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10  
11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF ARIZONA**

13 AF HOLDINGS, L.L.C., a St. Kitts and  
14 Nevis limited liability company,

15 Plaintiff,

16 v.

17 DAVID HARRIS,

18 Defendant.

Case No.: 2:12-cv-02144-PHX – GMS

**MOTION FOR THE COURT TO (1)  
ENTER AN ORDER STAYING  
LITIGATION OR DISCOVERY; (2)  
ORDER QUASHING PLAINTIFF'S  
SUBPOENA; (3) ENTER A  
PROTECTIVE ORDER**

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19  
20 Movants, who are non-parties and identified by IP Address Nos. 72.223.91.187,  
21 68.230.120.162, 68.106.45.9, 68.2.87.48, 98.165.107.179 and 68.2.92.187, are targeted  
22 by Plaintiff as Defendant Harris' purported co-conspirators through a subpoena issued on  
23 February 5, 2013 to Cox Communication. Movants, through undersigned counsel,  
24 hereby request an order quashing Plaintiff's subpoena, for the entry of a protective order  
25 and staying litigation or discovery pending the resolution of:

26 (A) An Order to Show Cause hearing set for April 2, 2013 in connection with  
27 the consolidated cases of AF Holdings v. Doe, 2:12-cv-6636-ODW, 2:12-cv-6669-ODW  
28 and Ingenuity 13, LLC v. Doe, 2:12-cv-6662-ODW, 2:12-cv-6668-ODW, 2:12-cv-  
8333-ODW, pending in the Central District of California and any further action taken by

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1 the court as a result of that hearing. C.D. Cal., 2:12-cv-8333-ODW, ECF Doc Nos. 86  
2 and 88). The OSC hearing is to determine whether Plaintiff, Ingenuity 13, Livewire  
3 Holdings, Steele Hansmeier, PLLC, Prenda Law, Inc. and individuals such as Attorneys  
4 John Steele and Paul Hansmeier, should not be sanctioned for, among other things ,  
5 failing to disclose any financial interest in Plaintiff and in the outcome of litigation,  
6 defrauding the court by misrepresenting the nature and relationship of these entities and  
7 individuals, failing to make *pro hac vice* appearances, using the identity and forged  
8 signature of an individual in connection with Plaintiff's business dealing without the  
9 individual's consent.

10 (B) The action entitled *Alan Cooper v. John Lawrence Steele, Prenda Law, AF*  
11 *Holdings, LLC, Ingenuity 13, LLC*, currently pending in the Fourth Judicial District  
12 Court for the County of Hennepin, State of Minnesota. (27-CV-13-3463). Mr. Cooper  
13 alleges that Mr. Steele and the other defendants misappropriated his name by holding  
14 him out as a member of Plaintiff and forging his signature on verified pleadings filed in  
15 connection with federal lawsuits and on assignments purportedly transferring copyrights.

16 On February 5, 2013, Plaintiff issued a subpoena and served Cox  
17 Communications to identify internet subscribers assigned 71 IP addresses. (See March  
18 1, 2013 redacted letter from Cox Communications, February 5th subpoena and table of  
19 IP addresses attached as Exhibit A hereto). On February 14th, nine days after it issued  
20 the subpoena, Plaintiff moved the Court for an order authorizing issuance of subpoenas  
21 to conduct limited discovery by identifying Defendant Harris' purported "co-  
22 conspirators." The Movants are among those subscribers that Plaintiff seeks to identify,  
23 and whose records will be released on or about April 1, 2013.

24 Litigation and/or discovery should be stayed, the subpoena squashed and a  
25 protective order entered because Plaintiff appears to be involved and is part of a scheme  
26 involving likely fraudulent conduct that will directly affect whether Plaintiff has  
27 standing or the right to continue prosecuting this lawsuit. Further, the balancing of  
28 interests in this case demonstrate that a stay should be granted because any prejudice to

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1 Plaintiff is self-inflicted given the above conduct and the hardship to Movants and others  
2 targeted by the subpoena is severe. Specifically, the subpoena is being directed at Cox  
3 Communication to identify internet subscribers to enable Plaintiff, through Prenda Law  
4 and Attorneys John Steele and Paul Hansmeier, to send letters to these subscribers  
5 threatening to be named in federal litigation involving pornography unless he or she  
6 pays thousands of dollars.<sup>1</sup> The Motion is brought pursuant to Rules 45(c)(3), 26(c)(1),  
7 Fed. R. Civ. P. and is based on the entire Court record and the following Memorandum  
8 of Points and Authorities.  
9

## 10 MEMORANDUM OF POINTS AND AUTHORITIES

### 11 **I. Factual Background.**

12 Judge Otis D. Wright, II., of the Central District of California, will be conducting  
13 an April 2, 2013 OSC hearing concerning sanctions to the above parties. An initial OSC  
14 hearing was conducted on March 11, 2013 that further untangled the web and layers of  
15 deception that has pervaded Plaintiff's litigation campaign across federal courts  
16 throughout the country, and the attorneys and law firms driving its lawsuits. The  
17 following factual background is useful to understand this web and the ramifications that  
18 Plaintiff and these law firms/lawyers face on April 2nd.  
19

#### 20 **A. What Is AF Holdings?**

21 Plaintiff is a business entity cloaked in secrecy. In substantial part because it was  
22 formed offshore in a country that allows anonymous bank accounts, lacks transparency  
23 in identifying ownership interests in legal entities and otherwise serves as a tax haven.<sup>2</sup>  
24 And because its lawyers have refused to respond to discovery concerning Plaintiff and  
25 Mr. Coopers' contentions that his identity and forged signature have been used in  
26 connection with Plaintiff's business activities and court filings. Plaintiff was formed as a  
27

28  

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<sup>1</sup> For detailed explanation of Prenda's business model and litigation strategy see *Ingenuity 13, LLC v. John Doe*,  
2:12-cv-08333, Doc No. 23-1 at Pg. 5 - 8.

<sup>2</sup> <http://www.knowyourcountry.com/stkitts1111.html>

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1 limited liability company in the country of Saint Kitts and Nevis, a small island in the  
2 West Indies. (See 30(b)(6) Deposition Transcript of Paul Hansmeier, 2:12-cv-08333,  
3 Doc No. 71 at 21:18-22:1<sup>3</sup>; See Certificate of Formation, 2:12-cv-08333, Doc. 50-1).  
4 The Certificate of Formation doesn't identify a single member or any other person or  
5 entity that has an interest in it. According to Mr. Hansmeier, Plaintiff is wholly owned  
6 by a trust with supposedly "undefined beneficiaries." (*Id.* at 9:5-11, 39:14-15, 41:13-  
7 15). Despite Mr. Hansmeier being produced as the person most knowledgeable about  
8 Plaintiff's governance, Mr. Hansmeier did not know the name of the trust', who or what  
9 was/were "undefined beneficiaries" under the trust, nor had he ever seen or reviewed the  
10 trust documents. (*Id.* at 9:12-16; 39:10-16, 46:10-11; 70:15-20) And Mr. Hansmeier  
11 was unaware of the trail of individuals involved in forming Plaintiff, but believes it was  
12 formed at the direction of CEO and sole employee, Mark Lutz. (*Id.* at 22:5, 28:9-18,  
13 73:24-74:3). Significantly, Mr. Lutz was an employee of Steele Hansmeier. (*Id.* at  
14 130:16-18). And Mr. Lutz facilitated settlements for Prenda Law for a substantial time  
15 in connection with Prenda's BitTorrent copyright infringement litigation campaign. (See  
16 E-Mail From Mark Lutz attached as **Exhibit B** hereto). And equally significant is the  
17 fact that Mr. Hansmeier was designated as Plaintiff's corporate representative, despite  
18 Mr. Hansmeier having represented Plaintiff in copyright infringement litigation (*Id.* at  
19 94:10-16; List of attorneys appearing in *AF Holdings, LLC v. Does 1-29, 0:11-cv-*  
20 *01794*). And even more troubling is that Plaintiff has never received any monetary  
21 distributions in connection with any of its lawsuits (damages and settlements), but  
22 rather, the money purportedly remains in law firms trust accounts (including the Alpha  
23 Law Firm) to pay for litigation expenses. (*Id.* at (81:9-82:7; 88:14-18).

#### 24 **B. AF Holding's Copyright Infringement Litigation Campaign**

25 On June 21, 2011, Plaintiff commenced its first of 212 copyright infringement  
26 lawsuits in federal courts across the country. (*AF Holdings, LLC v. Does 1-97, N.D.*  
27  
28

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<sup>3</sup> The page:line citations to Mr. Hansmeier's deposition transcript are based on the page number of the transcript itself rather than the page assigned through ECF.

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1 Cal., 4:11-cv-03067, Doc No. 1). Plaintiff's attorney in that litigation, Brett Gibbs,  
 2 identified himself as associated or affiliated with Steele Hansmeier. (*Id.*). And  
 3 significantly Plaintiff's Corporate Party Disclosure Statement and Certification of  
 4 Interested Entities or Persons, did not disclose any financial or other pecuniary interest  
 5 that Attorneys John Steele or Paul Hansmeier had in Plaintiff. (*Id.*, Doc No. 2). This  
 6 began a pattern where Plaintiff's Corporate Disclosure Statement failed to identify any  
 7 such interest, including the one filed in this case (See Doc No. 3). Although the  
 8 Disclosure Statement in this case was signed by Steven Goodhue, evidence developed in  
 9 the March 11, 2013 Order to Show Cause hearing and in undersigned counsel's  
 10 experience, raises a very strong inference that Mr. Steele and Mr. Hansmeier, instead of  
 11 Mr. Goodhue, are directing and controlling this litigation. See *infra* at 9:14-10:11 and  
 12 13:12-25.

14 C. **The Central District of California's Consolidated Cases of AF**  
 15 **Holdings v. Doe, 2:12-cv-6636-ODW, 2:12-cv-6669-ODW and**  
 16 **Ingenuity 13, LLC v. Doe, 2:12-cv-6662-ODW, 2:12-cv-6668-ODW,**  
 17 **2:12-cv-8333-ODW**

18 **1. Plaintiff Ordered To Appear at an April 2, 2012 Order to**  
 19 **Show Cause Hearing**

20 Plaintiff finds itself in the cross-hairs of an April 2, 2013 Order to Show Cause  
 21 hearing being conducted by Judge Otis D. Wright, II in connection with the above  
 22 consolidated cases (C.D. Cal., 2:12-cv-8333-ODW, ECF Doc Nos. 86 and 88; See also  
 23 Doc Nos. 48 and 57). As mentioned above, Plaintiff, Prenda Law, Inc., Steele  
 24 Hansmeier, PLLC, Attorneys John Steele and Paul Hansmeier, are among those ordered  
 25 to attend.<sup>4</sup> (*Id.*, Doc No. 86 at 2:3-21). The OSC hearing will address whether Plaintiff  
 26 and the attorneys (Steele and Hansmeier) primarily driving its lawsuits should be  
 27 sanctioned for defrauding the court, including but not limited to misrepresentations and  
 28 active concealment that the above attorneys have a financial interest in entities like

<sup>4</sup> Judge Wright ordered these above individuals and entities to appear at the initial OSC hearing set for March 11, 2013 (Doc No. 66). But they failed to do so.

1 Plaintiff and use of a misappropriation of Mr. Cooper's identity and forged signature.  
2 (*Id.*, Doc. No. 86 at 1:28-2:2 and 2:22).

### 3 2. Notice of Related Cases in the Central District of California

4 Plaintiff's problems essentially began when Attorney Morgan Pietz, appearing on  
5 behalf of the anonymous John Doe in one of the consolidated cases, filed a Notice of  
6 Related Cases (*Id.*, Doc. 15). The notice pointed out that both Plaintiff and Ingenuity  
7 are shell companies formed off-shore and both had filed a substantial number of  
8 copyright infringement lawsuits, including 49 that were then pending in the Central  
9 District of California alone. (*Id.*, Doc 15 at 4:2-5). Mr. Pietz's basis was that both  
10 entities filed nearly identical cookie cutter complaints, which were essentially  
11 distinguishable only by the work allegedly infringed and the IP addresses being targeted.  
12 Both employed the same litigation strategy to seek *ex parte* applications to conduct  
13 discovery to identify internet subscribers and that Prenda Law represented both parties.  
14 (*Id.* 4:5-14). Mr. Pietz also alerted the court to mounting evidence that had developed  
15 implicating both Plaintiff and Ingenuity as part of a systemic and widespread fraud,  
16 namely, misappropriating the identity of an individual named Alan Cooper and  
17 concealment of the lawyers' financial interest in both entities. (*Id.* at 4:22-26; 5:13-18).  
18 Mr. Cooper had been held out and identified as a member and principal of both Plaintiff  
19 and Ingenuity 13 in different actions, and assignments transferring copyrights from the  
20 original author to Plaintiff had been produced bearing Mr. Cooper's purported signature.  
21 (*Id.* at 5:6-7; See Doc No. 1-2 to this case).

22  
23 On December 10, 2012, Mr. Pietz supplemented his notice of related cases by  
24 offering Mr. Cooper's sworn affidavit, who had retained counsel (Paul Godfread). Mr.  
25 Cooper, through Mr. Godfread, was stonewalled by Prenda Law and Mr. Steele to  
26 ascertain whether he was indeed the Mr. Cooper being held out as AF Holding's member  
27 and/or principle. (2:12-cv-8333., Doc 19 at 1:19-2:18; Doc 19-1). On December 19,  
28 2012, Judge Wright, who had been assigned *AF Holdings, LLC v. John Doe*, 12-cv-  
05709, consented to the transfer of the *Ingenuity* and other *AF Holdings* cases. (*Id.*, Doc

1 24).

2 On December 20, 2012, Judge Wright issued an Order Vacating Prior Early  
3 Discovery Orders (Subpoenas to ISP's) and Order to Show Cause. (*Id.* at Doc. No. 28).  
4 Judge Wright expressed concern that unmasking internet subscribers accused to have  
5 downloaded pornographic materials was ripe for potential discovery abuse. (*Id.* at 1:27-  
6 2:5). It was ordered that Ingenuity show cause why early discovery was warranted and  
7 how Ingenuity planned on proceeding during discovery in light of Judge Wright's  
8 concerns. (*Id.* at 2:18-3:3).

9  
10 **3. Judge Wright Granted Discovery to Flush Out the Alan Cooper  
11 Issue and Later Ordered a Show Cause Hearing with Sanctions  
12 for March 11, 2013**

12 On December 26, 2012, Judge Wright granted Mr. Pietz leave to serve early  
13 discovery, namely, special interrogatories and document production narrowly tailored to  
14 flush out whether Prenda Law and specifically John Steele, had indeed used the  
15 misappropriated identify and forged signature of Alan Cooper. (*Id.*, Doc 23, 34). The  
16 discovery was never responded to, which was not surprising, given Mr. Gibbs' position  
17 that Prenda Law had no intent to voluntarily respond or produce this information. (*AF*  
18 *Holdings v. Doe*, 2:12-cv-05709-ODW, Doc. 13-2). On February 7, Judge Wright under  
19 the court's inherent authority, ordered Brett Gibbs, counsel for Plaintiff and Ingenuity, to  
20 attend a March 11, 2013 Order to Show Cause hearing. (*Ingenuity 13*, 12:2-cv-8333,  
21 Doc No. 48). Mr. Gibbs was ordered to show cause why he should not be sanctioned  
22 under Rule 11, Fed. R. Civ. P. due to a lack of a reasonable investigation to ascertain the  
23 actual infringer's identity and under the Central District of California's Local Rule 83-3  
24 for attorney misconduct. (*Id.* at 1:16-18). The potential misconduct arose from  
25 violating discovery orders in *AF Holdings v. Doe*, 2-12-cv-6636 and 6669, and possible  
26 fraud. (*Id.* at 8:1 - 9:11). Last Judge Wright invited Alan Cooper to attend the hearing  
27 and testify whether his identity had been misappropriated and signature forged. (*Id.* at  
28 10:25-26).

On February 19, 2013, Brett Gibbs filed a Response and Declaration to the Order



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1 to Show Cause. Despite Mr. Gibbs being attorney of record for Plaintiff and Ingenuity,  
2 Mr. Gibbs admitted that he did not make strategic litigation decisions, which were made  
3 by "senior members" of Steele Hansmeier and Prenda Law. (*Id.*, Doc. 49 at 4:10-19).  
4 And Mr. Gibbs never had face-to-face or direct contact with Plaintiff, which was  
5 handled by "senior members" of Steele Hansmeier and Prenda Law. (*Id.* at 6:12-14).  
6 Mr. Gibbs saw Mr. Cooper's signature on verified pleadings and copyright assignments,  
7 which were given to him by the "senior members," but otherwise Mr. Gibbs had never  
8 met Mr. Cooper. (*Id.* at 7:12-26). Mr. Gibbs also denied any financial interest in  
9 Plaintiff or any of the law firms representing Plaintiff. (*Id.* at 4:20-23; 26:13-14).  
10

11 On February 27, 2013, Judge Wright consolidated five cases for purposes of the  
12 March 11th Order to Show Cause re sanctions hearing, including two involving Plaintiff.  
13 (*Id.*, Doc No. 57). Further Judge Wright Ordered Mr. Gibbs to identify the "senior  
14 members" at the firms that hired Mr. Gibbs, who made "strategic decisions," the names  
15 and contact information of the copyright owners and the names and contact information  
16 of the principals of Plaintiff and Ingenuity 13. (*Id.*, Doc. No. 60 at 2:7-21). On March  
17 5, 2013, Judge Wright ordered that John Steele, Paul Hansmeier, Mark Lutz and Alan  
18 Cooper (the Minnesota resident and property caretaker as well as Plaintiff's member  
19 and/or principal), among others, to appear at the March 11th hearing. (*Id.*, Doc No. 66).  
20 On March 8th, at 3:56 p.m., the Friday before the March 11th hearing, a lawyer  
21 appearing for John Steele, Paul Hansmeier and two others filed an ex parte Application  
22 for the court to withdraw its order of appearance.  
23

#### 24 **4. The March 11, 2013 Order to Show Cause Hearing**

25 The March 11th hearing was notable. First, Judge Wright commented on the  
26 30(b)(6) deposition of Paul Hansmeier, the person supposedly most knowledgeable  
27 about Plaintiff, namely, that "[t]here was so much obstruction during the course of this  
28 deposition that it is obvious that someone has an awful lot to hide. This has actually  
raised far more questions of fraud than the court originally had... ." (*Id.*, Doc No 93 at



1 7:8-12; 5:2-6:7; 15:3-11<sup>5</sup>). Second, Alan Cooper, the Minnesota resident and property  
2 caretaker, appeared and testified. Mr. Cooper denied authorizing the use of his name as  
3 a company representative or signing any documents related to Plaintiff (*Id.* at 26:1-4;  
4 27:3-4; 27:24-28:8). And Mr. Cooper specifically recalled a conversation with Mr.  
5 Steele, where Mr. Steele requested that Mr. Cooper call him immediately if anybody  
6 were to contact him about him (Steele) or his law firms. (*Id.* at 23:12-15). Mr. Cooper  
7 also testified that Mr. Steele boasted about his plans of getting into Internet porn piracy  
8 and that his goal was to make \$10,000 per day from sending demand letters to those who  
9 illegally downloaded movies on the Internet. (*Id.* at 24:14-21). After Mr. Steele learned  
10 that Mr. Cooper hired Mr. Godfread to represent him, Mr. Steele called Mr. Cooper  
11 multiple times, and left threatening voice mails and sent text messages. (*Id.* at 32:5-33:7  
12 33:25-34:5; *Id.*, Doc No. 79-1 (Transcript of John Steele's voice mails).

13  
14 Brett Gibbs testimony tied together a number of key facts. Mr. Gibbs was  
15 supervised by Mr. Steele and Mr. Hansmeier while the firm was Steele Hansmeier and  
16 when the firm was Prenda Law, and that both (Steele and Hansmeier) were the decision  
17 makers during California litigation. (*Id.* at 74:8-10; 77:8-78:4). He took direction from  
18 both in where to file, against whom and when filing notices of interest parties in  
19 connection with Plaintiff (*Id.* at 79:14-15). And both Mr. Steele and Mr. Hansmeier  
20 represented to him that they had Alan Cooper's authentic signature, and that Mr. Steele  
21 had had Mr. Cooper sign the necessary documents. (*Id.* at 95:13-18; 96:1-19).

22 Mr. Gibbs also testified that he never maintained a client trust account and that all  
23 of the settlement money went to offices in Chicago or Minnesota (*Id.* at 75:8-22; 77:2-  
24 7). Mr. Gibbs' communication was limited to Mr. Steele and Mr. Hansmeier, and he  
25 never looked to Mr. Lutz, Plaintiff's purported CEO, for direction on litigation. (*Id.* at  
26 77:5-8; 77:11-20). But perhaps the most troubling part of Mr. Gibbs' testimony was  
27  
28

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<sup>5</sup> The page:line citations to the March 11th hearing are based on the page of the hearing transcript. On information and belief the hearing transcript has been lodged as Doc. No. 93, but it is not yet public accessible because period of redaction has not yet expired.

1 recalling a December 2012 conversation with Mr. Steele and Mr. Hansmeier, who were  
2 brainstorming whether to start a new company called Livewire, and essentially "buy"  
3 Plaintiff, Ingenuity 13 and Guava. (*Id.* at 88:19-23). And that as of January 1, 2013,  
4 Mr. Gibb's understanding is that Livewire officially owned Plaintiff. (*Id.* at 89:17-22).  
5 It is also noteworthy that Mark Lutz is represented to the public as Livewire's CEO.  
6 (See website screen shot of Livewire Holdings' website, showing Mark Lutz as CEO of  
7 Livewire, attached as **Exhibit C** hereto). Another troubling, and a primary reason Mr.  
8 Gibbs recently parted ways with Prenda Law, was because he learned that Prenda Law  
9 had sent demand letters to unmask Internet subscribers with his stamped signature  
10 without his knowledge or approval (*Id.* at 90:9-91:4).

#### 11 12 **5. Judge Wright Enters Second Order to Show Cause Hearing for April 2, 2013**

13 On March 14, 2013, Judge Wright entered an order denying the ex parte  
14 application filed on behalf of John Steele, et al. to withdraw the order compelling  
15 appearances, citing that not only did it lack merit, but exemplified gamesmanship by  
16 filing it so late on a Friday afternoon. (*Id.*, Doc 86). Judge Wright also ordered that  
17 John Steele, Paul Hansmeier, Mark Lutz, Alan Cooper (of AF Holdings), Prenda Law,  
18 Steele Hansmeier, Plaintiff and Ingenuity 13 appear at a hearing to show cause why it  
19 should not be sanctioned for failing to notify the Court of all parties that have a financial  
20 interest in the outcome of litigation, why they should not be sanctioned for defrauding  
21 the Court by misrepresenting the nature and relationship of these individuals and  
22 entities, why John Steele and Paul Hansmeier should not be sanctioned for failing to  
23 make *pro hac vice* appearances given their involvement as "senior attorneys" and why  
24 they should not be sanctioned for failing to appear on March 11, 2013. (*Id.* at 2:3-3:9).  
25 Last, Judge Wright stated that the court is prepared to draw reasonable inferences from  
26 these individuals and parties concerning their conduct if they fail to appear (*Id.* 3:16-20).

#### 27 **D. Alan Cooper v. John Lawrence Steele, et al., 27-CV-13-3463**

28 On February 26, 2013, Mr. Cooper brought a lawsuit against John Steele, Prenda

1 Law, Plaintiff and Ingenuity 13. (See Complaint, Fourth Judicial District Court, County  
2 of Hennepin, State of Minnesota, 27-CV-13-3463, attached as **Exhibit D** hereto). Mr.  
3 Cooper asserted claims for invasion of privacy – appropriation and deceptive trade  
4 practices, as well as civil conspiracy and alter ego theories. (*Id.*) The underlying facts  
5 supporting Mr. Coopers' claims are consistent with his testimony at the March 11th  
6 hearing. (*Id.*) Mr. Steele has been served with the summons and complaint, but has not  
7 yet answered.

8 **II. ARGUMENT**

9  
10 **A. Movants May Properly Bring a Motion to Stay Litigation and  
Discovery**

11 Plaintiff's casts Movants as Defendant Harris' co-conspirators, and its subpoena  
12 specifically targets them among the subscribers to 65 other IP addresses. Based on  
13 Plaintiff's position that Movants are co-conspirators, and therefore, jointly and severally  
14 liable with Mr. Harris, they are essentially treated as John Doe Defendants. See  
15 *Millennium TGA v. Paschall*, Southern District of California, 12-cv-0792, Doc No. 7 at  
16 5:10-17). Courts in this District, and elsewhere have permitted non-parties to bring  
17 motions to stay. See *Best Western International, Inc. v. John Doe*, 2006 WL 2091695  
18 \*1, 6 (Dist. Ariz. 2006) (granting John Doe defendant's motion to stay discovery  
19 pending Rule 26(f) conference; *Coty Inc. v. C Lenu, Inc.*, 2011 WL 573837 (S.D. Fla.  
20 2011) (granting non-party's motion to stay discovery order).

21  
22 But in any event the Court may stay the proceedings *sua sponte* within its  
23 inherent authority to control its docket. This inherent power includes the power to stay  
24 proceedings *sua sponte*. *Jackson v. Van Kampen Series Fund, Inc.*, 06-CV-944-DRH,  
25 2007 WL 1532090 \*2 (S.D. Ill. May 24, 2007) (the inherent power includes the power  
26 to stay proceedings *sua sponte*); citing *Surefoot L.C. v. Sure Foot Corp.*, No. 2:07-CV-  
27 67 TS, 2007 WL 1412931, at \*4 (D. Utah 2007) (concluding that, in the exercise of its  
28 inherent power, 'the Court may stay an action *sua sponte*.'); *Crown Cent. Petroleum  
Corp. v. Department of Energy*, 102 F.R.D. 95, 98 (D.Md.1984) (citing Landis, 299 U.S.

1 at 254-55).

2 **B. This Litigation Should Be Stayed Pursuant to the Court's Inherent**  
 3 **Authority Until Proceedings Investigating Fraudulent Misconduct and**  
 4 **Deception by Plaintiff and Its Lawyers are Disposed Of.**

5 A trial court possesses the inherent power to control its own docket and calendar.  
 6 *Landis v. North American Co.*, 299 U.S. 248, 254-55, 57 S.Ct. 163, 165-66, 81 L.Ed.  
 7 153, 158-59 (1936); *Mediterranean Enterprises, Inc. v. Ssangyong Corp.*, 708 F.2d  
 8 1458, 1465 (9th Cir. 1983). This includes entering a stay of an action pending resolution  
 9 of independent proceedings bearing upon the case, including judicial, administrative or  
 10 arbitral proceedings. *Mediterranean Enterprises*, 708 F.2d at 1465. And there is no  
 11 requirement that the issues in the independent proceedings are necessarily controlling of  
 12 the action before this Court. *Id.* In determining whether a stay is appropriate pending  
 13 the resolution of another case, a district court must consider various competing interests,  
 14 including: (1) the possible damage that may result from the granting of a stay; (2) the  
 15 hardship to the parties if the suit is allowed to go forward; and (3) the orderly course of  
 16 justice measured in terms of the simplifying or complicating of issues, proof, and  
 17 questions of law which could be expected to result from a stay. *Lockyer v. Mirant*  
 18 *Corp.*, 398 F.3d 1098, 1110–09 (9th Cir.2005).

19 Given the extraordinary circumstances involved here, the corroborating evidence  
 20 that strongly raises the specter that Plaintiff has committed fraud on federal courts across  
 21 the country, including this District, and an April 2, 2013 order to show cause hearing  
 22 that will most likely result in severe sanctions (and possible future ramifications beyond  
 23 the hearing and sanctions) for Plaintiff and its lawyers that will directly impact its  
 24 standing and right to file and prosecute copyright infringement lawsuits moving forward.

25 **1. The Movants Will Suffer Hardship If The Stay Is Not Granted**

26 Judge Wright appears convinced that the evidence bears that Plaintiff is a sham  
 27 organization that is controlled by Mr. Steele and Mr. Hansmeier for purposes of filing  
 28 copyright infringement lawsuits and collecting settlement money. (See 2:12-cv-08333,  
 Doc. No. 93 7:8-12; 16:6-9; 19:15-19; 29:21-22; 114:5-8). Plaintiff seeks to unmask the

1 Movants' identities, and others, to undoubtedly send Prenda Law issued demand letters.  
2 The Movants and others will be threatened with becoming a party to a federal lawsuit  
3 accused of illegally downloading online pornography unless he/she pays up thousands of  
4 dollars. Mr. Cooper testified that Mr. Steele bragged to him that his goal was \$10,000  
5 per day, and there is no concern for whether the subscriber is indeed the infringer or not.  
6 (see [http://www.forbes.com/sites/kashmirhill/2012/10/15/how-porn-copyright-lawyer-](http://www.forbes.com/sites/kashmirhill/2012/10/15/how-porn-copyright-lawyer-john-steele-justifies-his-pursuit-of-sometimes-innocent-porn-pirates)  
7 [john-steele-justifies-his-pursuit-of-sometimes-innocent-porn-pirates](http://www.forbes.com/sites/kashmirhill/2012/10/15/how-porn-copyright-lawyer-john-steele-justifies-his-pursuit-of-sometimes-innocent-porn-pirates)). Further, the  
8 Movants have suffered hardship by incurring legal expenses in connection with bringing  
9 this motion.

## 10 2. Any Prejudice to Plaintiff is Self-Inflicted

11 Plaintiff appears to have been one piece in a widespread scheme where fraudulent  
12 filings have occurred in federal courts across the Country and the attorneys driving these  
13 lawsuits are also the clients with an undisclosed stake in the litigation. The infamous  
14 Cooper assignment was filed with this Court as Exhibit B to Plaintiff's Complaint (See  
15 Doc No. 1-2). Further, the corporate disclosure statement fails to disclose Mr. Steele's  
16 and Mr. Hansmeier's financial interest, and there certainly has never been a supplement  
17 filed since Livewire apparently took possession of it. (Doc No. 3). And although Mr.  
18 Goodhue is attorney of record, the evidence supports that Mr. Steele and Mr. Hansmeier  
19 are driving this litigation. Further undersigned counsel has experience litigating against  
20 Mr. Goodhue in *Lightspeed Media Corp v. Sekora*, CV2012-053194, currently pending  
21 in Maricopa County Superior Court (See Declaration of Paul D. Ticen, attached as  
22 **Exhibit E** hereto). When a disclosure dispute developed between the parties,  
23 communication with Mr. Goodhue was cut-off, and instead undersigned counsel dealt  
24 first with Brett Gibbs and then John Steele. (*Id.*).

25  
26 Therefore, the prejudice that will be caused to Plaintiff by staying the litigation  
27 and/or discovery preventing it from identifying 71 internet subscribers and continue its  
28 action against Mr. Harris has been self-inflicted and is otherwise substantially  
outweighed by the Movants' hardship, especially in light of Plaintiff's and its lawyer's

1 misconduct.

2 **3. The Stay will Assist The Court in Determining Whether**  
 3 **Plaintiff Has Standing or the Right to Continue This Action**

4 Plaintiff finds itself in a precarious position where a federal judge is convinced  
 5 that it has been part of a widespread fraudulent scheme. The evidence supports this.  
 6 Allowing the April 2nd Order to Show Cause hearing, any sanctions against Plaintiff  
 7 and other action that Judge Wright may take against Plaintiff and Mr. Steele and Mr.  
 8 Hansmeier, as well as the *Cooper v. Steele* action, will enable the Court to determine  
 9 whether Plaintiff has standing to bring this lawsuit, including both as an improper  
 10 copyright assignee or an invalid legal entity if formed through a misappropriated identity  
 11 and forged signature. Certainly, this Court doesn't want to allow a Plaintiff without  
 12 legal standing, and who appears to have defrauded federal courts throughout the country,  
 13 to continue on with litigation until the proceedings concerning this conduct have been  
 14 disposed of.

15 **C. Plaintiff's Subpoena to Cox Communications Should Be Quashed**  
 16 **Pursuant to Rule 45(c)(3), and Protective Order Entered Pursuant to**  
 17 **Rule 26(c)(1)**

18 "Under Rule 45(c)(3), a court must modify or quash a subpoena that, inter alia,  
 19 'requires disclosure of privileged or other protected matter, if no exception or waiver  
 20 applies, or subjects a person to undue burden.'" *Hard Drive Productions, Inc. v. Does 1-*  
 21 *188*, 809 F. Supp. 2d 1150, 1155 (N.D. Cal. 2011); Fed.R.Civ.P. 45(c)(3)(A). A court  
 22 may modify or quash a subpoena that, inter alia, requires disclosing confidential  
 23 information. Fed.R.Civ.P. 45(c)(3)(B). A party or any person from whom discovery is  
 24 sought may move for a protective order in the court where the action is pending ... The  
 25 court may, for good cause, issue an order to protect a party or person from annoyance,  
 26 embarrassment, oppression, or undue burden or expense, including ... forbidding the  
 27 disclosure or discovery. *Id.*, Fed.R.Civ.P. 26(c)(1). "The court also must: limit the  
 28 frequency or extent of discovery otherwise allowed by [the Federal Rules of Civil  
 Procedure] or by local rule if it determines that ... the burden or expense of the proposed



1 discovery outweighs its likely benefit, considering the needs of the case, the amount in  
2 controversy, the parties' resources, the importance of the issues at stake in the action,  
3 and the importance of discovery in resolving the issues." *Id.* at 1156, Rule .  
4 26(b)(2)(C)(iii).

5 Here, the internet subscription records are protected matter because the Movants'  
6 have an expectation of privacy that his or her identity will remain confidential unless  
7 there is an overriding reason. Courts have permitted this discovery to allow copyright  
8 holders to begin the first step in indentify a potential infringer. But there is no  
9 overriding reason here because litigation and discovery should be stayed until it can be  
10 determined whether Plaintiff even has standing or the right to prosecute these claims.  
11 Further, not quashing the subpoena will subject Movants and to oppression, harassment,  
12 abuse and unfair tactics. The Movants' identities should remain confidential until  
13 disposition of the above proceedings occurs. And if litigation in this case were to  
14 resume, Plaintiff should be required to demonstrate a reasonable basis to claim that the  
15 Movants are Mr. Harris' co-conspirators.  
16

17 The Court should enter an order protecting Movants and the other subscriber  
18 from annoyance, harassment or oppression by preventing Plaintiff from naming any of  
19 the individual Movants or any other subscribers as defendants in this action or any  
20 action until the above proceedings have been disposed of, Plaintiff has shown that  
21 joinder is proper under Rule 20 and that it has sufficient prima facie evidence that the  
22 subscriber is either a primary or secondary infringer of the work. This is necessary to  
23 take away the threat that they will be named in a federal lawsuit involving pornography  
24 if he or she does not settle. Further, the protective order should prohibit Plaintiff and its  
25 lawyers, including Prenda Law, or any other agent of Plaintiff, from communicating  
26 with any of the targeted subscribers unless it obtains an order from this Court to do so.  
27 This will be necessary to protect any identified subscribers from any threats or  
28 harassment while the above proceedings are pending.



1 **III. CONCLUSION**

2 The Movants respectfully request that the Court stay this action and/or the  
3 subpoena to the ISP to allow the April 2nd Order to Show Cause Hearing to occur, to  
4 wait and see what sanctions and other recommendations are made by Judge Wright as a  
5 result of the April 2nd hearing and disposition of the *Cooper v. Steele* action in  
6 Minnesota involving the misappropriation of an identity and forged signature used in  
7 connection with Plaintiff.  
8

9  
10 RESPECTFULLY submitted this 25th day of March, 2012.

11 **KELLY / WARNER, PLLC**

12  
13 By /s/ Paul D. Ticen  
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**CERTIFICATE OF FILING AND SERVICE**

Pursuant to the Case Management/Electronic Case Filing Administrative Policies and Procedures Manual (“CM/ECF Manual”) of the United States District Court for the District of Arizona, I hereby certify that on March 25th, 2013, I electronically filed:

**MOTION FOR THE COURT TO (1) ENTER AN ORDER STAYING LITIGATION OR DISCOVERY; (2) ORDER QUASHING PLAINTIFF'S SUBPOENA; (3) ENTER A PROTECTIVE ORDER**

with the U.S. District Court clerk’s office using the ECF system, which will send notification of such filing to the assigned Judge and to the following counsel of record:

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