

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MALIBU MEDIA, LLC,

Plaintiff,

v.

Defendant.

JURY TRIAL DEMANDED

Case No.

**PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO
DEFENDANT**

Pursuant to Fed. R. Civ. P. 33, Plaintiff, MALIBU MEDIA, LLC (“Plaintiff”), hereby propounds the following Interrogatories upon Defendant, (“Defendant”), which Defendant shall answer fully and separately in writing under oath in the manner prescribed by the applicable Federal Rules of Civil Procedure and which Defendant shall respond to by January 1, 2019 pursuant to this Court’s Order dated October 23, 2018 [CM/ECF 24].

Dated:

Respectfully submitted,

By: /s/

Attorney ID No.

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2018, I served the foregoing document on all counsel of record and interested parties via e-mail.

By: /s/

DEFINITIONS AND INSTRUCTIONS

1. “Anti-Computer Forensic Software” means any software specifically designed to encrypt, destroy, erase, delete, or wipe out files, data, or user activity on a Computer Device. This includes, but is not limited to: Evidence Eliminator, CCleaner, File Shredder, Eraser, Kill Disk, BC Wipe, X Shredder, Wipe MFT, SDelete, CyberScrub, and Window Washer.

2. “BitTorrent” means a peer-to-peer file transfer protocol for sharing large amounts of data over the Internet, in which each part of a file downloaded by a user is transferred to other users. In order to distribute a large file, the BitTorrent Protocol breaks a file into many small pieces. Users then interact directly with each other to exchange these small pieces among each other. After a user receives all of the pieces of a digital media file, the user’s BitTorrent software client reassembles the pieces so that the file may be opened and utilized.

3. “Cloud Based Storage System” means a model of data storage where the digital data is stored in logical pools, the physical storage spans multiple servers (and possibly locations), and the physical environment is typically owned and managed by a hosting company. This includes, but is not limited to, third party cloud storage systems such as Amazon Cloud Drive, Apple iCloud,

DropBox, Google Drive, MediaFire, Mega, Microsoft SkyDrive, OneDrive, SpiderOak, and Ubuntu One.

4. “Communication” means any oral or written statement, dialog, colloquy, discussion or conversation, and also means any transfer of thoughts or ideas between persons by means of documents and includes any transfer of data from one location to another by electrical or similar means.

5. “Computer Devices” means any computer device, including any computer laptop or desktop, mobile phone, iPad or other tablet computer, external hard drive, portable hard drive, server, NAS (Network-Attached Storage), USB (thumb) drive, internal hard drives which may have been removed from their original device, solid state hard drives, mp3 player, or any other electronic device capable of connecting to the internet, downloading media files, or storing electronic data, within your possession and control.

6. If not expressly stated, “control” means in your possession, custody, or control and includes documents and things in the possession, custody or control of any other person in your house, apartment or dwelling.

7. “Document” means any written or graphic matter or other tangible means of preserving thought or expression, and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation

made on such copy or otherwise, including, but not limited to, correspondence, memoranda, notes, logs, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intraoffice telephone calls, diaries, chronological data, minutes, books reports, charts, ledgers, invoices, work sheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, canceled checks, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind, including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings, motion pictures and electronic, mechanical or electric recording or representations of any kind (including, without limitations, tapes, cassettes, discs and recordings).

8. The term “every document” means each document or group of documents or communication as above defined known to you and every such document or communication which can be located or discovered by reasonably diligent efforts.

9. “Identify”, when used with reference to a natural person, means state:

(a) His or her full name and address (or, if the person’s present address is not known, his or her last known address).

(b) His or her relationship to you.

(c) Such other information sufficient to enable an identification of the person.

10. “Identify”, when used with reference to any entity other than a natural person, means:

(a) State the full name of the entity, the type of entity (e.g., corporation, partnership, etc.), the address of its principal place of business, its principal business activity and, the jurisdiction under the laws of which it has been organized.

(b) State whatever other information that you may have concerning the existence or identity of the entity.

11. “Identify”, when used with reference to a documents or communication, means:

(a) Its nature (e.g., letter, telegram, memorandum, chart (report or study), date, author, and place of preparation and the name and address of each addressee, if there is an addressee.

(b) The identity of each signer of the document or communication.

(c) The title or heading of the document or communication.

(d) Its substance.

(e) Its present location or, if the present location is not known, the last known location and its custodian.

12. “Identify” when used in reference to an electronic device, computer device, or electronic object means to list the name, brand, model number, serial number, trademark, and any other identifying marker of the device or object.

13. “Identify,” when used in any other context than herein above set forth, means describe the act, word, situation, event, conduct or course of action, etc. to be identified as fully as possible and identify each document or communication in which such act, word, situation, event, conduct or course of action, etc., was recorded, described and referred to.

14. “Peer-to-peer Software” means a program using peer-to-peer (P2P) networking technology. The Peer-to-peer network is a network of computers configured to allow certain files and folders to be shared with everyone or with selected users. Peer-to-peer file sharing allows users to access media files such as books, music, movies, and games using a Peer-to-peer software program that searches for other connected computers on a the Peer-to-peer network to locate the desired content. The nodes (peers) of such networks are end-user computer systems that are interconnected through the Internet. The program uses architecture that partitions tasks or workloads between peers. Peers are equally privileged, equipotent participants in the application. Peers make a portion of their resources, such as processing power, disk storage or network bandwidth, directly available to

other network participants, without the need for central coordination by servers or stable hosts.

1. “Period of Recorded Infringement” means from September 3, 2016 to January 8, 2018.

15. “Person” means any natural person, individual, proprietorship, partnership, corporation, association, organization, joint venture, firm, other business enterprise, governmental body, group or natural person or other entity and includes both the singular and plural.

16. “User Anonymity Software” any software or service specifically designed to mask, switch, or hide your IP address or e-mail address.

17. The term “you” or “your” means the person upon whom these interrogatories were served and any other person(s) or entity(ies) acting or purporting to act on your behalf or under your control.

18. If any interrogatory calls for a document or non-written communication which you claim to be privileged, state the grounds upon which the claim of privilege is made and identify each document or non-written communication. In identifying such document or communication, you may substitute for a summary of its content, principal terms or provisions, a statement of the subject matter to which it relates. The fact that an interrogatory calls in part for documents or non-written communications which you claim to be privileged is

not a basis for you to fail to identify fully all documents or non-written communications which you claims to be privileged is not a basis for you to fail to identify fully all documents or non-written communications called for by such interrogatory as to which no privilege is claimed.

19. If you cannot answer any interrogatory fully and completely after exercising due diligence to make inquiry and secure the information to do so, please so state and answer the interrogatory to the extent possible. Specify the portion of such interrogatory you claim you are unable to fully and completely answer, and further specify the facts on which you rely to support your contention that you are unable to answer the interrogatory fully and completely.

20. Please use the space provided for your answer if adequate; if not, attach additional sheets with the required information.

INTERROGATORIES TO DEFENDANT

1. State the full name, address, phone number, and position relative to the Defendant of the person(s) answering these Interrogatories and for each such person state what that person contributed.

Response to Interrogatory No. 1:

2. In chronological fashion, describe in detail your educational background and work history.

Response to Interrogatory No. 2:

3. Explain in detail your exposure to Computer Devices and the Information Technology field in school, college, work and at home. Include within your answer any formal courses, classes, and certifications you have taken to learn how to use Computer Devices and the software that enables the Computer Devices to work, list all of the programs that you know how to use.

Response to Interrogatory No. 3:

4. Please state your address of residence for the period of August 16, 2017 to August 22, 2018, and if there is more than one indicate the start and end date for each residence set forth.

Response to Interrogatory No. 4:

5. Identify by brand, trademark, model number, version, serial number and by any other relevant form of identifier each of the Computer Devices used in your home during the Period of Recorded Infringement.

Response to Interrogatory No. 5:

6. For each internet service provider that provided internet to your residence at during the period of recorded infringement, please indicate:

- a) The name of the internet service provider;
- b) The start and end date of service;
- c) The name of the account holder; and
- d) The make, model, and serial number of the wireless internet router provided.

Response to Interrogatory No. 6:

7. Identify by brand, trademark, model number, version, and serial number each wireless router and modem used in your home during the period of recorded infringement.

Response to Interrogatory No. 7:

8. State your IP address at your residence at during the period of recorded infringement.

Response to Interrogatory No. 8:

9. For each wireless router and modem used in your home during the period of recorded infringement, state the dates they were password protected.

Response to Interrogatory No. 9:

10. For each Computer Device, wireless router and modem identified above, identify the person that first installed it, connected it, or otherwise set it up in your home.

Response to Interrogatory No. 10:

11. Identify any cloud based storage system used in your home during the Period of Recorded Infringement.

Response to Interrogatory No. 11:

12. Identify each person whom you provided with access to your wireless router(s) or modem(s) during the Period of Recorded Infringement, and state the duration during which each such person had access to your wireless router(s) or modem(s).

Response to Interrogatory No. 12:

13. For each person identified above in response to interrogatory number 9, state his or her age or approximate age, and his or her relationship to you.

Response to Interrogatory No. 13:

14. Identify each person who was residing in or routinely visiting your home during the Period of Recorded Infringement, who had access to your Computer Device(s), wireless router(s) or modem(s).

Response to Interrogatory No. 14:

15. Identify any communication you have received from your ISP regarding notices of alleged copyright infringement emanating from your Internet service.

Response to Interrogatory No. 15:

16. State if you have ever used or installed any peer-to-peer file sharing software or BitTorrent client on any of the Computer Devices which were in your home during the Period of Recorded Infringement.

Response to Interrogatory No. 16:

17. Have you ever knowingly downloaded a song, movie, game, software program or computer file using BitTorrent or any Peer-to-peer file sharing program? If so, please state which BitTorrent client or Peer-to-peer file sharing program was used.

Response to Interrogatory No. 17:

18. Identify any Anti-Computer Forensic Software and User Anonymity Software which was installed (between the first date of infringement as listed on Plaintiff's Amended Complaint [CM/ECF 12] to present day) on each of your Computer Devices in your home, apartment, or dwelling.

Response to Interrogatory No. 18:

19. Identify each individual, website, blog or message board, from which you have obtained information regarding internet piracy, BitTorrent, file sharing, or lawsuits alleging that people have committed online copyright infringement.

Response to Interrogatory No. 19:

20. Have you ever searched for X-Art or Malibu Media on the Internet?

If so, state when you searched, and from which Computer Device you searched.

Response to Interrogatory No. 20:

21. Have you ever searched for any torrent file on the Internet? If so, list all occasions in which you searched for a torrent file, state when you searched, why you searched, which files you were searching for, and from which Computer Device you used to conduct your search.

Response to Interrogatory No. 21:

22. Have you ever watched x-rated, adult or pornographic movies (collectively, “adult content”)? If so, when was the last time you watched adult content, how often do you watch adult content, which studios do you prefer, and what type of movies do you prefer?

Response to Interrogatory No. 22:

23. Did you download Plaintiff's Copyrighted Works via BitTorrent as outlined in Plaintiff's Amended Complaint [CM/ECF 12]?

Response to Interrogatory No. 23:

24. Do you know who downloaded Plaintiff's Copyrighted Works via BitTorrent as outlined in Plaintiff's Amended Complaint [CM/ECF 12]?

Response to Interrogatory No. 24:

