defendant is believed to reside in this district.

PARTIES

LHF Productions, Inc.

4. Plaintiff LHF Productions, Inc., (“LHF”) is a Nevada corporation with principal offices in Los Angeles, California and an affiliate of Nu Image, Inc. / Millennium Films, Inc. production companies and distributors of a notable catalog of major motion pictures.

The Rights of LHF

5. The motion picture *London Has Fallen* is a major motion picture and a sequel to the successful 2013 theatrical release *Olympus Has Fallen*.

6. *London Has Fallen* is an action thriller about what happens after the death of the British prime minister, where the world's most powerful leaders gather in

1 London to pay their respects. Without warning, terrorists unleash a devastating
2 attack that leaves the city in chaos and ruins.

3 7. *London Has Fallen* is protected by the Copyright Act in registration PA 1-
4 982-832, March 14, 2016, and other registrations. Exhibit 1.

5
6 8. Under The Copyright Act, LHF is the proprietor of copyrights and related
7 interest needed to bring suit.

8 9. The motion picture *London Has Fallen* contains wholly original material
9 that is copyrightable subject matter under the laws of the United States.

10 10. The motion picture *London Has Fallen* is currently offered for sale in
11 commerce.

12
13 11. Defendant had notice of LHF's rights through general publication and
14 advertising and more specifically as identified in the content of the motion picture,
15 advertising associated with the motion picture and copies, each of which bore a
16 proper copyright notice.

17 12. LHF comes to court seeking relief as the motion picture *London Has Fallen*,
18 while still in theatres, became one of the most trafficked films in the BitTorrent
19 network and is being illegally downloaded and distributed countless times
20 worldwide with many confirmed instances of infringing activity traced to this
21 district.
22

Criminal Productions, Inc.

13. Plaintiff Criminal Productions, Inc. (“CPI”) is a Nevada corporation with principal offices in Los Angeles, California and an affiliate of Nu Image, Inc. / Millennium Films, Inc. production companies and distributors of a notable catalog of major motion pictures.

The Rights of CPI

14. *Criminal* is a major motion picture released in theatres in April 2016.

15. The motion picture *Criminal* is action thriller about what happens when the memories, secrets and skills of a dead CIA operative are implanted into the mind of an unpredictable dangerous prison inmate in hopes that he will be able to complete the operative’s mission.

16. *Criminal* is protected by the Copyright Act in registration PA 1-984-029, April 15, 2016, preregistered as PRE 8521. Exhibit 2.

17. Under The Copyright Act, CPI is the proprietor of copyrights and related interest needed to bring suit.

18. The motion picture *Criminal* contains wholly original material that is copyrightable subject matter under the laws of the United States.

19. The motion picture *Criminal* is currently offered for sale in commerce.

1 20. Defendant had notice of CPI's rights through general publication and
2 advertising and more specifically as identified in the content of the motion picture,
3 advertising associated with the motion picture and copies, each of which bore a
4 proper copyright notice.

5
6 21. CPI comes to court seeking relief as the motion picture *Criminal*, while still
7 in theaters, was pirated and is being trafficked in the BitTorrent network and is
8 being illegally downloaded and distributed countless times worldwide with many
9 confirmed instances of infringing activity traced to this district.

10 THE DEFENDANT

11
12 22. The defendant identified herein as DOE-76.170.195.248, is currently known
13 only by their Internet Protocol ("IP") Address 76.170.195.248, which on over 350
14 occasions was observed by plaintiffs' investigator Maverickeye through direct
15 TCP/IP connection as distributing plaintiffs' motion pictures.

16 23. Through well-accepted geolocation technology each and every direct
17 TCP/IP connection made to IP address 76.170.195.248, confirmed infringing
18 activity traced to the State of California and this district.

19
20 24. The defendant's IP address has been observed as associated with the peer-to-
21 peer exchange of thousands of other copyrighted titles through the BitTorrent
22 network.

1 25. The volume of the activity associated with the defendant's IP address
2 indicates that anyone actively using or observing activity on the IP address would
3 likely be aware of the conduct of the defendant.

4 26. The volume and titles of the activity associated with the defendant's IP
5 address indicates that the defendant is not a young child, but an adult.

6 27. The consistency of observed activity, volume and titles associated with the
7 defendant's IP address indicates that the defendant is an identifiable and singular
8 person and likely the primary subscriber of the IP address or someone who resides
9 with the subscriber and is known to the subscriber, as such activity indicates the
10 defendant is an authorized user of the IP address with consistent and permissive
11 access.
12

13 28. The consistency of observed activity and volume of titles associated with the
14 defendant's IP address indicates that the defendant is not a mere occasional
15 downloader of pirated content, but is a persistent and active promoter of BitTorrent
16 piracy.
17

18 29. The defendant's IP address was at that time of observed infringement
19 managed by Internet Service Provider ("ISP") Time Warner, who on information
20 and belief, generally assigns an IP address to a single party for extended periods of
21 time.
22

1 30. The records maintained by the ISP should be able to identify either the
2 defendant, or the subscriber who contracted with the ISP for service who in turn is
3 likely to have knowledge that will lead to the identity of the defendant.

4
5 31. Plaintiffs intend to seek initial discovery to subpoena records from the ISP to
6 ascertain the true identity of the subscriber and further information about the
7 defendant.

8 BACKGROUND

9 PEER-TO-PEER INTERNET PIRACY

10 *Operation*

11
12 32. BitTorrent, also known as peer-to-peer file sharing, has become one of the
13 most common systems for users to illegally dispense huge amounts of data,
14 including motion pictures, in digital format.

15 33. The BitTorrent protocol enables computers to exchange large files (such as
16 motion pictures) without creating a heavy workload for any individual
17 source/computer. It allows users to interact directly with each other to: (1) make
18 files stored on a user's computer (e.g., motion pictures) available for copying by
19 other users; (2) search for files stored on other computers; and (3) transfer exact
20 copies of files from one computer to another over the Internet.
21
22
23

1 34. The use of BitTorrent requires multiple intentional acts. A user must load
2 specific software, use the software to join the network, search for a file, and then
3 select the file they wish to download. As each user or peer joins the network and
4 requests a copy of a file, they form a type of social contract to not only download
5 the file, but to be a part of the network to allow the file to be downloaded by
6 others. Each new peer requesting the file receives pieces of the data from each peer
7 who already has downloaded the file, and then in turn makes that content available
8 to others.
9

10 35. Since the BitTorrent protocol also generally limits a peer's ability to
11 download unless he or she also uploads or shares, there is substantial incentive for
12 each peer to remain online and continue to make files available for other peers to
13 download because this will maximize his or her download speed and access to
14 content.
15

16 36. The defendant in this action has been observed persistently making
17 plaintiff's motion picture available to others in furtherance of the BitTorrent
18 network.
19

20 *The Business of Piracy*

21 37. Internet piracy, and in particular BitTorrent piracy, though known as peer-
22 to-peer file sharing, is often a for-profit business as many software clients, torrent
23

1 sites and networks generate millions of dollars in revenue through sales and
2 advertising.

3 38. To increase the value of the advertising and sometimes subscription access
4 sold by torrent sites, many parties work to expand the pool of available titles and
5 speed of downloads available by increasing the number of member peers and thus
6 the desirability of their clients and networks. To accomplish this they often reward
7 participants who contribute by giving them faster download speeds, greater access,
8 or other benefits.

9
10 39. Defendant's participation in the BitTorrent exchange of plaintiff's motion
11 picture is the type of activity that torrent sites use to promote their business and
12 likely directly furthered the for-profit business of at least one torrent site.

13
14 40. Many parties, and possibly defendant have been compensated for their
15 participation in expanding the availability of pirated content to others through
16 BitTorrent networks, including plaintiff's movie, even if only through being
17 granted greater access to other pirated content.

18
19 41. The use of BitTorrent does more than cause harm through the simple theft of
20 intellectual property. The BitTorrent distribution of pirated files is a model of
21 business that profits from theft through sales and advertising and provides a system

1 of rewards and compensation to the participants, each of whom contribute to and
2 further the enterprise.

3 42. Based on activity observed associated with the defendant's IP address,
4 defendant is proponent of the BitTorrent distribution system advancing the
5 BitTorrent economy of piracy.
6

7 *Harm to Plaintiff and Others*

8 43. Digital piracy, including BitTorrent piracy, costs the media and
9 entertainment industries over \$80 billion per year and has cost plaintiffs and their
10 affiliates hundreds of millions of dollars.¹
11

12 44. As noted by Senator Levin in Congressional hearings on peer-to-peer
13 Internet piracy, "In the world of copyright law, taking someone's intellectual
14 property is a serious offense, punishable by large fines. In the real world,
15 violations of copyright law over the Internet are so widespread and easy to
16 accomplish that many participants seem to consider it equivalent to jaywalking –
17 illegal but no big deal. But it is a big deal. Under U.S. law, stealing intellectual
18

19
20 ¹ BASCAP (Business Action to Stop Counterfeiting and Piracy) (2011). Estimating
21 the Global Economic and Social Impacts of Counterfeiting and Piracy, London:
22 Frontier Economics.; Ref: [http://www.iccwbo.org/Advocacy-Codes-and-](http://www.iccwbo.org/Advocacy-Codes-and-Rules/BASCAP/BASCAP-Research/Economic-impact/Global-Impacts-Study/)
23 [Rules/BASCAP/BASCAP-Research/Economic-impact/Global-Impacts-Study/](http://www.iccwbo.org/Advocacy-Codes-and-Rules/BASCAP/BASCAP-Research/Economic-impact/Global-Impacts-Study/)
("...we find that by 2015, digital piracy is likely to have a value of between \$80
billion and \$210 billion.")

1 property is just that – stealing. It hurts artists, the music industry, the movie
 2 industry, and others involved in creative work. And it is unfortunate that the
 3 software being used – called ‘file sharing’ as if it were simply enabling friends to
 4 share recipes, is helping create a generation of Americans who don’t see the
 5 harm.”²
 6

7 45. In California the entertainment industry employs hundreds of thousands of
 8 people directly and indirectly and is a significant part of the state’s economy.
 9 However, piracy such as that of the defendant and others working with the
 10 defendant costs the State of California billions and countless additional jobs.³
 11

12 46. With the known threat and impact of piracy on the State of California, and in
 13 particular the threat and damage of piracy through means such as peer-to-peer and
 14 BitTorrent piracy, the State of California has enacted Cal. Pen. Code § 653aa,
 15 which can punish the BitTorrent distribution of any commercial work to more than
 16 10 people by a fine of up to \$5,000 and up to a year in jail.
 17
 18

19 ² Privacy and Piracy: The Paradox of Illegal File Sharing on Peer-to-Peer Networks
 20 and the Impact of Technology on the Entertainment Industry: Hearing Before the
 21 Permanent Subcomm. on Investigations of the Sen. Comm. On Governmental
 Affairs, 108th Cong., 1st Sess. 10 (2003) (statement of Sen. Levin).

22 ³ The 2014 Otis Report on the Creative Economy of California:
 23 [http://www.otis.edu/sites/default/files/2015_Otis_Report_on_the_Creative_Econo
 my_CA.pdf](http://www.otis.edu/sites/default/files/2015_Otis_Report_on_the_Creative_Economy_CA.pdf)

1 47. As such it is clear that giving effect to 17 U.S.C. §§ 101 et seq., and the
2 enforcement of intellectual property rights, and in particular the fight against
3 counterfeiting and piracy are critical issues of importance to both the United States
4 of America and the State of California.

5
6 FIRST CLAIM FOR RELIEF

7 COPYRIGHT INFRINGEMENT

8 48. Defendant, without the permission or consent of plaintiffs, copied and
9 persistently distributed plaintiffs' motion pictures through a public BitTorrent
10 network.

11 49. Defendant's actions infringed plaintiffs' exclusive rights under The
12 Copyright Act.

13 50. Defendant's conduct has been willful, intentional, in disregard of and
14 indifferent to plaintiffs' rights with the intent to deprive plaintiffs of income and
15 cause plaintiffs harm.

16 51. As a direct and proximate result of defendant's conduct, plaintiffs' exclusive
17 rights under 17 U.S.C. § 106 have been violated.

18 52. Plaintiffs are entitled to damages pursuant to 17 U.S.C. § 504 and attorney
19 fees and costs pursuant to 17 U.S.C. § 505.

53. The conduct of defendant is causing and, unless enjoined and restrained by this Court, will continue to cause plaintiffs great and irreparable injury.

54. Pursuant to 17 U.S.C. §§ 502 and 503, plaintiffs are entitled to injunctive relief prohibiting defendant from further contributing to the infringement of plaintiffs' copyrights and ordering that defendant destroy all copies of any motion pictures made in violation of plaintiffs' rights.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment against defendant as follows:

- A. For a finding that the defendant willfully infringed plaintiffs' rights;
- B. For entry of a permanent injunction enjoining the defendant from direct, indirect or contributory infringement of plaintiffs' rights, except pursuant to a lawful license or with the express authority of plaintiffs. And further directing defendant to destroy all unauthorized copies of plaintiffs' motion pictures;
- C. For entry of permanent injunction enjoining the defendant from supporting the BitTorrent economy of piracy by enjoining the defendant from direct, indirect or contributory infringing file sharing in violation of U.S. copyright law;

1 D. Statutory damages pursuant to 17 U.S.C. § 504;

2 E. For plaintiff's reasonable costs and attorney fees pursuant to 17 U.S.C.

3 § 505; and

4 F. For such other and further relief as the Court deems proper.

7 DEMAND FOR JURY TRIAL

8 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiffs
9 demand a trial by jury.

10 DATED: June 28, 2016

11 Respectfully submitted,

12
13 /s/Dimitar Nikolov

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