



## **INTRODUCTION**

### ***The Problem***

1. A 2011 study showed that nearly 14% of all internet traffic in the United States constitutes illegal distribution of copyrighted content such as films, television episodes, music, and software via BitTorrent, a peer-to-peer file sharing network used to distribute data over the internet.<sup>1</sup> This report also found that of the most popular 10,000 pieces of content managed by the largest and most popular BitTorrent “tracker” worldwide at the time,<sup>2</sup> film content is by far the most distributed of this material, all of which was copyrighted and shared illegitimately.<sup>3</sup>
2. Since this report, the volume of films being illegally copied and distributed has only gotten worse,<sup>4</sup> with 46% of the U.S. population

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<sup>1</sup> *Envisional Estimates Infringing Use*, YALE J.L. & TECH. 183–85 (2011), available at <http://www.yalelawtech.org/p2p-law-piracy/envisional-estimates-infringing-use/> (citing *Technical report: An Estimate of Infringing Use of the Internet*, at p. 3, available at [http://documents.envisional.com/docs/Envisional-Internet\\_Usage-Jan2011.pdf](http://documents.envisional.com/docs/Envisional-Internet_Usage-Jan2011.pdf)) [hereinafter *Envisional*].

<sup>2</sup> PublicBT (publicbt.com). *Id.* at p. 4 n. 2.

<sup>3</sup> *Id.* at 4.

<sup>4</sup> See follow-up report, *Sizing the Piracy Universe*, Envisional (Sept. 2013), available at <https://copyrightalliance.org/sites/default/files/2013-netnames-piracy.pdf>.

having illegally copied, shared, or “downloaded for free” music, movies, and TV shows.<sup>5</sup>

3. And the next generation of Americans is poised to engage in such illegal copying to an even greater extent, with 70% of adults under 30 indicating that they copy, share, or download media “for free,” and 37% in this age group having acquired most or all of their digital music/video collections or a large collection in this way.<sup>6</sup>
4. As noted by Senator Levin in Congressional hearings on peer-to-peer internet piracy, “it is unfortunate that the software being used—called ‘file sharing’ as if it were simply enabling friends to share recipes—is helping create a generation of Americans who don’t see the harm.”
5. But the damage being done to film producers and distributors due to this rampant infringement is tremendous.<sup>7</sup> The US theatrical and home

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<sup>5</sup> Copy Culture in the US and Germany, Columbia University, at 5 (2013), *available at* [http://americanassembly.org/sites/default/files/download-publication/copy\\_culture.pdf](http://americanassembly.org/sites/default/files/download-publication/copy_culture.pdf).

<sup>6</sup> Id.

<sup>7</sup> See, e.g., Ambassador Froman, 2015 Special 301 Report, Executive Office of the President of the United States (noting that unauthorized recordings of first-run motion pictures that are distributed worldwide via the Internet result in economic harm not only in the market where the film was originally shown, but in other markets as well), *available at* <https://ustr.gov/sites/default/files/2015-Special-301-Report-FINAL.pdf>.

video revenues changed for the worse in the 2003–04 timeframe, coinciding with the development of the BitTorrent network that has made swapping large movie files practical.<sup>8</sup> Indeed, according to Texas Representative Lamar Smith, “IP theft costs the U.S. economy more than \$100 billion annually and results in the loss of thousands of American jobs.”<sup>9</sup>

6. But there is a nation-wide push to stop the copyright infringement. For instance, the Department of Justice, in July 2016, announced the arrest of the mastermind behind the most visited illegal file-sharing website, *Kickass Torrents*.<sup>10</sup> A criminal complaint filed in Chicago charges him with conspiracy to commit money laundering and criminal copyright infringement. The DOJ estimates this one website was responsible for unlawfully distributing well over \$1 billion of copyrighted materials

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<sup>8</sup> Zentner, Alejandro, *Measuring the Impact of File Sharing on the Movie Industry: An Empirical Analysis Using a Panel of Countries*, at 2 (Mar. 22, 2010), available at <http://ssrn.com/abstract=1792615>.

<sup>9</sup> *Smith: Law Needed to Control Cyber Piracy*, Austin American-Statesman (Nov. 28, 2011), available at <http://www.statesman.com/news/news/opinion/smith-law-needed-to-control-cyber-piracy/nRhYk/>.

<sup>10</sup> *U.S. Authorities Charge Owner of Most-Visited Illegal File-Sharing Website with Copyright Infringement*, Dept. of Justice Press Release, July 20, 2016, available at <https://www.justice.gov/opa/pr/us-authorities-charge-owner-most-visited-illegal-file-sharing-website-copyright-infringement>.

and was the 69th most frequently visited website on the internet. There are countless other similar websites, operating from remote corners of the world, that facilitate illegal distribution of motion pictures, music and ebooks, using BitTorrent software.

7. And there are also local efforts to slow the rampant piracy. In just the past few weeks, the University of Houston announced it will begin blocking BitTorrent peer-to-peer data traffic on the University of Houston Wi-Fi network “to limit illegal downloading of copyrighted material and comply with state and federal laws.”<sup>11</sup>

### ***BitTorrent Operation***

8. A sister district court describes BitTorrent and the anonymity of its operation as follows:

BitTorrent allows its users to download files more quickly and efficiently than its predecessor file sharing protocols. Rather than downloading files directly from centralized servers or individual users, BitTorrent allows users, or “peers” to split a file up into pieces and download multiple pieces simultaneously from multiple peers. Once a peer downloads a particular piece of the file in question, he or she automatically begins to share that piece with other peers. These multivariate connections between downloading and uploading users create a “swarm,”

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<sup>11</sup> University of Houston IT Notice, *available at* <http://rationalrights.com/?p=502>.

eventually allowing participating users to collect all pieces of a file and reassemble it into its final form. A peer who makes a complete file available to other peers is known as a “seed.” As the name implies, each swarm begins with a seed; however, BitTorrent users often remain in a swarm after they have completed downloading a file, thus becoming seeds themselves.

BitTorrent peers are identified to each other only by their IP addresses. Though an IP address, without more, typically cannot be traced back with certainty to an individual user, Internet Service Providers [“ISPs”] can generally link an IP address to its account owner. Moreover, commonly available free web applications can often trace an IP address back to a general geographic area, such as a city or postal code. Thus, BitTorrent users are partially anonymous to each other. While peers’ names and other identifying details are opaque, their IP addresses and (to some extent) their locations may be logged and tracked.<sup>12</sup>

9. So, while a rightsholder can observe illegal distribution of its motion picture, it only knows the geographic location of the infringer and the internet protocol (“IP”) address used by the infringer to perform the distribution. But internet service providers (“ISPs”), such as Comcast, assigns unique IP addresses to its subscribers, and, therefore, know the identity of the persons who were assigned the IP addresses. But the

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<sup>12</sup> *Funimation Entm’t v Does 1-427*, 2:11-cv-00269 (E.D. Tex. Sept. 16, 2016) (Doc. 43).

Cable Privacy Act prohibits cable operators, which includes the ISPs, from disclosing subscribers' personal information without their consent or a court order.<sup>13</sup>

## **PARTIES**

### ***Plaintiff***

10. CELL Film Holdings, LLC ("CFH") is a Delaware Limited Liability Company with principal offices in Beverly Hills, California.
11. CFH owns the copyright to the motion picture, Cell, the work at issue as described below in paragraphs 33–40, having all pertinent copyright interests needed to bring suit.
12. CFH is a mainstream science fiction motion picture, adapted from a popular novel. The movie depicts events that take place when a mysterious cell phone signal causes apocalyptic chaos.
13. CFH has put substantial resources into financing the production of its movies.

### ***Defendants***

14. The defendants are identified herein as Does 1–20.

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<sup>13</sup> 47 U.S.C. § 551(c).

15. CFH is currently unaware of the true names of Does 1–20. Due to the surreptitious nature of defendants’ actions, the identities of Does 1–20 are concealed from CFH, preventing CFH from identifying them by name.
16. The defendants in this action are listed in EXHIBIT 2, which identifies each defendant’s IP address, a specific time of observed infringing activity, and an estimated geo-located place of the defendant’s conduct.
17. Each defendant’s IP address has been observed and confirmed as distributing at least a part of Cell through the P2P BitTorrent exchange.
18. On information and belief, at the time of observed copying, each of defendants’ IP addresses was managed by the ISP Comcast Communications Management, L.L.C. or its subsidiaries (“Comcast”), who, generally assigns an IP address to a single party for extended periods of time, often for months, and provides Wi-Fi systems with pre-installed security and passwords.
19. The records maintained by Comcast should be able to identify either each defendant, or a subscriber who contracted with Comcast for service who, in turn, is likely to have knowledge that will lead to the identity of each defendant.

20. Plaintiff intends to seek discovery from Comcast for records or information sufficient to permit plaintiff to identify and name the true defendant.

### **SUBJECT MATTER JURISDICTION**

21. This is a civil action requesting remedies under U.S. Code Title 17—Copyrights, §§ 502–05, for infringement of copyright as provided by §§ 106 and 113–14 granting, among other rights, that “the owner of copyright under this title has the exclusive rights to do and to authorize any of the following: (1) to reproduce the copyrighted work in copies . . .”

22. This Court has subject matter jurisdiction at least under 28 U.S.C. §1338(a) providing that “[t]he district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to . . . copyrights . . .”

### **PERSONAL JURISDICTION**

23. For an individual, the paradigm forum for the exercise of general jurisdiction is the individual’s domicile; for a corporation, it is an equivalent place, one in which the corporation is fairly regarded as at home.

24. And geolocation identifies the IP address associated with each Doe as geographically located within this District where the subscriber is thought to reside.
25. Therefore, upon information and belief, this Court has general jurisdiction over Does 1–20 by virtue of Does residing in this district.
26. Further, specific jurisdiction arises if there was some act by which the defendant purposefully availed himself or herself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.
27. The geolocation information, in conjunction with the observed infringing behavior, also shows Does reproduced and/or distributed CFH’s work in this district (as described further below), and thus purposefully availed themselves of the privilege of conducting activities in this district.
28. Therefore, CFH’s claim relates to Does’ contacts with this district, and also supports specific jurisdiction.

### **VENUE**

29. Venue in copyright cases is governed by 28 U.S.C. § 1400(a), instead of the general venue provision of 28 U.S.C. § 1391.

30. Section 1400(a) allows plaintiffs to bring suit for copyright infringement in the district in which the defendant or his agent resides or “may be found.”
31. The Fifth Circuit has held that a defendant “may be found” in any district in which he or she may be subject to personal jurisdiction, as analyzed as if the district were a separate state.
32. Therefore, venue is proper in this Court for the same reasons given in the Personal Jurisdiction section above in paragraphs 23–28.

### **WORK AT ISSUE**

33. CFH (“Motion Picture”) is a movie including many mainstream and well-known actors.
34. The Motion Picture is an adaptation of a popular science fiction novel.
35. The Motion Picture was released in the United States in the summer of 2016.
36. The Motion Picture is registered with the United States Copyright Office. See EXHIBIT 1 bearing Registration Certificate No. PAu 3-751-312 with effective registration date of October 23, 2014.
37. The Motion Picture contains wholly original material that is copyrightable subject matter under the laws of the United States.
38. The Motion Picture is currently offered for sale in commerce.

39. The Motion Picture includes a proper copyright notice advising the viewer that the Motion Picture is protected under copyright and other applicable laws of the United States of America.
40. Publication and advertising associated with the Motion Picture and packaging and copies bear a proper copyright notice.

### **JOINDER**

41. Joinder in this action is made under Fed. R. Civ. P. 20(a)(2) (permissive) in that plaintiff's claims arise out of the same occurrences or transactions, or series of occurrences or transactions, and that there are questions of law and fact common to each of the defendants.
42. Although the phrase "transaction or occurrence" is not defined in Rule 20(a), courts have analogously interpreted this phrase in the compulsory counterclaims Rule 13(a). The Supreme Court has stated that for purposes of Rule 13(a): "Transaction" is a word of flexible meaning. It may comprehend a series of many occurrences, depending not so much upon the immediateness of their connection as upon their logical relationship." Thus, all "logically related" events entitling a person to institute a legal action against another generally are regarded as comprising a transaction or occurrence.

43. Specifically, plaintiff has named in this Complaint the group of defendants based upon the same investigation which reveals that they copied at least portions of the same copy of the Motion Picture at or about the same time period, using the same technology, and on information and belief, copied the entire work, and distributed at least portions of that work to others using BitTorrent technology.

44. And the architecture of BitTorrent is such that each file or part thereof downloaded by a peer in a swarm is made available automatically for upload by other peers. While a peer may upload to a relatively small number of peers directly, those peers in turn upload pieces to other peers who join the swarm later. Thus, a defendant's "generation" of peers—peers to whom a defendant uploaded the file directly—helps pass on pieces of the copyrighted work to the next "generation" of active peers. In this way, each defendant's infringement built upon the prior infringements, in a cascade of infringement.

45. Therefore, each defendant engaged in a concerted action with other defendants to reproduce and distribute plaintiff's Motion Picture by exchanging pieces of a particular copy of the Motion Picture, as identified by the same Hash Value (see ¶ 51 below), in a torrent swarm. And each Doe defendant interacts, either directly or indirectly, with the

other peers in the swarm in a series of transactions or occurrences that are logically related and will be judged based upon common legal standards.

46. Permissive joinder in the instant case permits a more efficient management of plaintiff's claims against the several defendants and to reduce the costs and burdens to plaintiff, defendants and the Court.

47. The Supreme Court has said that "under the Rules, the impulse is toward entertaining the broadest possible scope of action consistent with fairness to the parties; Joinder of claims, parties and remedies is strongly encouraged." This Court has stated that the issue of "joinder is better analyzed once unknown defendants have been identified and served."

### **DEMAND FOR JURY**

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

### **COUNT I—COPYRIGHT INFRINGEMENT**

#### ***Direct***

49. Each defendant, without plaintiff's permission or consent, copied and distributed a portion, and upon information and belief copied an entire copy of, plaintiff's Motion Picture, Cell, as described above in

paragraphs 33–40 through a peer-to-peer network without authorization or right.

50. Plaintiff observed this infringing activity using forensic software to identify the IP addresses using the BitTorrent protocol to reproduce, distribute, display or perform plaintiff’s Motion Picture via the internet.

51. The forensic software identified the IP addresses shown in EXHIBIT 2 as uploading and consequently as having downloaded parts or all of the file identified by the hash value of:

41802F9EB8B6EEF8456BF6B58ACC8A4EBDD92EA8

(“Hash Value”). This Hash Value is a very large hexadecimal number, generated by the particular copy of the Motion Picture through an algorithmic function, such as SHA-1. The same file will always produce the same number using the same algorithm, and any changes to the file will almost certainly produce a different hash value. In this way, a hash value is the file’s “digital fingerprint” uniquely identifying a specific file.

52. The media file that corresponded to the Hash Value was substantially similar, if not identical, to plaintiff’s Motion Picture.

53. Plaintiff did not authorize, permit, license or consent to defendants’ copying of its Work.

54. While copyright infringement is a strict liability offense, and a court will not absolve a defendant for copying a work unconsciously or truly believing the conduct was non-infringing, the use of BitTorrent is an intentional willful act that requires a number of intentional steps as outlined in paragraphs 56–58.

55. As a result of the foregoing, each defendant violated one or more of plaintiff’s exclusive right to:

- A. Reproduce the Motion Picture in copies, in violation of 17 U.S.C. §§ 106(1) and 501;
- B. Redistribute copies of the Motion Picture 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 Motion Picture, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the Motion Picture’s images in any sequence and/or by making the sounds accompanying the Motion Picture audible and transmitting said performance of the Motion Picture, 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 “publicly” perform); and

D. Display the copyrighted Motion Picture, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the Work sequentially or non-sequentially and transmitting said display of the Motion Picture 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).

***Willful***

56. Each defendant's conduct has been willful within the meaning of 17 U.S.C. § 504(c)(2), intentional, in disregard of and indifferent to plaintiff's rights, with notice, and with the intent to deprive plaintiff of income and cause plaintiff harm.

57. Specifically, each defendant had to ignore the copyright notice advising the viewer that the Motion Picture is protected under copyright law found on all publication and advertising associated with the Motion Picture, install file distribution software on a computer, search for and load a Torrent file from a website such as The Pirate Bay, select plaintiff's Motion Picture to download, and then participate in the peer-to-peer distribution of Cell.

58. Plaintiff has suffered actual damages that were proximately caused by each of the defendants, including lost sales, price erosion and a diminution of the value of its copyright.

***Contributory***

59. Providing the means for others to infringe creates liability for contributory copyright infringement.

60. Each of the defendants were observed uploading file(s) corresponding to illegally copied versions of Cell. As such, defendants provided other persons the means to infringe CFH's copyright, thereby inducing, causing or materially contributing to the infringing conduct of others and of each other defendant.

61. Additionally, uploaded portions of plaintiff's work remain on peer computers after a defendant stops directly participating in a swarm. As such, each of defendant's contribution also increases the over-all availability of plaintiff's work via the BitTorrent network after any direct peer-to-peer transmissions. In this way, defendants additionally induce, cause or materially contribute to the infringing conduct of others and of other defendants.

***Vicarious***

62. Vicarious liability requires neither knowledge of direct infringement or intent to infringe, but only requires a financial benefit and the ability to supervise.
63. To the extent defendant ISP subscriber allowed a household member whom defendant has the ability to control or reasonably discipline to use the internet connection to copy and obtain Cell, and thereby avoid cost to defendant, defendant is liable.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff prays for judgment against each defendant as follows:

- A. A finding that defendant infringed one or more of the exclusive copyrights vested in CFH with respect to the work at issue, Cell;
- B. Actual damages and profits to be proven at trial under 17 U.S.C. § 504(b), including prejudgment and post-judgement interest, or, as plaintiff may elect at any time before final judgment is rendered, statutory damages pursuant to 17 U.S.C. § 504(c).
- C. If statutory damages are not elected, a finding that defendants' infringement was committed willfully, and an award of punitive damages.

- D. If statutory damages are elected, a finding that defendants' infringement was committed willfully, and an award of statutory damages of a just sum of not more than \$150,000 with accruing post-judgment interest;
- E. Entry of permanent injunction enjoining defendant from infringing plaintiff's rights in its Motion Picture, including without limitation using the internet to reproduce, distribute or copy plaintiff's Motion Picture, and further directing defendant to destroy all unauthorized copies of plaintiff's Motion Picture and to delete all software used to make or distribute copies or exchange unlicensed content using the BitTorrent protocol.
- F. Plaintiff's reasonable costs and attorney fees pursuant to 17 U.S.C. § 505; and
- G. Such other and further relief as the Court deems proper.

Dated: September 29, 2016

Gary J. Fischman

Tex. State Bar No. 787469  
S.D. Tex. Bar No. 17126

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Of Counsel

Respectfully submitted,

s/ Joshua S. Wyde

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Attorney for Plaintiff,  
CELL Film Holdings, LLC

# **EXHIBIT 1**

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Maria A. Pallante*

Register of Copyrights, United States of America

**Registration Number**  
**PAu 3-751-312**

**Effective date of registration:**  
October 23, 2014

## Title \_\_\_\_\_

Title of Work: CELL

## Completion/Publication \_\_\_\_\_

Year of Completion: 2014

## Author \_\_\_\_\_

▪ Author: CELL Film Holdings, LLC

Author Created: entire motion picture

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

## Copyright claimant \_\_\_\_\_

Copyright Claimant: CELL Film Holdings, LLC

8383 Wilshire Blvd, Suite 310, Beverly Hills, CA, 90211

## Limitation of copyright claim \_\_\_\_\_

Material excluded from this claim: script/screenplay

New material included in claim: production as a motion picture

## Rights and Permissions \_\_\_\_\_

Organization Name: CELL Film Holdings, LLC

Name: Michael Benaroya

Address: 8383 Wilshire Blvd

Suite 310

Beverly Hills, CA 90211 United States

## Certification \_\_\_\_\_

Name: Michael Benaroya

Date: October 20, 2014

# EXHIBIT 2

File Name:	Cell.2016.HDRip.XViD-ETRG
File Hash:	SHA1: 41802F9EB8B6EEF8456BF6B58ACC8A4EBDD92EA8
ISP:	Comcast

No	IP	Port	Hit Date UTC	City	County
1	73.6.170.84	60791	9/2/2016 4:01:23	Houston	Harris
2	73.55.222.105	56714	9/1/2016 22:23:37	Houston	Harris
3	73.232.171.142	58687	7/29/2016 14:28:37	Richmond	Fort Bend
4	73.206.47.229	57831	7/23/2016 23:00:29	Houston	Harris
5	73.183.229.65	26417	6/13/2016 0:20:06	Houston	Harris
6	73.6.87.12	25930	6/11/2016 19:50:22	Houston	Harris
7	98.200.237.163	60340	6/11/2016 0:44:24	Houston	Harris
8	98.196.217.37	39999	6/10/2016 22:17:15	Pasadena	Harris
9	73.6.212.101	23288	6/10/2016 20:23:39	Pearland	Brazoria
10	73.183.212.173	43611	6/10/2016 20:15:58	Houston	Harris
11	73.155.133.164	24874	6/10/2016 19:34:04	Humble	Harris
12	98.201.33.225	6881	6/10/2016 19:15:15	Baytown	Chambers
13	98.194.166.171	49363	6/10/2016 17:52:48	Deer Park	Harris
14	73.32.178.148	50000	6/10/2016 17:14:11	Sugar Land	Fort Bend
15	98.196.114.32	33907	6/10/2016 16:53:48	League City	Galveston
16	73.183.250.184	22018	6/10/2016 16:08:21	Houston	Harris
17	73.206.17.56	31539	6/10/2016 13:49:22	Humble	Harris
18	73.155.32.130	31709	6/10/2016 13:08:59	Houston	Harris
19	73.136.57.231	59296	6/10/2016 12:43:25	Katy	Harris
20	98.198.192.133	25167	6/10/2016 8:14:45	Houston	Harris

**CIVIL COVER SHEET**

JS 44 (Rev. 12/12)

The JS 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 by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b></p> <p style="text-align: center;"><b>CELL Film Holdings, LLC</b></p> <p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)</p> <p>THE LAW FIRM OF JOSHUA S. WYDE 710 N Post Oak Rd Ste 105 Houston, TX 77024-3808 713.482.1916</p>	<p><b>DEFENDANTS</b></p> <p style="text-align: center;"><b>Does 1-20</b></p> <p>County of Residence of First Listed Defendant <u>HARRIS</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY		CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty	<p><b>Other:</b></p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
IMMIGRATION						
<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions						

**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

**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. § 501

Brief description of cause: Copyright Infringement

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ Injunction & Damages    CHECK YES only if demanded in complaint: JURY DEMAND:  Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE Miller    DOCKET NUMBER 4-16-cv-02544

DATE

SIGNATURE OF ATTORNEY OF RECORD

September 29, 2016

s/Joshua S. Wyde

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFF \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_  
 JS 44 Reverse (Rev. 12/12)

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority for Civil Cover Sheet

The JS 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 by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating 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 Rule 8(a), F.R.Cv.P., 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. United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box. Federal question. (3) This refers to suits under 28 U.S.C. 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. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 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 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.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- 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 Rule 23, F.R.Cv.P.
- 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 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.