

March 6, 2017

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Re: **ME2 Productions v. Doe #19, WD WA Case No. 2:17-cv-00099-RSL**

Dear Mr. Lowe:

This law firm represents Doe # 19 (“Ms. Doe”) with respect to the federal lawsuit your law firm has filed against her.

We reference our earlier letters regarding James Collins, Patricia Alexander, Larry Lewis, Jamie Alacorn, Jasmine Teodoro, Osamu Motoda, Deanna Robinson, and Pauline Conley. All the defenses we raised in those letters apply equally to Ms. Doe.

Ms. Doe is wholly innocent. She is in her late twenties and works for a local Community Health Center. Ms. Doe lives with her fiancé and three young children (under age 10) in their home. Their family home is approximately 1600 square feet and was built in 1961. The home is situated in a typical neighborhood for the area between Auburn and Federal Way. Ms. Doe’s family uses password protected Wi-Fi.

Ms. Doe has not used BitTorrent. No one in her home or family has used BitTorrent. Ms. Doe did not copy your client’s movie. Ms. Doe and her family have no idea who may have copied your client’s movie. Prior to being accused in this lawsuit, Ms. Doe had never heard of your client’s movie, and she has no interest in it. If she did have any interest in it, Ms. Doe could have rented the movie for no marginal cost using her Netflix account.

Ms. Doe was celebrating a very special day on the day your client’s Complaint errantly alleges that Ms. Doe was “observed infringing.” Saturday, December 17, 2016 was a special day because Ms. Doe and her fiancé became engaged that Saturday, December 17 – the weekend before Christmas.

At or around the 1:52 pm time of the entrapped blip, Ms. Doe, her fiancée and children were at the Auburn Super Mall. They spent considerable time that early afternoon at the jewelry store buying the very engagement ring that marks her special day. We have seen the receipt. The jewelry store has security cameras as does the mall. Ms. Doe’s family was out of their house all day on that Saturday December 17, Christmas shopping, celebrating, and visiting with family and friends. No one was in their home while they were gone. The family returned home around 10 pm. There are multiple witnesses to corroborate these events. Regrettably, Ms. Doe’s special engagement day of December 17, 2016 now has an asterisk.

Ms. Doe has not been identified, but we include her identification and address in a sealed envelope in the USPS copy of this letter so that your law firm can verify in good faith whatever facts may be necessary to confirm her innocence. Ms. Doe is concerned that being named in a federal court lawsuit (even as a party who is proven wholly innocent of all allegations) may affect important aspects of her life, so we ask that this privacy concern be respected.

We respectfully request that ME2 Productions voluntarily dismiss Ms. Doe from the case. If she is dismissed by 12:00 pm (noon) on Monday, March 13, 2017, we will not Answer, and we will not seek defense attorneys' fees or costs. If the case is not dismissed by 12:00 pm (noon) Monday, March 13, 2017, we will Answer, and we will seek defense attorneys' fees when Ms. Doe wins, which is a certainty given her innocence.

Each call my law firm receives from an innocent, falsely accused BitTorrent defendant is another opportunity to perform a preliminary investigation. With each case, we see more into the dark corners of the BitTorrent cases filed in WD WA.

The Guardaley system, whatever it may be, does not create admissible, credible evidence sufficient for any judge or jury to find copyright infringement liability under U.S. law. Mr. Patzer and Mr. Arheidt lack the personal knowledge to verify the various software programs at issue or their output. We have an opportunity to see these Guardaley evidentiary issues play out in the ND CA, in Case No. 15-cv-4441, which goes to trial later this month (after the plaintiff lost its Motion to delay its own trial.)

The Guardaley system invades the privacy of purported Washington residents, in violation of laws designed to protect our residents from abuse of legal process by ersatz investigators. Washington law, RCW Chapter 18.165, requires that investigators who create evidence from private activity for use in Court must be licensed and bonded.

Mr. Patzer has testified that his software is "like taking a movie" of the "infringer." This triggers RCW 18.165 under its plain language – investigators must be licensed before they can create movies of people in their private lives for submission as evidence. The license and bond required by Washington law operate to make the investigator openly identifiable and responsible. But the investigative people and enterprises in these BitTorrent cases are not openly identifiable or responsible. Numerous errors have led to numerous lawsuits against numerous innocent people, yet the identification and relationships among these individual investigators and their companies remain a mystery. We do know, however, that "Maverickeye" of Germany is not licensed under RCW 18.165.

In this ME2 Productions case, in addition to Maverickeye, we see a new name – "IP Squared." Page 3 of Dkt. # 5 in this case identifies "IP Squared" as "using forensic software to collect, identify, and record the Internet Protocol addresses used by those people that employ BitTorrent protocol to share, copy, reproduce, and distribute copyrighted works." "IP Squared" of Delaware likewise appears not to be licensed under RCW 18.165, yet, like "Maverickeye," ME2Productions is relying on its investigation?

We looked into IP Squared. A “William Gorfein” submitted a declaration for “Canal Street Films” in a BitTorrent case filed in MD PA, Case No. 13-cv-999, dated March 30, 2013, declaring he “is the President of IP Squared Technology Holdings Company, a Delaware corporation.”

Here is a copy of Mr. Gorfein’s signature on that declaration, ECF No. 4-1:



WILLIAM GORFEIN

Your law firm also filed declarations of Mr. Gorfein for IP Squared for “Canal Street Films.” WD WA Case No. 2:13-cv-007 has two Gorfein Declarations, one filed January 9, 2013 (Dkt. # 5-1), and one filed May 23, 2013 (Dkt. # 19-2). ED WA Case No. 2:13-cv-3001 also has two Gorfein Declarations, one filed January 14, 2013 (ECF No. 6-1), and one filed June 3, 2013 (ECF No. 16-2).

These WD WA and ED WA Gorfein Declarations were filed both before Mr. Gorfein’s MD PA Declaration and after Mr. Gorfein’s MD PA Declaration. Mr. Gorfein declares to the MD PA that he is the “President of IP Squared,” but in the WD WA and ED WA, Mr. Gorfein declares he is “retained as a software consultant to IP Squared ... in its technical department.” So was Mr. Gorfein the “President” of IP Squared (in March, 2013), or was he a “consultant” of IP Squared (in January, 2013 and May, 2013)?

The Delaware Secretary of State shows incorporation of IP Squared on November 20, 2012. Mr. Gorfein’s WD WA and ED WA “observations” of “infringement” pre-date and post-date that date of incorporation. (The WD WA observations are from September through December, 2012; and the ED WA observations are from October through December, 2012.) In other words, it appears Mr. Gorfein testified in WD WA and ED WA that he did his IP Squared investigation for Canal Street Films both before and after IP Squared was formally incorporated, although the Declarations do not explain how this was accomplished.

Here is a copy of Mr. Gorfein’s signatures on the latter of those two WD WA and ED WA declarations. (We refer to these latter William Gorfein signatures as “type two” Gorfein signatures):

ED WA 13-cv-3001 (ECF 16-2):



William M. Gorfein

WA ED 13-cv-007 (ECF 19-2):



William M. Gorfein

These “type two” Gorfein signatures appear very similar to the MD PA signature above. Note that the ED WA and WD WA “type two” Gorfein signatures are strikingly similar – so similar they may not be original.

Here is a copy of Mr. Gorfein's signatures on the earlier of those two declarations filed in WD WA and ED WA. (We refer to these earlier William Gorfein signatures as "type one" Gorfein signatures):

ED WA 13-cv-3001 (ECF 6-1):

William M. Gorfein  
William M. Gorfein

WD WA 13-cv-007 (ECF 5-1):

William M. Gorfein  
William M. Gorfein

Here is a "type one" Gorfein signature submitted to the USPTO on U.S. Patent Application No. 13,847,418 to assign that patent application to IP Squared:

William M. Gorfein

Here are some more "type one" Gorfein signatures from the cases next to be discussed in this letter:

"Battle Force" ND IL 1:12-cv-7818 (ECF 8-1):

By: William M. Gorfein  
William Gorfein

"Dragon Quest" ND IL 1:12-cv-7812 (ECF 8-1):

By: William M. Gorfein  
William Gorfein

"TriCoast Smitty" ND IL 1:12-cv-6386 (ECF 9-1):

By: William M. Gorfein  
William Gorfein

"R&D Film No. 1" ED IL 1:12-cv-5810 (ECF 9-1):

By: William M. Gorfein  
William Gorfein

As with the “type two” Gorfein signatures, these “type one” Gorfein signatures appear strikingly similar, indeed so similar that it appears they may be photographic copies and not original signatures.

The “type one” Gorfein signatures your law firm submitted to ED WA and WD WA appear not to be original signatures. Likewise, the “type two” Gorfein signatures your law firm submitted to ED WA and WD WA appear not to be original signatures.

Plus, the difference between the “type one” Gorfein signatures and the “type two” Gorfein signatures is significant. We are not handwriting experts, but it appears these signatures were made by different people. The “type one” Gorfein signature is signed “Will” and uses a lower case “g.” The “type two” Gorfein signature is signed “William” and uses a capital “G.” There are other notable differences. Your law firm submitted both “type one” Gorfein signatures and “type two” Gorfein signatures to Judge Lasnik in WD WA and Judge Shea in ED WA. Judge Lasnik is the judge in this ME2 Productions case.

Mr. Gorfein also submitted multiple declarations for other BitTorrent plaintiffs in the United States District Court system. For example, we saw Gorfein declarations for “Battle Force,” for “Dragon Quest,” for “TriCoast Smitty,” and for “R & D Film No. 1,” all filed in the ND IL. (All of these ND IL cases use “type one” Gorfein signatures, with exemplar Case Nos. and “type one” Gorfein signatures provided above.)

In those four sets of ND IL BitTorrent cases, the plaintiff’s attorney submitting Mr. Gorfein’s declaration was Michael Hierl. We presume this is the same Mr. Hierl who is the signatory on the copyright registration in this ME2 Productions case, Dkt. # 1-1. We see Mr. Hierl is also the plaintiff’s counsel for ME2 Productions in ND IL.

Instead of claiming any connection to “IP Squared ... of Delaware ... in its technical department” (as Mr. Gorfein claimed in WD WA and ED WA), Mr. Gorfein’s ND IL declarations in those four sets of BitTorrent cases claim his connection to “Crystal Bay Corporation ... of South Dakota ... in its technical department.”

Those same four ND IL plaintiffs (“Battle Force,” “Dragon Quest,” “TriCoast Smitty,” and “R & D Film No. 1,” all filing declarations of Mr. Gorfein claiming to be a consultant with “Crystal Bay Corporation ... of South Dakota ... in its technical department”) also filed declarations under the name “Darren M. Griffin” claiming to be a consultant with “Crystal Bay Corporation ... of South Dakota ... in its technical department.” In other words, the same plaintiff used two different investigators, “William Gorfein” and “Darren M. Griffin,” in different districts to submit declarations in order to obtain the right to issue the Subpoenas that would then identify subscribers.

For example, in ED MO, “Battle Force” filed a Declaration of “Darren M. Griffin” in Case No. 4:12-cv-2020. In D NJ, “Dragon Quest” filed a Declaration of “Darren M. Griffin” in Case. No. 1:12-cv-6611. In ED MO, “TriCoast Smitty” filed a Declaration of “Darren M. Griffin” in Case No. 4:12-cv-2019. It appears that certain times of the “observations” of “infringement” overlap in the ND IL Gorfein declarations and the “Darren M. Griffin” declarations from these other districts. We have previously provided our reasoned conclusion that “Darren M. Griffin” is fictitious.

Mr. Hierl became one of the most prolific filers of “Darren M. Griffin” declarations in the country. Notably, Mr. Hierl also had ND IL plaintiffs with “Gorfein/Griffin overlap.” For example, Mr. Hierl filed a “Griffin at Crystal Bay” declaration in ND IL Case No. 12-cv-9306, after filing a “Gorfein at Crystal Bay” declaration in ND IL Case No. 12-5810. Both declarations were filed for the same plaintiff “R & D Film No. 1.”

This “Gorfein/Griffin overlap” comes right back to WD WA. That same plaintiff “R & D Film No. 1” (who filed multiple “Gorfein at Crystal Bay” and “Griffin at Crystal Bay” declarations in ND IL) also filed multiple “Griffin at Crystal Bay” declarations in our WD WA. For example, Case No. 2:13-cv-50-RSL, Dkts. # 4-1 and # 12-8.

In Dkt. # 4-1 of that R & D Film No. 1 WD WA case, “Darren M. Griffin” claims he was “retained as a software consultant for Crystal Bay Corporation ... of South Dakota ... in its technical department.” Unlike the other cited “Griffin at Crystal Bay” declarations, these WD WA declarations (boldly) add “I have a degree in computer science.”

In Dkt. # 12-8 of that R & D Film No. 1 WD WA case, “Darren M. Griffin” claims he “work[s] for Crystal Bay Corporation.” This is also the “Darren M. Griffin” declaration with the introductory “work history” paragraph that is (impossibly) nearly-identical to that of Mathias Padawet, Malte Dinkela, Patrick Achache, and Daniel Arheidt. Mr. Arheidt is the witness in this ME2 Productions case, Dkt. # 4.

Over 40 of these “Darren M. Griffin” declarations claiming to have a degree in computer science were filed in WD WA by various parties in addition to R & D Film No. 1. Later, over 30 “Supplemental Declarations of Darren M. Griffin” were filed in WD WA with the “Arheidt-identical” work history. All 70+ of those “Darren M. Griffin” declarations were submitted to WD WA Judge Lasnik, the same judge presiding over this ME2 Productions case.

Maybe all of this is explainable.

We seek a full explanation if we are forced to Answer for Ms. Doe. We will conduct full discovery. We will patiently await trial and call Ms. Doe and her family to the stand to tell the story of that wonderful Saturday in December 2016 celebrating their engagement.

Ms. Doe will prevail. We will present our claim for fees and costs under *Fogerty* and *Perfect Ten*. We are confident Judge Lasnik will award full defense attorneys’ fees. We are confident Judge Lasnik will be grateful to understand that the direct connections between these current ME2 Productions cases and the 70+ “Darren M. Griffin” declarations, about which he has apparently yet to be informed are fictitious.

Please consider our offer not to Answer, nor pursue attorneys’ fees, if the case against Ms. Doe is dismissed by 12:00 pm (noon) Monday, March 13, 2017. Otherwise, we will submit our Answer and patiently work toward Ms. Doe’s full exoneration and the ruling on our request for defense attorneys’ fees.

Lee&Hayes 

Thank you for consideration of our position.

Very truly yours,



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C: Doe #19  
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