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IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

HARD DRIVE PRODUCTIONS, INC. )  
 )  
 ) Plaintiff, )  
 ) v. )  
 ) )  
 ) JOHN DOE )  
 ) )  
 ) Defendant. )  
 )

No.  
Judge:  
**COMPLAINT**  
**DEMAND FOR JURY TRIAL**

Plaintiff Hard Drive Productions, Inc. through its undersigned counsel, hereby files this Complaint requesting damages and injunctive relief, and alleges as follows:

**NATURE OF THE CASE**

1. Plaintiff files this action for copyright infringement under the United States Copyright Act and a related civil conspiracy claim under the common law to combat the willful and intentional infringement of one of its creative works. John Doe and his co-conspirators, whose names Plaintiff expects to ascertain during discovery, illegally reproduced and distributed Plaintiff's copyrighted Video by acting in concert via the BitTorrent file sharing protocol and, upon information and belief, continues to do the same. Plaintiff seeks a permanent injunction, statutory or actual damages, award of costs and attorney's fees, and other relief.





1 party, who then performs similar transfers. The one-to-one whole file transfer method can  
2 significantly delay the spread of a file across the world because the initial spread is so limited.

3         11. In contrast, the BitTorrent protocol is a decentralized method of distributing data.  
4 Instead of relying on a central server to distribute data directly to individual users, the BitTorrent  
5 protocol allows individual users to distribute data among themselves. Further, the BitTorrent  
6 protocol involves breaking a single large file into many small pieces, which can be transferred much  
7 more quickly than a single large file and in turn redistributed much more quickly than a single large  
8 file. Moreover, each peer can download missing pieces of the file from multiple sources—often  
9 simultaneously—which causes transfers to be fast and reliable. After downloading a piece, a peer  
10 automatically becomes a source for the piece. This distribution method contrasts sharply with a one-  
11 to-one whole file transfer method.  
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13         12. In BitTorrent vernacular, individual downloaders/distributors of a particular file are  
14 called peers. The group of peers involved in downloading/distributing a particular file is called a  
15 swarm. A server which stores a list of peers in a swarm is called a tracker. A computer program that  
16 implements the BitTorrent protocol is called a BitTorrent client. Each swarm is unique to a particular  
17 file.  
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19         13. The BitTorrent protocol operates as follows. First, a user locates a small “torrent” file.  
20 This file contains information about the files to be shared and about the tracker, the computer that  
21 coordinates the file distribution. Second, the user loads the torrent file into a BitTorrent client, which  
22 automatically attempts to connect to the tracker listed in the torrent file. Third, the tracker responds  
23 with a list of peers and the BitTorrent client connects to those peers to begin downloading data from  
24 and distributing data to the other peers in the swarm. When the download is complete, the BitTorrent  
25 client continues distributing data to other peers in the swarm until the user manually disconnects  
26 from the swarm or the BitTorrent client otherwise does the same.  
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1           19. Plaintiff has applied for a certificate of copyright registration for the Video from the  
2 United States Copyright Office, and that application is currently pending (Application No. 1-  
3 689627395).

4           20. The torrent file used to access the copyrighted material was named in a manner that  
5 would have provided an ordinary individual with notice that the Video was protected under the  
6 copyright laws of the United States.

7           21. Plaintiff employs proprietary peer-to-peer network forensic software to perform  
8 exhaustive real time monitoring of the BitTorrent-based swarm involved in distributing the Video.  
9 This software is effective in capturing data about the activity of peers in a swarm and their infringing  
10 conduct.

11           22. John Doe and his co-conspirators, without Plaintiff's authorization or license,  
12 intentionally downloaded a torrent file particular to Plaintiff's Video, purposefully loaded that  
13 torrent file into their BitTorrent clients, entered a BitTorrent swarm particular to Plaintiff's Video,  
14 and reproduced and distributed the Video to numerous third parties.

15           23. Plaintiff observed John Doe's and his co-conspirators' activities in the torrent swarm  
16 specific to the Video and created a log identifying John Doe and his co-conspirators by their IP  
17 address and the date and time of their unlawful activity. The IP address associated with John Doe is  
18 identified on Exhibit A attached hereto. The IP addresses associated with John Doe's co-conspirators  
19 are also identified on Exhibit A.

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23                           **COUNT I – COPYRIGHT INFRINGEMENT**

24           24. Plaintiff hereby incorporates by reference each and every allegation contained in the  
25 preceding paragraphs as if fully set forth fully herein.

26           25. John Doe's and his co-conspirators' conduct infringes upon Plaintiff's exclusive  
27 rights of reproduction and distribution that are protected under the Copyright Act.



1 34. Participants in the torrent swarm have conspired to provide other individuals with  
2 pieces of the Video in exchange for receiving other pieces of the same Video to eventually obtain a  
3 complete copy of the file.

4 35. In furtherance of this civil conspiracy, John Doe and his co-conspirators committed  
5 overt tortious and unlawful acts by using BitTorrent software to download the Video from and  
6 distribute it to others, and were willful participants in this joint activity.

7 36. As a proximate result of this conspiracy, Plaintiff has been damaged, as is more fully  
8 alleged above.

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10 **JOINDER OF CO-CONSPIRATORS**

11 37. Plaintiff intends to seek leave of the Court to amend this complaint to join John Doe's  
12 co-conspirators as defendants in this action pursuant to Fed. R. Civ. P. 20(a)(2).

13  
14 **JURY DEMAND**

15 38. Plaintiff hereby demands a jury trial in this case.

16 **PRAYER FOR RELIEF**

17 **WHEREFORE**, Plaintiff respectfully requests Judgment and relief as follows:

18 1) Judgment against John Doe that he has: a) willfully infringed Plaintiff's rights in  
19 federally registered copyrights pursuant to 17 U.S.C. § 501; and b) otherwise injured the business  
20 reputation and business of Plaintiff by his acts and conduct set forth in this Complaint;

21 2) Judgment in favor of the Plaintiff against John Doe for actual damages or statutory  
22 damages pursuant to 17 U.S.C. § 504, at the election of Plaintiff, in an amount to be ascertained at  
23 trial;

24 3) Order of impoundment under 17 U.S.C. §§ 503 & 509(a) impounding all infringing  
25 copies of Plaintiff's audiovisual works, photographs or other materials, which are in John Doe's  
26 possession or under their control;  
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**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands a jury trial as provided by FRCP 38(a).

By:           /s/ Brett L. Gibbs          

Brett L. Gibbs, Esq. (SBN 251000)

*Attorney for Plaintiff*