

Attorney ID No.

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

MALIBU MEDIA, LLC,

Plaintiff,

v.

Defendant.

JURY TRIAL DEMANDED

**PLAINTIFF'S REQUESTS FOR
ADMISSION**

Pursuant to Fed. R. Civ. P. 36 and LR 36.1, Plaintiff, MALIBU MEDIA, LLC (“Plaintiff”), hereby serves the following Request for Admission upon Defendant, (“Defendant”), which Defendant shall respond to by January 1, 2019 pursuant to this Court’s Order dated October 23, 2018 [CM/ECF 24], for purposes of this action only and subject to objections to admissibility at trial. If an objection is made, please state the reason for the objection. If the matter is denied, please specifically deny the matter or set forth in detail and state the reasons why the answering party cannot truthfully admit or deny the matter. Plaintiff reserves the right to add and/or amend this First Set of Requests for Admission or to serve

additional Requests for Admissions on Defendant if necessary, for the purpose of Discovery.

Dated:

Respectfully submitted,

By: /s/

Attorney ID No.

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. “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.

2. 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.

3. “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 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.

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

5. If Defendant fails to respond or object to any of the requests within thirty (30) days of service of this Request, the matter shall be deemed admitted under Rule 36(a)(3).

6. Defendant must admit or deny each request, and, where necessary, specify the parts of each request to which Defendant objects or cannot in good faith admit or deny. Should Defendant object to only part of the Request, it must admit or deny the remainder of the Request. Fed. R. Civ. P. 36(a)(4).

7. Should Defendant answer a Request on the basis that he lacks sufficient information to respond, Defendant must describe any and all efforts he made to inform himself of the facts and circumstances necessary to answer or respond.

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

REQUESTS FOR ADMISSIONS TO DEFENDANT

1. Admit that Defendant does not own the copyrights to the works listed on Exhibit B to Plaintiff's Amended Complaint [CM/ECF 12].

Response to Request No. 1:

2. Admit that Plaintiff did not give Defendant express permission to download and distribute the works listed on Exhibit B to Plaintiff's Amended Complaint [CM/ECF 12].

Response to Request No. 2:

3. Admit that Defendant used the BitTorrent network to download Plaintiff's works listed on Exhibit B to Plaintiff's Amended Complaint [CM/ECF 12].

Response to Request No. 3:

4. Admit that Defendant used the BitTorrent network to distribute Plaintiff's works listed on Exhibit B to Plaintiff's Amended Complaint [CM/ECF 12].

Response to Request No. 4:

5. Admit that there is no license, terms, agreement, or advertisement on the BitTorrent network that would imply that Plaintiff authorized Defendant to download the works listed on Exhibit B to Plaintiff's Amended Complaint [CM/ECF 12].

Response to Request No. 5:

6. Admit that prior to the commencement of this suit, Defendant never approached or requested Plaintiff for authorization to download or distribute the works listed on Exhibit B to Plaintiff's Amended Complaint [CM/ECF 12].

Response to Request No. 6:

7. Admit that use of the BitTorrent file sharing protocol to download copyrighted works without the copyright owner's authorization constitutes copyright infringement.

Response to Request No. 7:

8. Admit that use of the BitTorrent file sharing protocol to distribute copyrighted works without the copyright owner's authorization constitutes copyright infringement.

Response to Request No. 8:

9. Admit that you have downloaded other works not produced by Malibu Media using BitTorrent protocol.

Response to Request No. 9:

10. Admit that you have no documentary evidence refuting the allegation of the Plaintiff's Amended Complaint [CM/ECF 12] that your IP address was XX.XXX.XX.XXX on November 9, 2017.

Response to Request No. 10:

11. Admit that from August 16, 2017 to August 22, 2018, Censored was the only internet service provider at Censored.

Response to Request No. 11: