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

MALIBU MEDIA, LLC,

Plaintiff,

v.

Defendant.

**JURY TRIAL DEMANDED**

**PLAINTIFF'S FIRST SET OF  
REQUESTS FOR PRODUCTION  
TO DEFENDANT**

Pursuant to Fed. R. Civ. P. 34, Plaintiff, MALIBU MEDIA, LLC (“Plaintiff”), hereby requests Defendant, (“Defendant”) produce for inspection and copying the documents and things set forth on Schedule B, in accordance with the Definitions and Instructions included herein in Schedule A, and to respond within the time prescribed 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.

**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/

## SCHEDULE “A”

### Definitions

1. “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.

2. “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 electronical or similar means.

3. “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.

4. 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.

5. “Documents” shall mean the original or exact copies of any tangible written, typed, printed or other form of recorded or graphic matter of every kind or description, however produced or reproduced, whether mechanically or electronically recorded, draft, final, original, reproduction, signed or unsigned, regardless of whether approved, signed, sent, received, redrafted, or executed, and whether handwritten, typed, printed, photostated, duplicated, carbon or otherwise copies or produced in any other manner whatsoever. Without limiting the generality of the foregoing, “documents” shall include correspondence, letters, telegrams, telexes, mailgrams, memoranda, including interoffice and interoffice memoranda, memoranda for files, memoranda of telephone or other conversations, and including meetings, invoices, reports, receipts and statements of account, ledgers, notes or notations, booklets, books, drawings, graphs, telephone records, video cassettes, electronic tapes, discs or other recordings, computer programs, hard drives, discs, printouts, data cards, studies, analysis, e-mails, computer files, back-up tapes, hard disks, litigation data bases and other data compilations from

which information can be obtained. Copies of documents which are not identical duplications of the originals, or which contain additions to or deletions from the originals, or copies of documents which are identical duplications of the originals if the originals are not available, shall be considered to be separate documents.

6. “File” and “Files” means the complete file, folder, binder, or other filing system, and all documents contained therein as of the date of the deposition, and all documents not physically in the file, folder, binder, or other filing system that are normally kept within the file, folder, binder, or other filing system in the normal course of business.

7. “ISP” means the Internet Service Provider who assigned the IP address to your name and physical address.

8. “Malibu Media, LLC,” refers to Plaintiff, Malibu Media, LLC, including its employees, agents, servants, subsidiaries, parent company, affiliated company and any other person or entity acting or purporting to act on its behalf or under its control.

9. “NAS,” also known as “Network-Attached Storage,” means any data storage or a data storage device, such as a hard drive or RAID array, connected to a computer network, providing data access to different network clients.

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

11. “Person” means any person or entity, and includes individuals, corporations, partnerships, associations, joint ventures, firm, and other business enterprises, or legal entities and includes both the singular and plural.

12. “Related to” shall mean directly or indirectly, refer to, reflect, describe, pertain to, arise out of or in connection with, or in any way legally, logically, or factually be connected with the matter discussed.

13. “Server” means any device that manages access to a centralized resource or service in a network.

14. “Time Period” means any time within the last twenty-four (24) months.

15. “Used” means connected the device to a computer or other device, connected the device to a power source, stored files on the device, copied files to the device, copied files from the device, erased files from the device, accessed files on the device, viewed files on the device, or engaged in any combination of the foregoing.

16. “Work” or “Works” means the copyrighted movies.

17. “You” or “Your” refers to the person upon whom this request was propounded and any other person(s) or entity(ies) acting or purporting to act on your behalf or under your control.

18. The words “and” and “or” shall be construed either disjunctively or

conjunctively as necessary to bring within the scope hereof any responses to interrogatories, documents, or communications, which might otherwise be construed to be outside the scope hereof.

### **Instructions**

Compliance with these Requests is requested to be made in accordance with the following:

1. If you at any time had possession, custody or control of a document called for under this request and if such document has been lost, destroyed, purged, or is not presently in your possession, custody or control, you shall describe the document, the date of its loss, destruction, purge, or separation from possession, custody or control and the circumstances surrounding its loss, destruction, purge, or separation from possession, custody or control.

2. If you assert that any document called for by this request is protected against disclosure as a “work product” or by privilege of any kind whatsoever, you shall provide the following information with respect to such document:

a. The name and capacity of the person or persons who prepared the document.

b. The name and capacity of all addressees or recipients of the original or copies thereof.

c. The date, if any, borne by the document.

- d. A brief description of its subject matter and physical size.
- e. The source of the factual information from which such document was prepared, and
- f. The nature of the privilege claimed.

3. All documents produced pursuant hereto are to be produced as they are kept in the usual course of business or shall be organized and labeled (without permanently marking the item produced) so as to correspond with the categories of each numbered request hereof.

4. When appropriate, the singular form of a word should be interpreted in the plural as may be necessary to bring within the scope hereof any documents which might otherwise be construed to be outside the scope hereof.

5. All documents to be produced are documents obtained in your possession within the Time Period.

## **SCHEDULE "B"**

### **Documents Requested**

1. All documents referring, relating to or comprising records of your Internet browser's activity on each of your Computer Devices within the last two years.

#### **RESPONSE NO. 1:**

2. All documents referring, relating to or comprising records associated with the purchase of a Computer Device within the last four years.

#### **RESPONSE NO. 2:**

3. All documents referring, relating to or comprising records associated with the purchase or installation of a modem or wireless router which was used in

your house, apartment or dwelling during the period of recorded infringement.

**RESPONSE NO. 3:**

4. All documents referring, relating to or comprising records associated with the purchase or installation of a modem or wireless router, computer, Computer Device, or video game console which was used in your house, apartment or dwelling after the period of recorded infringement.

**RESPONSE NO. 4:**

5. Documents pertaining to the setup, use, and control of your modem and wireless router which was used in your house, apartment, or dwelling during the period of recorded infringement. This includes user guides, hand books, access codes, passwords, account information, guest account information, warning statements, and any other document related to the use of your modem and router.

**RESPONSE NO. 5:**

6. Documents pertaining to the setup, use, and control of your modem and wireless router which was used in your house, apartment, or dwelling after the period of recorded infringement. This includes user guides, hand books, access codes, passwords, account information, guest account information, warning statements, and any other document related to the use of your modem and router.

**RESPONSE NO. 6:**

7. All documents identifying the make, model, and serial number of any wireless internet routers at your residence at during the period of recorded infringement.

**RESPONSE NO. 7:**

8. All documents referring, relating to or comprising records of any computer programs downloaded, uploaded, or installed on any Computer Device in your house, apartment or dwelling within the last two years.

**RESPONSE NO. 8:**

9. Please provide all monthly bills for internet service from your ISP to your residence at during the period of recorded infringement.

**RESPONSE NO. 9:**

10. If your response to Request for Admission #10 was to deny, please provide all documentary evidence in your possession refuting the allegation of the Amended Complaint that your IP Address on November 9, 2017 was XX.XXX.XX.XXX.

**RESPONSE NO. 10:**

11. Please provide all documents you have in your possession that

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

**RESPONSE NO. 11:**

12. All documents referring, relating to or comprising written communications between you and your ISP regarding notices of copyright infringement. Note: This does NOT include any promotional materials, marketing materials or brochures your ISP sent to you.

**RESPONSE NO. 12:**

13. A complete copy of all of the files contained within any cloud based storage system to which you or anyone in your house, apartment or dwelling, have used between the first date of recorded infringement (as listed in Plaintiff's operative Amended Complaint [CM/ECF 12]) through present day.

**RESPONSE NO. 13:**

14. A complete copy of any files stored on any video game consoles which were used in your house, apartment or dwelling within the Period of Recorded Infringement.

**RESPONSE NO. 14:**

15. A complete copy of any files stored on any video game consoles which were used in your house, apartment or dwelling after the Period of Recorded Infringement.

**RESPONSE NO. 15:**

16. Any documents which indicate or support any claim that you were not at your residence or within the control of your IP address at or around the period of recorded infringement.

**RESPONSE NO. 16:**

17. Any documents which indicate or support any claim that a tenant or other individual was authorized to live at your address at any time during the period of recorded infringement. This includes documents pertaining to ownership of the property, title of the home or apartment, and any existing lease, rental agreements, and sublet agreements.

**RESPONSE NO. 17:**

18. All documents pertaining to any electronic correspondence, issued in the last two years, from the Computer Devices to any other device able to connect to the Internet, which mentions or relates to Plaintiff or any of Plaintiff's Copyrighted Works. This includes all emails, instant messages, social network

postings, chat room comments, and any and all other forms of electronic communication.

**RESPONSE NO. 18:**

19. All documents pertaining to any forensic software that you used to preserve or delete files, programs, software, or any other type of electronic data between the first date of infringement (As listed in Plaintiff's operative Amended Complaint [CM/ECF 12]) to present day.

**RESPONSE NO. 19:**

20. Any documents which refer, relate to, or evidence the purchases of electronic equipment and Computer Devices at any and all electronic retail stores in the past 48 months. This includes credit card or bank statements.

**RESPONSE NO. 20:**

21. Any documents which refer, relate to, or demonstrate that you are not the individual who downloaded Plaintiff's copyrighted works via BitTorrent as alleged in Plaintiff's Amended Complaint [CM/ECF 12].

**RESPONSE NO. 21:**

22. Any documents which refer, relate to, or demonstrate that another individual downloaded Plaintiff's copyrighted works via BitTorrent as alleged in Plaintiff's Amended Complaint [CM/ECF 12].

**RESPONSE NO. 22:**

23. Any and all documents which you intend on using at any trial or hearing on this matter.

**RESPONSE NO. 23:**

24. The hard drive for each of the Computer Devices used in your house, apartment or dwelling from January 1, 2016 to present.

**RESPONSE NO. 24:**