

1 Timothy J. Halloran - 104498
Thomas P. Mazzucco - 139758
2 MURPHY, PEARSON, BRADLEY & FEENEY
88 Kearny Street, 10th Floor
3 San Francisco, CA 94108-5530
Tel: (415) 788-1900
4 Fax: (415) 393-8087

5 Specially Appearing for
JOHN STEELE
6
7

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 INGENUITY 13 LLC,

12 Plaintiff,

13 v.

14 JOHN DOE,

15 Defendants.
16
17
18

Case No.: CV-12-8333- ODW(JC_x)

**NOTICE OF JOINDER TO RESPONSE TO
PUTATIVE JOHN DOE REPLY BRIEF
AND ADDITIONAL OBJECTIONS**

Judge: Hon. Otis D. Wright, II
Courtroom: 11
Date: April 2, 2013
Time: 10:00 A.M.

Complaint Filed: September 27, 2012
Trial Date: None

19 Please take notice that John Steele (“Steele”), specially appearing, hereby joins in
20 the Response to Putative John Doe Reply Brief, filed on behalf of Paul Duffy, Angela
21 Van Den Hemel, and Prenda Law, Inc (Docket #120).

22 In addition, regarding putative John Doe’s purported documentation from the
23 Florida Bar (Dkt 117-2, Ex. LL), Steele objects on the grounds that it lacks foundation,
24 has not been authenticated or certified. FRE 901; FRE 1005; *Cambridge Electronics*
25 *Corp. v. MGA Electronics, Inc.*, 227 F.R.D. 313, 327 (C.D. Cal. 2004)(documentary
26 evidence from related proceeding rejected for lack of authentication when proffered by
27 person lacking personal knowledge regarding contents of documents or related
28 proceeding); *U.S. v. Dibble*, 429 F.2d 598, 602 (9th Cir. 1970)(“A writing is not

1 authenticated simply by attaching it to an affidavit, even if the writing appears on its
2 face to have originated from some governmental agency and the affiant is a government
3 official. The foundation is laid for receiving a document in evidence by the testimony of
4 a witness with personal knowledge of the facts who attests to the identity and due
5 execution of the document and, where appropriate, its delivery.”). Steele further objects
6 that no exception has been established to the Florida State Bar’s prohibition against use
7 of confidential materials submitted to them. See Florida State Bar Rule 10-8.1. More
8 importantly, even were the Court to consider the purported Florida Bar letter over
9 Steele’s objections, it does not prove Steele has or had an interest in Plaintiffs AF
10 Holdings LLC or Ingenuity 13 LLC, as the letter only states that “Steele maintains an
11 ownership interest in several of Prenda’s larger clients,” but not specifying which
12 clients. Dkt 117-2, pg. 12.

13 Regarding the email from Prenda attorney Jacques Nazaire, Steele objects on the
14 basis of hearsay, as no proof exists that Steele authorized Nazaire to make the statement,
15 and even an otherwise “non hearsay” statement made by an agent of Prenda may not be
16 used against Steele. See FRE 801(d)(2)(C)(“An out-of-court statement by a person
17 authorized by the party to make a statement concerning the subject may be offered
18 against the party.”)(emphasis added); *Cambridge Electronics*, supra, 227 F.R.D. at 335.
19 Regardless, the hearsay statement of Nazaire is of no evidentiary value, as it has been
20 disclaimed by Nazaire in a notarized declaration submitted herewith as inconsistent with
21 Nazaire’s understanding, and not based on his personal knowledge. See attached
22 Declaration of Timothy Halloran, Ex. A.

23 The remainder of Pietz’ proffered exhibits KK through QQ are also
24 objectionable, just as nearly all of the exhibits submitted by Pietz to date are. Specific
25 objections to all previous exhibits submitted by putative John Doe (A-QQ and 1-12)
26 will be addressed in a separate pleading filed concurrently herewith.

1 Dated: April 18, 2013

MURPHY, PEARSON, BRADLEY & FEENEY

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By /s/ Timothy J. Halloran
Timothy J. Halloran
Attorneys for
JOHN STEELE