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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION  
HONORABLE OTIS D. WRIGHT  
UNITED STATES DISTRICT JUDGE PRESIDING

- - -

Ingenuity 13 LLC, )  
PLAINTIFF, )  
VS. ) NO. CV 12-8333 ODW  
John Doe, et al., )  
DEFENDANT, )  
\_\_\_\_\_ )

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
LOS ANGELES, CALIFORNIA  
MONDAY, MARCH 11, 2013

\_\_\_\_\_  
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U.S. Official Court Reporter  
312 North Spring Street, #436  
Los Angeles, California 90012

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## I N D E X

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1 LOS ANGELES, CALIFORNIA; MONDAY, MARCH 11, 2013

2 1:38 P.M.

3 - - - - -

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6 THE CLERK: Calling Item No. 4, CV 12-8333-ODW,  
7 CV 12-6662, ODW, CV 12-6668, Ingenuity 13 LLC versus John  
8 Doe, additionally, CV 12-6636 ODW, CV 12-6669, AF  
9 Holdings LLC versus John Doe.

10 Counsel, please state your appearances.

11 MR. WAXLER: Andrew Waxler, your Honor, and Barry  
12 Brodsky for Mr. Gibbs who is present in the courtroom.  
13 Thank you.

14 THE COURT: Good afternoon, counsel.

15 MR. PIETZ: Good afternoon, your Honor. Morgan  
16 Pietz, P-I-E-T-Z, for the putative John Doe defendant in  
17 12-CV-8333.

18 MR. RANALLO: Nicholas Ranallo, co-counsel for the  
19 same Doe.

20 THE COURT: All right. Gentlemen, thank you.

21 All right. We are here in response to an OSC  
22 set by this court as to why sanctions should not be  
23 imposed for various violations including Rule 11 and  
24 Local Rule 83-3.

25 I have received from Mr. Waxler on behalf of

1 Mr. Gibbs his response, supplemental response, a number  
2 of documents. Spent the weekend reading a depo which was  
3 perhaps the most informative thing I have read in this  
4 litigation so far primarily because of what you didn't  
5 want revealed. So, in any event, I have extended an  
6 offer to all of the principles concerned to offer them an  
7 opportunity to explain.

8 It is my understanding that they have declined  
9 that invitation. Therefore --

10 MS. ROSING: Your Honor?

11 THE COURT: And you are?

12 MS. ROSING: If I may approach.

13 THE COURT: Please.

14 MS. ROSING: My name is Heather Rosing, and I  
15 filed an ex parte application with this court.

16 THE COURT: When?

17 MS. ROSING: Friday?

18 THE COURT: When?

19 MS. ROSING: It was filed I believe at 3:54 p.m.?

20 THE COURT: Guaranteed for the court to actually  
21 see it; right? Was it electronically filed?

22 MS. ROSING: The local rule says we're not  
23 allowed --

24 THE COURT: Answer my question. Was it  
25 electronically filed?

1 MS. ROSING: No. Because we are not allowed to,  
2 your Honor.

3 THE COURT: Okay. So what you did is you took it  
4 downstairs to the intake window?

5 MS. ROSING: Yes, your Honor?

6 THE COURT: Late Friday afternoon addressing a  
7 matter that is set for hearing on Monday morning?

8 MS. ROSING: My clients received notice of this on  
9 Thursday, your Honor. We received notice on Thursday?

10 THE COURT: I am just asking you a question. You  
11 can answer it "yes" or "no".

12 MS. ROSING: I'm sorry. Could you repeat the  
13 question.

14 THE COURT: What is -- why are you here?

15 MS. ROSING: Again, my name is Heather Rosing with  
16 the Klinedinst PC law firm. I am specially appearing for  
17 four of those people that received this notice on  
18 Thursday, Angela Van Den Hemel, a paralegal at Prenda  
19 law --

20 THE COURT: Is this the long way of saying they  
21 are not going to be here?

22 MS. ROSING: I'm sorry. I was just telling you  
23 who I represent, your Honor?

24 THE COURT: Are they here?

25 MS. ROSING: No, your Honor.

1 THE COURT: Have a seat.

2 MS. ROSING: May I just finish?

3 THE COURT: Have a seat.

4 Bottom line is the court is going to end up  
5 drawing its own inferences from the information it  
6 actually has. An opportunity to be heard is all that is  
7 required. If you don't wish to exercise that, fine.

8 There was so much obstruction during the  
9 course of this deposition that it is obvious that someone  
10 has an awful lot to hide. This has actually raised far  
11 more questions of fraud than the court originally had,  
12 but we will get to that later.

13 Initially, I have got a number of questions  
14 regarding some of the filings that have been made with  
15 the court.

16 I guess, Mr. Waxler, I guess you will be the  
17 one that is addressing some of these things. One of my  
18 questions is this. Why is it that in every single one of  
19 these cases there is a form attached to the complaint  
20 that asks for whether or not there are any related cases.  
21 I have got a partial list of all of these cases that have  
22 been filed in the Central District. None of them have  
23 indicated that there are any related cases.

24 Could you tell me why?

25 MR. WAXLER: Well, your Honor, the downloads are

1 done by separate infringers, and the plaintiffs, yes,  
2 obviously, were a lot the same, and I believe that the  
3 decision had been made that it didn't require the related  
4 case filings to be made.

5 THE COURT: Okay.

6 MR. WAXLER: Perhaps that was in error, your  
7 Honor, as we sit here today.

8 THE COURT: Let me ask a question then. Let's  
9 just say on one date, that date being July 2nd of 2012,  
10 four lawsuits were filed by AF Holdings LLC versus John  
11 Doe all seeking a remedy for the infringement of the same  
12 movie Popular Demand.

13 Now, can you tell me how on earth these aren't  
14 related?

15 MR. WAXLER: Well, they are obviously related in  
16 the sense that --

17 THE COURT: That is what I thought, too. And that  
18 is what this entire list is. Okay. They are all  
19 related, but that box was always checked no. And then we  
20 are going to get to something separate in a minute, and  
21 that is the issue of who has an interest, a financial  
22 interest in the outcome of these cases. We will look at  
23 this shortly.

24 There is the issue of the court having vacated  
25 and quashed the subpoenas that were served on various



1 ISP's, and, then, of course, I have gotten other  
2 responses to the OSC saying, well, we didn't know that  
3 that meant we couldn't do other forms of discovery. And,  
4 by the way, we sent out a copy of the court's order to  
5 the various ISP's letting them know that the court had  
6 withdrawn those orders and surely that is not the conduct  
7 of someone who was trying to disobey the court's order.  
8 And I had to agree. Sounded reasonable.

9 Have you all seen the declaration of Sean  
10 Moriarty from Verizon?

11 MR. WAXLER: Your Honor, we saw it this morning,  
12 yes.

13 THE COURT: Okay. Good.

14 And what say you because he responds directly  
15 to Mr. Gibbs' assertion that the ISP's were given notice  
16 not to respond to the subpoenas. He says this didn't  
17 happen, that they didn't receive notice.

18 MR. WAXLER: May I respond to that, your Honor?

19 THE COURT: Sure.

20 MR. WAXLER: Mr. Gibbs -- Prenda Law is one of  
21 the, is one of the e-mail addresses that received a copy  
22 of your October 19th, 2012 order. As does Mr. Gibbs.  
23 Mr. Gibbs had a conversation with Mr. Hansmeier and told  
24 him that he thought that this order should be served on  
25 the ISP's. Mr. Hansmeier advised Mr. Gibbs that that

1 would be done. Mr. Hansmeier later advised Mr. Gibbs  
2 that his request had been taken care of.

3 Now, if you read page, Paragraph 4 at Line 18  
4 and 19 of the declaration, all it says is based on the  
5 Verizon records, it does not appear that Verizon received  
6 from AF Holdings or its counsel a copy of the order. It  
7 does not say they did not. And Verizon, like these other  
8 ISP's, has a history of, as I understand it, eliminating  
9 its records from their systems soon after, like within 30  
10 days. CT Corporation receives the subpoenas. That was  
11 who was supposed to be served, and they have a history of  
12 not keeping them in their records for very long.

13 THE COURT: So they eliminate their documents  
14 pretty much the way Mr. Gibbs eliminates the original  
15 signed application from Alan Cooper?

16 MR. WAXLER: Mr. Gibbs never had the original  
17 signed verification from Mr. Cooper. Mr. Gibbs was told  
18 by Prenda Law that they had it. So Mr. Gibbs was never  
19 in possession of that document, and Mr. Gibbs did not  
20 lose that document, your Honor.

21 THE COURT: One other thing you didn't really make  
22 clear, was it only that document or was the entire file  
23 lost?

24 MR. WAXLER: I don't know the answer to that.

25 THE COURT: Okay. So here is the deal. So what

1 we have got, we have got CT Systems destroying the order  
2 and the cover letter or transmittal of that order to  
3 Verizon; right? But they have got everything else. They  
4 have got all the other letters and the subpoena and all  
5 that sort of thing. So the only thing they have gotten  
6 rid of it just the order quashing the subpoena; right?

7 MR. WAXLER: No, your Honor. CT Corporation is  
8 the agent for service of process.

9 THE COURT: I know who they are.

10 MR. WAXLER: CT Corporation may have received  
11 that, and I am just saying their history is they don't  
12 keep records for very long of having received subpoenas  
13 or service of those. The other documents which are  
14 attached to this declaration -- I believe since it was  
15 given to me about an hour, actually 15 minutes ago out  
16 there; I saw part of it online -- are documents that were  
17 exchanged between Verizon directly and others. So they  
18 weren't going through CT Corporation. So that is the  
19 difference, your Honor.

20 THE COURT: You are saying, then, that the notice  
21 to Verizon that that subpoena had been quashed by the  
22 court went to CT and not to Verizon?

23 MR. WAXLER: That is their agent for service of  
24 process. That is who they served. That is who  
25 Mr. Gibbs, when he talked to Mr. Hansmeier, said please

1 serve this order on them, and that is what Mr. Gibbs  
2 understands was done.

3 THE COURT: Okay. Was the order served in the  
4 same way that the subpoena was served?

5 MR. WAXLER: That would be our understanding. I  
6 mean, it was served on CT Corporation. That is how the  
7 subpoena was served on CT Corporation.

8 THE COURT: So the subpoena and all the various  
9 letters, et cetera, that emanated from Prenda Law to  
10 Verizon were served on CT Systems; right?

11 MR. WAXLER: No. As I understand it, your Honor,  
12 the e-mails that may appear here were exchanged between  
13 Verizon directly, once they got the subpoena, and members  
14 of Prenda Law. The only thing that would have gone  
15 through CT Corporation was the service of the original  
16 subpoena and a copy of the order.

17 THE COURT: All right. I am only going by the  
18 declaration of Mr. Moriarty. This is under tab, Exhibit  
19 A. The letter, Prenda Law, see that, September 5th? It  
20 says via hand delivery.

21 MR. WAXLER: I see that.

22 THE COURT: All right. Enclosed please find a  
23 subpoena and attachment. So I am assuming that the  
24 subpoena was also hand delivered. It doesn't say to  
25 whom. Is this to CT?

1 MR. WAXLER: That is our understanding, your  
2 Honor.

3 THE COURT: So what we have is a situation or at  
4 least you are guessing, you are guessing that everything  
5 seeking information from Verizon arrived intact, but the  
6 order withdrawing or quashing that subpoena somehow got  
7 misplaced.

8 MR. WAXLER: There is no evidence before this  
9 court that Verizon did not receive that subpoena, that  
10 order from this court. I can tell you that Mr. Gibbs'  
11 intent was that that order be served so that they did  
12 receive it. And it was always his understanding until he  
13 saw the declarations in the filings by Mr. Pietz that  
14 some of the ISP's did not receive a copy of that order.

15 THE COURT: It is also my understanding that I  
16 guess a paralegal in the employ of one of these law firms  
17 began following up with these Internet service providers  
18 inquiring as to why certain information had not been  
19 provided pursuant to those subpoenas.

20 MR. WAXLER: And Mr. Gibbs read that for the first  
21 time when the declarations were submitted in connection  
22 with this OSC and was very surprised by it because he  
23 understood, as he does today, that the order by this  
24 court was served on CT Corporation and then would have  
25 been transmitted to Verizon.

1 THE COURT: Okay. All right. There is a number  
2 of things, Mr. Waxler, which you state in your papers  
3 that I wanted to ask you about. In more than one place,  
4 you indicate that Ingenuity 13 LLC and AF Holdings, et  
5 cetera, have assets which consist of without limitation  
6 their intellectual property rights in some of these  
7 films. What other assets?

8 MR. WAXLER: AF Holdings and Ingenuity -- AF  
9 Holdings, at least, received the assignment. So they  
10 have those property rights, and the companies would have  
11 obviously the right to, or rather the settlement funds  
12 that were paid on some of these matters would have been  
13 property of those companies.

14 But as I understand it from Mr. Hansmeier's  
15 deposition which I, too, read over the weekend, that the  
16 trust accounts of some of the lawyers were holding those  
17 settlement funds. Whether those settlement funds ever  
18 made it to AF Holdings or Ingenuity 13, all I can do,  
19 your Honor, is rely on what Mr. Hansmeier says because we  
20 have no independent knowledge of it and nor does  
21 Mr. Gibbs. Mr. Gibbs did not receive those funds. Those  
22 funds were sent to Prenda Law.

23 THE COURT: So you are telling me what you know is  
24 what you gleaned from this this weekend pretty much as  
25 the court did; right?

1 MR. WAXLER: Well, I mean, Mr. Gibbs may have more  
2 knowledge than specifically what Mr. Hansmeier said.

3 THE COURT: Oh. Mr. Hansmeier has no knowledge of  
4 anything. So I just want to know if you got what the  
5 court got which is the only entities which apparently  
6 make any claim whatsoever to these settlement funds are  
7 the law firms. There appears to be no effort whatsoever  
8 of transmitting any of these funds to the so-called  
9 clients, Ingenuity 13 and AF Holdings, who don't file  
10 income taxes anywhere because as Mr. Hansmeier says they  
11 have no income.

12 Is that what you got? That is what I got.

13 MR. WAXLER: I thought that Mr. Hansmeier said  
14 they didn't file income taxes because they were not  
15 required in where they were domiciled, but you may be  
16 right and I may be wrong.

17 THE COURT: No. He quite clearly said they have  
18 not filed income taxes anywhere.

19 MR. WAXLER: I understand that. I just thought it  
20 was a different reason for not filing them.

21 THE COURT: Well, probably because they don't do  
22 anything, do they?

23 MR. WAXLER: Well, they in hearing from Mr -- in  
24 reading from what Mr. Hansmeier says, they obviously own  
25 valid copyrights, and those entities retain law firms

1 like Prenda Law, apparently, to file actions such as the  
2 ones that are at issue today.

3 THE COURT: They retain firms? Seriously?

4 You can hardly keep a straight face, can you?

5 MR. WAXLER: No, your Honor.

6 THE COURT: These entities were basically created  
7 by these lawyers; right? They have no business. They  
8 have no employees. They have no function really. They  
9 are not even really a shell, are they?

10 MR. WAXLER: I don't know, your Honor.

11 THE COURT: The law firms are basically  
12 prosecuting these actions on their own behalf, aren't  
13 they?

14 MR. WAXLER: Mr. Gibbs never had any client  
15 contact with those clients. Mr. Gibbs received  
16 information from Mr. Hansmeier and Mr. Steele, and those  
17 individuals advised Mr. Gibbs that they had talked to the  
18 clients.

19 THE COURT: Hansmeier and Steele, are those the  
20 individuals to whom you refer in your papers to as the  
21 senior partners in the law firm.

22 MR. WAXLER: Yes, they are.

23 THE COURT: I have another question. Does  
24 Mr. Gibbs have an indemnity or hold harmless agreement  
25 from these senior partners? Or is he out there on his



1 own?

2 MR. WAXLER: He has no hold harmless agreement  
3 from these partners that I am aware of.

4 THE COURT: Okay. All right.

5 MR. WAXLER: He was an of counsel, W -- 1099,  
6 independent contractor for Prenda Law.

7 THE COURT: All right. Now, the court is coming  
8 to the conclusion, and this is why it has been wonderful  
9 to have someone here to disabuse me of the notion that  
10 all of these lawsuits are being prosecuted on behalf of  
11 the lawyers, that all of the settlement funds inure  
12 solely to the benefit of the lawyers because not dime  
13 one has been transmitted to AF Holdings or to Ingenuity  
14 13.

15 Now, if there is information to rebut that, I  
16 would love to hear it. But, otherwise, that is what I am  
17 stuck with. So now I am wondering why is it that no  
18 disclosure has been made in this court and probably in  
19 none of the federal courts that the lawyers have a  
20 pecuniary interest in the outcome of these cases?

21 MR. WAXLER: I don't believe that that is what  
22 Mr. Gibbs understands the case to be. The fact that the  
23 settlement funds were not transmitted as of yet to those  
24 entities doesn't mean those settlement funds aren't being  
25 held in trust for those entities. Mr. Gibbs has no

1 information whatsoever, your Honor, to understand  
2 anything different than what I just described.

3 MR. BRODSKY: Your Honor, may I interject one  
4 point?

5 THE COURT: Sure. Your name again?

6 MR. BRODSKY: Barry Brodsky.

7 THE COURT: All right. Go ahead, sir.

8 MR. BRODSKY: My understanding and it is only from  
9 reading the same deposition transcript was that those  
10 funds remained in the trust accounts of the various law  
11 firms that were representing the companies to defray  
12 future expenses.

13 THE COURT: And what were those expenses other  
14 than filing fees?

15 MR. BRODSKY: I would assume they would be filing  
16 fees, investigative fees, you know, basically that.

17 THE COURT: To -- okay.

18 MR. BRODSKY: But that is just my reading of the  
19 deposition.

20 THE COURT: Okay. And after that is done, then  
21 what?

22 MR. BRODSKY: Apparently -- well, we don't know  
23 where that trail ends, whether that trail has ended. But  
24 we do know this. We know that none of those funds  
25 reached Mr. Gibbs.

1 THE COURT: And we also know none of those funds  
2 reached Ingenuity 13 and AF Holdings.

3 MR. BRODSKY: Apparently, from Mr. Hansmeier's  
4 testimony, that is correct.

5 THE COURT: Who was the corporate designee, the  
6 30(b)(6) designee for AF Holdings; right?

7 MR. BRODSKY: Yes.

8 THE COURT: And none of those funds ever reached  
9 AF Holdings.

10 MR. BRODSKY: According to him, that's correct.

11 THE COURT: All these lawsuits settled on behalf  
12 of AF Holdings; right? But they reside in the law firm's  
13 trust account.

14 MR. BRODSKY: Some obviously were settled, yes.

15 THE COURT: You know what was really interesting,  
16 a lawsuit handled by law firm A, the settlement funds  
17 then are transmitted to law firm B's trust account, law  
18 firm B being controlled by Mr. Steele. I don't know. I  
19 just find these things curious.

20 All right. Any other light to be shed on some  
21 of the court's concerns with respect to this foolishness  
22 here because -- by the way, is there a Mr. Cooper here?

23 MR. PIETZ: Your Honor, Mr. Cooper is in  
24 attendance today, and I believe prepared to confirm that  
25 these documents are founded on forgeries.

1 THE COURT: Is there an Alan Cooper in the  
2 courtroom? Don't be shy. Come forward, sir.

3 (The witness was sworn.)

4 THE CLERK: Thank you. Have a seat.

5 THE COURT: By the way, while we are on the  
6 subject, is there a Mark Lutz in the courtroom as well?

7 Is either Hansmeier in the courtroom?

8 MS. ROSING: Your Honor, I am the attorney  
9 specially appearing for them and if I could finish my  
10 request?

11 THE COURT: I just want to know if they are here.

12 MS. ROSING: They are not physically here, your  
13 Honor?

14 THE COURT: Thank you. Good.

15 MR. PIETZ: Your Honor, my understanding was that  
16 Ms. Rosing was representing one of the Hansmeiers. Is  
17 that different, or are you also representing Peter  
18 Hansmeier?

19 MS. ROSING: I did not have an opportunity to say,  
20 but I do not represent Peter Hansmeier.

21 THE COURT: I didn't think you would be. The  
22 technician? I didn't think you would be.

23 MR. WAXLER: Your Honor, while those individuals  
24 are not present, my understanding is they are available  
25 by phone.

1 THE COURT: Is that right. Okay. I may take them  
2 up on that. Maybe. Anyway.

3

4

DIRECT EXAMINATION

5 BY THE COURT:

6 Q Mr. Cooper, your name is Alan Cooper?

7 A Yes, sir.

8 Q And where do you reside, sir?

9 A Isle, Minnesota.

10 Q Isle, Minnesota. Do you have any connection -- let  
11 me just ask you specifically, do you have any connection  
12 with Mr. Gibbs?

13 A No, sir.

14 Q Ever met Mr. Gibbs before?

15 A No.

16 Q What about Paul Hansmeier, any connection with him?

17 A No.

18 Q Ever meet him before?

19 A No.

20 Q What about John Steele?

21 A Yes.

22 Q What was your connection with Mr. Steele?

23 A I was a caretaker for a piece of property that he  
24 had in Northern Minnesota.

25 Q And when was this?

1 A I think from 2006 till last August.

2 Q You worked for him from 2006 until August of 2012?

3 A No, I did not work for him. I was a caretaker for  
4 his piece of property. He had two houses. I lived in  
5 one and then took care of everything else there.

6 Q Okay. And he paid you?

7 A No.

8 Q Who paid you?

9 A There was no pay. It was I lived in the one house,  
10 and I took care of everything on the property for free.

11 Q Or in exchange for a place to live?

12 A Yes.

13 Q All right. So you didn't have to pay for your  
14 housing; correct?

15 A Correct.

16 Q So in exchange for housing on the property, you  
17 took care of his property?

18 A Yes.

19 Q And this was a deal you negotiated with Mr. Steele?

20 A Yes.

21 Q All right.

22 A It is in a lease agreement that we have.

23 Q All right. I guess you have been advised. Matter  
24 of fact, I have seen a letter written by an attorney who  
25 apparently is acting on your behalf where you have become

1 concerned that your name is being used as a corporate  
2 representative of some West Indian entities that you know  
3 nothing about; is that true?

4 A Yes. That's correct.

5 Q I want you to explain. I want you to elaborate.  
6 What is it that you have heard?

7 A That my name is being signed and forged and used  
8 for whatever these offices or myself personally scams  
9 that they have going on.

10 Q Did you ever have a discussion with Mr. Steele  
11 about these concerns of yours?

12 A He had, on one of his trips up to the cabin, all he  
13 had said was if anybody contacts you about any of my law  
14 firm or anything that has to do with me, don't answer and  
15 call me.

16 Q Had he ever given you any advance notice that he  
17 was contemplating embarking on -- let me back up. Do you  
18 know what his legal specialty was, say, back in 2006?  
19 What kind of law was he practicing?

20 A When I had first met him, he was still in law  
21 school.

22 Q In law school. All right. And, then, what area of  
23 practice did he go into if you know?

24 A He had originally said divorce, family law.

25 Q Family law. All right. Did he ever indicate to

1 you that he was contemplating embarking on a different  
2 specialty in the law?

3 A Yes.

4 Q And best as you can recall, what was this new  
5 specialty?

6 A Internet porn buyers. I don't know exactly how to  
7 word it for you.

8 Q Oh. Internet porn piracy sounds pretty good. All  
9 right.

10 Do you recall anything he said about that?

11 A As far as?

12 Q Anything about this new venture, this new method of  
13 practicing law.

14 A I tried not to talk to him very much, but what he  
15 had -- what he had said on one of his trips was his goal  
16 was \$10,000 a day, to have a mailing of these letters.

17 Q What letters?

18 A To people that illegally downloaded on the  
19 Internet.

20 Q Did he explain what these letters would say and who  
21 these letters would be sent to?

22 A I am not very Internet savvy myself, so it would be  
23 whoever downloaded something that they weren't paying for  
24 or illegal. I don't know exactly how this works. That  
25 he would just send out a letter stating that if they



1 didn't send a check for a certain amount, that he would  
2 make it public to these people's family and friends what  
3 they were looking at.

4 Q I see. Okay. Is that all you can remember him  
5 saying about this new venture?

6 A At this time. Yes.

7 Q All right. Now, let's put this in context. He  
8 basically told you that if you started getting any  
9 inquiry, that you were to, what, call him or direct the  
10 callers to him?

11 A To contact personally, personally contact him.

12 Q Okay. Now, back up. If you received any calls or  
13 inquiries regarding what?

14 A He said anything that seemed out of place.

15 Q And you took that to mean what?

16 A I took that to mean the very next day I went and  
17 talked to my father-in-law which is a retired sheriff and  
18 talked to him, and he said until anybody contacts you, he  
19 goes we have nothing to go to the court system with.

20 Q And did that change?

21 A I never heard anything from anybody.

22 Q All right. So no one ever contacted you?

23 A No.

24 Q And so what is it that made you go off and hire  
25 Mr. Paul Godfread?

1 A I had received a text asking if this was my  
2 signature on a particular document, and I said no. And  
3 that is when I was given a number to call an attorney to  
4 make sure that this didn't come back towards me.

5 Q All right. I am going to assume that that copy of  
6 that document is probably in court; right?

7 MR. PIETZ: Referring now to the copyright  
8 assignment agreement, your Honor?

9 THE COURT: Right.

10 MR. PIETZ: Correct, your Honor.

11 THE COURT: Okay. Let me turn this over to you,  
12 sir. Go ahead.

13 MR. PIETZ: Okay. Thank you, your Honor.

14 If it please the court, I have some documents  
15 which I can show on the monitor including to Mr. Cooper.  
16 I just want to make sure we have both the copyright  
17 assignments.

18 MR. PIETZ: Are the monitors arrayed so that the  
19 court can see them?

20 THE COURT: Yes. The court has its own. We got  
21 that before the sequester.

22 MR. PIETZ: All right.

23 DIRECT EXAMINATION

24 BY MR. PIETZ:

25 Q Mr. Cooper, my name is attorney Morgan Pietz.

1 Thank you for coming here today.

2 Did anyone ever ask you to become a corporate  
3 representative of AF Holdings LLC?

4 A No.

5 Q Did anybody ever ask you to become a corporate  
6 representative of Ingenuity 13 LLC?

7 A No.

8 Q Mr. Cooper, now, I would like to show you some  
9 documents, and Mr. Ranallo I believe just passed out  
10 copies of the first. So what we have here is a  
11 complaint.

12 It is one of the consolidated cases presently  
13 before the court. For the record, it is Civil Action No.  
14 212 CV 6636, an action filed here in the Central District  
15 of California.

16 Mr. Cooper, have you ever seen this complaint  
17 before?

18 A No.

19 Q I am going to skip now to the last page of this  
20 complaint or actually it is not quite the last page. It  
21 is the last page of the main document, or, sorry, it is  
22 actually Exhibit B to the complaint. Here is the first  
23 page of Exhibit B, now, Mr. Cooper.

24 It says copyright assignment agreement on the  
25 top, and then I will note for the record that the

1 copyright at issue is Popular Demand which it states in  
2 the first paragraph. Moving down to the second page of  
3 the agreement, Mr. Cooper, you will note that there is a  
4 signature on the right where it says Alan Cooper.

5 Is that your signature, sir?

6 A No. That is not.

7 Q You are quite sure about that?

8 A Yes. I use a middle initial.

9 Q Mr. Cooper, I would like to show you a similar  
10 document which has appeared in a different case. What we  
11 have here is a copyright assignment agreement. This is  
12 for a different AF Holdings copyright styled Sexual  
13 Obsession which it lists in the first paragraph. For the  
14 record, this is Northern District of California No. 12 CV  
15 2048.

16 Mr. Cooper, I am going to turn now to the  
17 second page of this copyright assignment agreement, or I  
18 guess it would be the third page. There is a signature  
19 there on the right that says Alan Cooper.

20 Is that your signature, sir?

21 A No, it is not.

22 Q Did anybody ever ask you to become a corporate  
23 representative or otherwise involved with a company  
24 called AF Films LLC?

25 A No.

1 Q And you are quite sure that is not your signature?

2 A Very sure it is not mine.

3 Q Mr. Cooper, I would like to show you now another  
4 document, and I will note for the record that this is a  
5 verified petition to perpetuate testimony filed in the  
6 Eastern District of California, 12 CV 8333, have you ever  
7 seen this document before, Mr. Cooper, prior to within  
8 the last couple of days?

9 A No.

10 MR. WAXLER: Your Honor, I would like to object to  
11 that question.

12 THE COURT: Object to the question as to whether  
13 or not he has seen the document?

14 MR. WAXLER: Well, this inquiry is beyond the  
15 scope of the OSC. The OSC is about four cases that was  
16 filed in the Central District of California. Now, we  
17 have heard about a Northern District case and Eastern  
18 District case that he is being questioned about which we  
19 did not address in our papers, and it is not what this  
20 OSC is about.

21 THE COURT: Well, it has become about it. It has  
22 become about fraudulent filings in federal court.

23 MR. PIETZ: I would add, your Honor, that it all  
24 goes to a pattern and practice.

25 Q Mr. Cooper, looking now at the verified petition, I

1 am going to skip to the last page. You will note that it  
2 is signed by Mr. Gibbs. On this page which reads at the  
3 top notarized verification, there is a slash S,  
4 type-printed signature that says Alan Cooper, and it says  
5 Alan Cooper, Manager of Ingenuity 13 LLC.

6 Did you ever sign a notarized verification for  
7 this document?

8 A No, I did not.

9 Q Did you ever give anyone permission to sign your  
10 name for you on this document?

11 A No.

12 MR. PIETZ: Mr. Ran, would you pass out Exhibit  
13 53. I will note for the record that I am moving now to  
14 what has been previously filed with this court as Exhibit  
15 S which is the declaration of Nicholas Ranallo in  
16 opposition to a motion to shorten time filed in the  
17 Northern District of California. And I am going to move  
18 now to an exhibit to this motion.

19 It is actually the second to last page in that  
20 filing, Exhibit S, and what we are looking at is a  
21 business entity detail for an entity called VPR, Inc.  
22 from the Minnesota Secretary of State website.

23 Q Mr. Cooper, you will note there that under  
24 officers, it says Alan Cooper and it lists an address of  
25 4532 East Villa Teresa Drive, Phoenix, Arizona, 85032.

1                   Mr. Cooper, have you ever been to Arizona?

2   A       No, I haven't.

3   Q       So that is not your residence, is it?

4   A       No.

5   Q       Do you have any knowledge of that address  
6   whatsoever?

7   A       No, I do not.

8   Q       Did anybody ever ask you to be the president of  
9   VPR, Inc.?

10   A       No.

11   Q       Did anybody ask you to be any other role in  
12   connection with that company?

13   A       No.

14   Q       Mr. Cooper, I am going to move now to what has been  
15   previously identified in the record as Exhibit T. What  
16   we have here is a notissues.com registration.

17                   Mr. Cooper, did you ever register an Internet  
18   domain name called notissues.com or perhaps it is  
19   pronounced notissues.com?

20   A       No, I did not.

21   Q       I am going to zoom in now. Mr. Cooper, I will note  
22   that on the second page it says registrant Alan Cooper,  
23   and it lists that same Phoenix address that we mentioned  
24   a moment ago. Am I correct in presuming that there where  
25   it says administrative contact, and it lists the e-mail

1 address, johnsteele@gmail.com. Am I correct in assuming  
2 that johnsteele@gmail.com is not your e-mail address,  
3 Mr. Cooper?

4 A No, it is not.

5 Q Mr. Cooper, after you hired attorney Paul Godfread,  
6 and he let the other side know that he was going to be  
7 representing you in actions in Minnesota, did you hear  
8 from John Steele?

9 A Yes. He called me twice and left two voicemails  
10 and sent me two texts.

11 Q So this was after Mr. Godfread let Prenda know that  
12 he was your attorney; isn't that correct?

13 A Yes.

14 Q How many times in a row did Mr. Steele call you  
15 when that happened?

16 A I think five or six times right in a row.

17 Q And that was, more or less, to your understanding,  
18 was that more or less immediately after your attorney  
19 Paul Godfread let the other side know that he was going  
20 to be representing you?

21 A Yes. It was right after Paul let him know.

22 Q Within a matter of minutes, would you say, sir?

23 A Yes.

24 Q Have you heard from Mr. Steele recently,  
25 Mr. Cooper?



1 A He had left two other voicemails on my phone and  
2 two other texts within the last couple of weeks, I think  
3 it was.

4 Q And, more recently than that, have you heard from  
5 him again?

6 A Yes. Yeah. There was a two week spell between  
7 them that he had called me twice.

8 Q And, Mr. Cooper -- pardon me, I didn't mean to  
9 interrupt you. Go ahead, sir.

10 A He left four voicemails altogether and four text  
11 messages.

12 Q And, Mr. Cooper, my understanding is that you  
13 brought copies of these voicemails to potentially play  
14 for the court; is that correct, sir?

15 A Yes.

16 Q If the court will indulge me a moment, I will play  
17 those into the microphone for the record.

18 THE COURT: Okay.

19 MR. PIETZ: If it is okay with the court, I would  
20 like to ask Mr. Stoltz to assist me with this. He is the  
21 brains of the operation on the technology here.

22 Apologize, your Honor. We are starting from  
23 the beginning.

24 (Audio recording played.)

25 Q BY MR. PIETZ: Mr. Cooper, have you spoken with John

1 Steele enough times to recognize his voice?

2 A Oh, yeah. That is his voice. That is him.

3 Q So that was Mr. Steele on those recordings that we  
4 just heard a moment ago?

5 A Yes.

6 Q The three lawsuits that Mr. Steele was referring  
7 to, do you think he means the three defamation cases  
8 recently filed against you and your attorney, Paul  
9 Godfread by John Steele, Paul Duffy and Prenda Law in  
10 Florida, the Northern District of Illinois and the  
11 Central District of Illinois? Do you think that is what  
12 he was talking about?

13 A Yes.

14 Q Mr. Cooper, I, for my part, don't have anything  
15 further. Perhaps the court does, but, before I step  
16 down, I would like to thank you for coming here today?

17 THE COURT: Thank you, counsel.

18 MR. BRODSKY: Very briefly, your Honor. Thank  
19 you.

20

21 CROSS-EXAMINATION

22 BY MR. BRODSKY:

23 Q Mr. Cooper, you have never met Mr. Gibbs; is that  
24 correct?

25 A Yes.

1 Q And you have never spoken to him as well; is that  
2 correct?

3 A No, I have not.

4 Q And you have exchanged no correspondence with him  
5 whatsoever; is that correct?

6 A That is correct.

7 Q Do you know a gentleman by the name of Grant Berry,  
8 B-E-R-R-Y?

9 A Yes, I do.

10 Q Who is Mr. Berry?

11 A He is the one that introduced me to John when I was  
12 selling my house.

13 Q And what type of relationship if any do you have  
14 with Mr. Berry?

15 A He was the realtor for -- he was a realtor that I  
16 had for selling my house.

17 Q And did you ever tell or ask Mr. Steele in  
18 Mr. Berry's presence how is my porn company doing?

19 A No, I have not.

20 Q You sure about that?

21 A Yes.

22 MR. BRODSKY: Thank you, your Honor. Nothing  
23 further.

24 THE COURT: All right. Same questions that he  
25 asked with respect to -- what about Mr. Paul Duffy, do

1 you know him?

2 THE WITNESS: No, I do not.

3 THE COURT: Ever heard of him?

4 THE WITNESS: Through these things that are going  
5 on, yes.

6 THE COURT: All right.

7 THE WITNESS: That way only.

8 THE COURT: All right. Anyone else?

9 MR. PIETZ: Your Honor, just very briefly, as a  
10 technical matter, I would like to ask that the documents  
11 I went through with Mr. Cooper be admitted into evidence.

12 That was the copyright assignment with Popular  
13 Demand. I would ask that that be admitted into evidence  
14 as Exhibit 1. The copyright assignment agreement for  
15 sexual obsession, I would ask that that be admitted as  
16 Exhibit 2. The verified petition in the Eastern District  
17 of California matter previously identified in this action  
18 as Exhibit L, I would ask that it be admitted now as  
19 trial Exhibit 3. The declaration from Mr. Ranallo which  
20 has the printout for VPR, Inc. previously filed here as  
21 Exhibit S, I would ask that be admitted as trial Exhibit  
22 4. And the notissues.com registration previously  
23 identified here as Exhibit T, I would ask be admitted as  
24 trial Exhibit 5.

25 THE COURT: Any objection?

1 MR. BRODSKY: Yes, your Honor. As to Exhibits 3,  
2 4 and 5, we would object on the ground of relevance.

3 THE COURT: Sustained. All right. Everything  
4 else comes in. What about the audio? Is there a  
5 transcript of the audio?

6 MR. PIETZ: Your Honor, we can prepare it.

7 THE COURT: Would you. Thank you.

8 MR. PIETZ: We would be happy to, and we will  
9 lodge it with the court, your Honor.

10 THE COURT: Thank you. Okay. That will be  
11 received as well.

12 All right.

13 Anything, gentlemen? Nothing.

14 You may step down, sir. Appreciate you  
15 coming.

16 MR. PIETZ: Your Honor, at this time, I think it  
17 might be helpful for me to suggest a few other things  
18 that I am prepared to discuss today for the court. We  
19 have heard from Mr. Cooper.

20 What I might propose now is turning to  
21 Mr. Gibbs. Mr. Gibbs has noted in his declaration or  
22 attempted to characterize himself as merely a, quote,  
23 independent contract attorney for Prenda Law. I am  
24 prepared to present evidence today showing that, in fact,  
25 Mr. Gibbs is really what amounts to a de facto chief

1 operating officer of Prenda Law. And I have a number of  
2 documents and exhibits I am prepared to go through with  
3 Mr. Gibbs on that account.

4 In addition, I am prepared to show through  
5 cross-examination of Mr. Gibbs that his investigation in  
6 these cases was objectively unreasonable. Although I was  
7 not able to contact Mr. Larguire(phonetic) or Mr. Denton,  
8 a former client of mine in a previous case who was  
9 previously named by Mr. Gibbs as a result of what I view  
10 as a shoddy online investigation is here to testify that  
11 the main fact that Mr. Gibbs relied upon in that case  
12 turned out to be completely incorrect.

13 Fourth, your Honor or I should said say third,  
14 there are representatives here today from both AT&T and  
15 Verizon who can conform that the court's discovery orders  
16 were unambiguously violated in this case.

17 Fifth, and, finally, your Honor, if the court  
18 is inclined to hear it, I am prepared to explain my  
19 understanding of how Prenda is organized and present  
20 evidence showing that the court does indeed have personal  
21 jurisdiction over Mr. Steele, Mr. Duffy, Mr. Paul  
22 Hansmeier and Ms. Angela Van Den Hemel.

23 THE COURT: Let's begin with the ISP's.

24 MR. PIETZ: Very well, I would ask now that  
25 Mr. Huffman come forward. Is he here?

1 (The witness was sworn.)

2 THE CLERK: Please have a seat.

3 Please state your full and true name for the  
4 record, and spell your last name?

5 THE WITNESS: My name is Bart Huffman,  
6 H-U-F-F-M-A-N.

7 THE COURT: One second.

8 THE CLERK: Counsel, I think we are going to first  
9 have our 2:30 matter. I think it will be a little  
10 shorter. So I am going to call the next matter and then  
11 we will have you guys come back.

12 (Recess from 2:30 to 2:31 p.m.)

13 THE COURT: Okay. Sorry for the interruption.  
14 Let's go back on the record in the AF Holdings, Ingenuity  
15 13 LLC.

16 All right. Go ahead, counsel.

17 MR. PIETZ: Thank you, your Honor.

18

19 DIRECT EXAMINATION

20 BY MR. PIETZ:

21 Q Mr. Huffman, what is your job, sir?

22 A I am an attorney.

23 Q With what firm?

24 A Lock Lorde.

25 Q And do you represent AT&T in that capacity, sir?

1 A Yes, I do.

2 Q And how long have you been -- how long have you  
3 been representing AT&T, sir?

4 A I have been representing AT&T for about six or  
5 seven years, I suppose.

6 Q And do you have personal familiarity with matters  
7 before AT&T that involve the Prenda law firm?

8 A I do.

9 Q So on a day-to-day basis over the past few years,  
10 have you handled Prenda matters for AT&T?

11 A A number of them.

12 Q Very well. You prepared a declaration which I  
13 submitted with the court in this matter; isn't that  
14 correct, sir?

15 A That is correct.

16 Q And that declaration was based on an investigation  
17 performed by your client, AT&T; is that correct?

18 A Well, that declaration recounts a series of events  
19 where Angela Van Den Hemel who has contacted us on a  
20 regular basis to follow-up on subpoenas contacted us with  
21 respect to the subpoenas in the case that was  
22 consolidated with others in this proceeding. And as we  
23 looked into it, we discovered that the case had been  
24 stayed as far as discovery goes.

25 Q So you are familiar, then, with this court's



1 October 19th, 2013 discovery order vacating the subpoenas  
2 in the AF Holdings cases now before this court?

3 A Yes.

4 Q And as far as AT&T is aware, did Prenda in fact  
5 stop seeking subpoena returns on the cases consolidated  
6 before this court after October 19th, 2013?

7 MR. WAXLER: Calls for speculation.

8 THE WITNESS: I am not aware that they did. AT&T  
9 did not, to my knowledge, receive any notice of the order  
10 and furthermore Ms. Van Den Hemel, I think I am saying  
11 her name right, contacted us seeking to follow-up and  
12 obtain information presumably with respect to the  
13 subpoenas in that case. And we received, I should add,  
14 we received, I and my firm receive the information pretty  
15 much directly as it comes in from CT Corporation so with  
16 respect to these type of subpoenas.

17 Q BY MR. PIETZ: So with respect to these type of  
18 subpoenas, then, the receipt or non receipt by AT&T would  
19 come into your office; is that correct?

20 A Typically, it would.

21 MR. WAXLER: Calls for speculation.

22 THE COURT: Hang on. What is your objection?

23 MR. WAXLER: Calls for speculation, your Honor.

24 This witness is being asked to say whether  
25 AT&T received something, and I think that is speculative

1 for him to be able to testify as to whether AT&T might  
2 have received it or not.

3 THE COURT: I understood it to be how mail is  
4 handled in his office, but let's walk through it again.

5 MR. PIETZ: Very well.

6 Q So did your office receive a copy of the  
7 October 19th, 2013 order vacating the subpoenas in this  
8 case?

9 A Not independently. When we looked on Pacer as  
10 we -- we routinely do with respect to production requests  
11 and the like, we found the order.

12 Q So your office was not served by Prenda or anybody  
13 affiliated with Prenda with this court's October 19th  
14 discovery order?

15 A That is correct.

16 Q And did you investigate with your client, AT&T, as  
17 to whether or not AT&T received a copy of the court's  
18 October 19th order?

19 A I did not specifically ask them that, no.

20 Q And were you contacted only the once by Angela  
21 Van Den Hemel regarding the court's October 19th order in  
22 this action?

23 A No. She contacted my paralegal twice and my  
24 paralegal would routinely refer those type of inquiries  
25 to me.

1 Q So she actually asked twice for subpoena returns to  
2 be made after the October 19th discovery order?

3 A That's correct. And when I looked at the Pacer  
4 records and saw the order, I then responded to  
5 Ms. Van Den Hemel saying that the discovery had been  
6 stayed and we of course would not be producing discovery  
7 in the case at that time.

8 MR. PIETZ: I would ask that the declaration of  
9 Bart Huffman be admitted as evidence in this hearing. I  
10 think we are on Exhibit 6.

11 THE COURT: Okay.

12 THE WITNESS: And would you also want to have the  
13 declaration of my paralegal admitted as well?

14 MR. PIETZ: Yes. I would ask as well that that be  
15 admitted as Exhibit 7. It is the next filing on the  
16 docket.

17 THE WITNESS: Camille Kerr.

18 Q BY MR. PIETZ: Could you spell her name for the  
19 record.

20 A Certainly. C-A-M-I-L-L-E, K-E-R-R.

21 THE COURT: All right. Any objection, gentlemen?

22 MR. BRODSKY: Is she going to be testifying, your  
23 Honor?

24 THE COURT: I have no idea.

25 MR. BRODSKY: Object on the ground of hearsay.

1 THE COURT: Is she here?

2 Q BY MR. PIETZ: Mr. Huffman, is Ms. Kerr here today?

3 A Ms. Kerr is not here today. I can testify though  
4 that I oversaw and reviewed all of the items stated in  
5 her declaration, and they are part of our regularly kept  
6 records and they are consistent with our files, were  
7 overseen by me at every single step and reviewed and they  
8 are, in fact, true and correct.

9 Q So you are personally familiar with the facts in  
10 Ms. Kerr's declaration?

11 A I am, and I reviewed it in detail.

12 THE COURT: What is the substance or the subject  
13 matter?

14 THE WITNESS: Ms. Kerr submitted a separate  
15 declaration simply because she was the addressee on the  
16 e-mails from Ms. Van Den Hemel.

17 THE COURT: All right. And her declaration  
18 attests to?

19 THE WITNESS: Her declaration attests to the truth  
20 and authenticity of the e-mails that I attached thereto.

21 THE COURT: That is all?

22 THE WITNESS: That is all.

23 THE COURT: All right. I will permit it. Okay.

24 Gentlemen?

25 MR. BRODSKY: No questions, your Honor.

1 THE COURT: All right. Sir, you may step down.

2 Thank you.

3 THE WITNESS: Thank you, your Honor.

4 THE COURT: I do have one question.

5 Ms. Van Den Hemel, when you advised her that you had  
6 learned from Pacer of the court's order quashing those  
7 subpoenas, did she sound surprised?

8 THE WITNESS: She never responded at all.

9 THE COURT: All right. Thank you.

10 MR. PIETZ: Your Honor, also in attendance today  
11 is an attorney for Verizon, Mr. Benjamin Fox. If it  
12 please the court, I would suggest we offer him.

13 THE COURT: Yes. Please.

14 (The witness was sworn.)

15 THE CLERK: Please have a seat. And please state  
16 your full and true name for the record and spell your  
17 last name.

18 THE WITNESS: Benjamin Fox, F-O-X.

19

20 DIRECT EXAMINATION

21 BY MR. PIETZ:

22 Q Mr. Fox, what is your occupation, sir?

23 A I am a partner at Morrison and Foerster here in Los  
24 Angeles. I am a lawyer.

25 Q And do you represent Verizon in that capacity?

1 A I do.

2 Q And how long have you represented Verizon in that  
3 capacity?

4 A I can't tell you the date. I know that the first  
5 matter was the Eastern District of California Rule 27  
6 proceeding filed by Ingenuity 13, and that is the case  
7 that you had a copyright assignment for that you showed  
8 earlier this afternoon.

9 Q So you appeared on behalf of Verizon in that Rule  
10 27 petition action in the Eastern District of California;  
11 is that correct?

12 A Correct.

13 Q And I believe that was in 2011. Since then, have  
14 you had occasion to deal with litigation matters  
15 involving the Prenda law firm?

16 A Yes.

17 Q So you have handled those issues for Verizon on a  
18 day-to-day basis in the past two years?

19 A Yes. Many of them.

20 Q Very well. You prepared and submitted, filed, I  
21 should say, a declaration with the court earlier today;  
22 isn't that correct, sir?

23 A I prepared for Verizon and obtained a signature  
24 from Mr. Sean Moriarty who is a Verizon representative in  
25 Arlington, Virginia. Yes.

1 Q So you are familiar with the facts that were  
2 averred in the declaration filed with the court today?

3 A Yes, I am.

4 Q And did you investigate whether the facts are  
5 correct prior to filing the document here today?

6 A I did.

7 Q And can you explain to me the substance of the  
8 declaration with respect to whether or not Verizon  
9 received a copy of the court's October 19th discovery  
10 order?

11 A Sure. Verizon has been the recipient of I think  
12 literally hundreds of subpoenas from the Prenda firm, and  
13 Verizon is a party in a DC Circuit appeal where AF  
14 Holdings was the plaintiff based on one of the copyright  
15 assignments that bears the name of Mr. Cooper. Verizon  
16 is very focused on what has been happening in these cases  
17 and has been paying close attention to it.

18 So if Verizon had received the October 19  
19 order from this court, Verizon would have known that, and  
20 I would have received it as well. My e-mail doesn't have  
21 any record of it. I have searched. I know that Verizon  
22 has now searched. Is there some theoretical possibility  
23 that maybe it was sent to someone at Verizon and not  
24 forwarded to the correct people? Possible. But having  
25 not seen anything from Mr. Gibbs that suggests it was

1 sent, you know, my conclusion is that it was not sent to  
2 Verizon.

3 Q So, then, in terms of the usual channels, the  
4 custom and practice, the way subpoenas would normally  
5 come in from Verizon, did you check all of these means of  
6 receiving subpoena information?

7 A I checked.

8 MR. WAXLER: Calls for speculation, your Honor.

9 MR. PIETZ: Let me rephrase.

10 THE COURT: What is your objection?

11 MR. WAXLER: Calls for speculation. He is asking  
12 this witness to speculate about what Verizon's policies  
13 are in receiving subpoenas.

14 THE COURT: I thought you were talking about  
15 Morrison and Foerster's policy.

16 MR. PIETZ: That's right. I will rephrase and  
17 make it more clear, your Honor. Let me rephrase.

18 Q So did you personally check Morrison and  
19 Foerster's, the way that Morrison and Foerster would  
20 normally receive information about a subpoena? Did you  
21 check and make sure that no notice was received of the  
22 October 19th discovery order?

23 A Yes. I made a reasonable search, and I looked  
24 wherever that I thought was appropriate to look.

25 Q And you communicated with your client that you --



1 well, let me back up.

2 The gentleman who executed the declaration  
3 that was filed with the court today, what was his name,  
4 again, sir?

5 A Sean Moriarty.

6 Q And is that somebody you normally communicate with  
7 these type of matters.

8 A Yes.

9 Q And you spoke with Mr. Moriarty, and can you  
10 explain, did you have him investigate, from Verizon's  
11 end, whether notice was received?

12 A The Verizon team investigated. Yes.

13 Q Including Mr. Moriarty?

14 A Yes.

15 Q Very well. And so, then, to the best of your  
16 knowledge, based on both his investigation and a review  
17 of Morrison and Foerster's own records, Verizon did not  
18 receive a copy of the October 19th discovery order; isn't  
19 that correct?

20 MR. WAXLER: Your Honor, it is basically taking  
21 hearsay. Calls for speculation. He is asking the  
22 witness what Verizon did. Verizon has given a  
23 declaration that says it does not appear.

24 THE COURT: Overruled.

25 THE WITNESS: Correct.

1 Q BY MR. PIETZ: I would ask, then, that the  
2 declaration submitted by Mr. Moriarty with the court  
3 earlier today be admitted into evidence as Exhibit 7.  
4 Sorry. Pardon. Exhibit 8.

5 THE COURT: It will be admitted.

6 All right. Mr. Brodsky, do you wish to  
7 inquire?

8 MR. BRODSKY: I do not, your Honor. I have no  
9 questions.

10 THE COURT: Sir, you may step down.

11 THE WITNESS: Thank you.

12 THE COURT: All right. Now, I would also like to  
13 hear from your former client?

14 MR. PIETZ: Very well. Mr. Nason, are you in  
15 attendance today?

16 (The witness was sworn.)

17 MR. WAXLER: Your Honor, I would object to this  
18 line of questioning please.

19 THE COURT: He hasn't asked any questions yet.

20 MR. WAXLER: I know that, but this witness has no  
21 relevant testimony to this subject matter. He is not a  
22 party to any of the four cases at issue in this OSC. It  
23 is not even a federal court case that he was a defendant  
24 in, your Honor. He has no relevant testimony that he  
25 could state in connection with this OSC.

1 THE COURT: Maybe yes. Maybe no. If we are  
2 talking about a pattern and practice, and from what I  
3 have seen, this is a cookie-cutter litigation. Sometimes  
4 the only thing that I see changed on the complaints are  
5 the ISP's addresses and the name of the film, but, in all  
6 other respects, they seem to be all the same even the  
7 declaration from the technical expert as to what he did  
8 in order to identify the infringer. It is the same  
9 document. So I hear your point. If I don't find it to  
10 be relevant, I will discard it.

11 MR. WAXLER: Your Honor, just for the record,  
12 Mr. Gibbs' declaration does go through exactly the  
13 different things that he did in order to determine  
14 whether in the two cases that you cited in the OSC  
15 whether he was able to locate the infringer and who that  
16 was. And there is nothing cookie cutter about that  
17 effort that he put in his declaration.

18 THE COURT: All right. Thank you.

19 Go ahead.

20 THE CLERK: Please state your full and true name  
21 for the record and spell your last name.

22 THE WITNESS: Jessie Nason. That is N like Nancy,  
23 A-S-O-N.

24 THE COURT: Go ahead, counsel.

25 Is that one S or two?

1 THE WITNESS: One S.

2 THE COURT: All right.

3 THE WITNESS: Well, two in Jessie. Sorry.

4

5 DIRECT EXAMINATION

6 BY MR. PIETZ:

7 Q Mr. Nason, have you heard the name Brent Gibbs  
8 before?

9 A Yes.

10 Q And in what context, sir?

11 A He was the lawyer who brought the case against me,  
12 Lightspeed Media versus my name.

13 Q And where was that -- and I represented you in that  
14 case, did I not, sir?

15 A Correct.

16 Q And was that in the Los Angeles Superior Court  
17 filed in 2012?

18 A Yes.

19 Q I will note for the record that the case is  
20 Lightspeed Media Corporation versus Jessie Nason, Los  
21 Angeles Superior Court No. NC057950.

22 MR. WAXLER: Your Honor, I would like to object  
23 again. This case is not even a copyright case. It was a  
24 case where the individual here was alleged to --

25 THE COURT: Where are you from?

1 MR. WAXLER: I am from Los Angeles, your Honor.

2 THE COURT: There are no speaking objections in  
3 Los Angeles.

4 MR. WAXLER: I'm sorry, your Honor.

5 THE COURT: Okay. What is this case about?

6 MR. PIETZ: Your Honor, if I might speak to that  
7 very briefly. What we have seen from Prenda Law is a  
8 slightly different twist in some of their cases on  
9 copyright litigation, and what it is is essentially an  
10 attempt to address a copyright infringement case in state  
11 law clothing, well, state law and the Computer Fraud and  
12 Abuse Act.

13 So the causes of action at issue in the  
14 Lightspeed case was a computer fraud and abuse act claim  
15 which essentially alleges that downloading and  
16 distributing content, and the content is nebulously  
17 specified in the complaint amounts to Computer Fraud and  
18 Abuse Act violations. And then there were a variety of  
19 related claims all of which were preempted by the  
20 Copyright Act for conversion, unjust enrichment and the  
21 like. But, really, what it was, and, in fact, and I can  
22 speak to this longer although perhaps it is getting off  
23 on a tangent, in reality what happened, was at some point  
24 somebody probably hacked into a password protected  
25 website, but, then, Prenda started logging IP addresses

1 and suing people in CFAA claims even though really the  
2 gravamen of the case was the use of BitTorrent. So it is  
3 similar, but, in any event, the issue in Mr. Nason's case  
4 that I think is relevant here is the same, and that  
5 specifically what was the investigation that was  
6 performed prior to naming Mr. Nason as the defendant in  
7 the case, and it is fairly bread and butter.

8 THE COURT: Okay. Go ahead.

9 Q Mr. Nason, are you familiar with the reason that  
10 Mr. Gibbs stated that he had named you as a defendant?

11 A Yes.

12 MR. WAXLER: Calls for speculation.

13 THE COURT: He said stated. You did say stated;  
14 right?

15 MR. PIETZ: Yes, your Honor.

16 THE COURT: All right. Overruled.

17 Q BY MR. PIETZ: So, in any event, what was that  
18 reason, Mr. Nason.

19 A I believed it to be that he supposed I lived by  
20 myself in my apartment, and so he considered me a single  
21 male.

22 Q And, Mr. Nason, is that correct? Do you live  
23 alone?

24 A No, I do not.

25 Q And who do you live with, Mr. Nason?

1 A My wife of nine years.

2 Q And have you lived with her for the past  
3 nine years?

4 A Correct.

5 Q So, at any point, you know, save perhaps for a  
6 vacation, consistently for the past nine years, you have  
7 always lived with your wife; is that correct?

8 A That's correct.

9 MR. PIETZ: That is essentially all I need from  
10 Mr. Nason, your Honor. I might have some questions about  
11 Mr. Gibbs, or perhaps now I could show the court the  
12 section of the transcript from the hearing in the Nason  
13 matter where Mr. Gibbs, when pressed by the court as to  
14 how it is and why it is he justified having named  
15 Mr. Nason as a defendant, Mr. Gibbs specifically stated,  
16 well, because we determined that he lived alone. It is  
17 just incorrect. And, indeed, the court denied my motion  
18 on that basis even though it turned out to be incorrect.

19 MR. BRODSKY: Your Honor, for the record, may we  
20 move to strike the testimony on the ground that it is  
21 irrelevant and beyond the scope of the court's OSC.

22 THE COURT: You may step down, sir. Thank you.

23 THE WITNESS: Thank you.

24 MR. PIETZ: I am looking now for the specific  
25 section of the transcript.

1 THE COURT: Don't worry about it.

2 MR. PIETZ: All right. I can find it afterwards.  
3 Thank you, your Honor.

4 THE COURT: All right. Let's now switch to the  
5 jurisdictional issue.

6 MR. PIETZ: Oh, you know what, your Honor, I have  
7 here the actual original copy of the transcript which  
8 perhaps I will lodge with the court and move to mark as  
9 Exhibit 9, I believe we are on.

10 THE COURT: Okay.

11 MR. PIETZ: And, Mr. Ranallo, if you can find the  
12 pin cite, we will go ahead and add it.

13 May I approach to give this to the clerk, your  
14 Honor?

15 MR. WAXLER: We would object to the inclusion of  
16 that transcript as an exhibit.

17 THE COURT: I will take a look at it. We will  
18 see.

19 Where was this? Was this in Torrance?

20 MR. PIETZ: Yes, it was, your Honor. Judge  
21 Vicencia.

22 THE COURT: Small world. My old court reporter.  
23 Okay.

24 MR. PIETZ: I am just looking now for the diagram  
25 which I think will assist in explaining all of this.



1                   We seem to be a bit off kilter there, don't  
2 we. Interesting. Well, in any event --

3                   MR. WAXLER: What exhibit is this?

4                   MR. PIETZ: Yes. Marked as -- I will tell you in  
5 just a moment. Double H, previously on the record.

6                   In any event, perhaps less useful than I hoped  
7 it would be, but I can at least talk the court through  
8 it.

9                   THE COURT: What is your source? I mean,  
10 electronic source?

11                   MR. PIETZ: This is a demonstrative exhibit, your  
12 Honor.

13                   THE COURT: I know that. What are you using,  
14 laptop?

15                   MR. PIETZ: It is Trial Pad on my iPad, your  
16 Honor.

17                   THE COURT: It is on your iPad?

18                   MR. PIETZ: Yes, sir.

19                   THE COURT: And you can't do anything to adjust  
20 it?

21                   MR. PIETZ: We do have a color paper copy of the  
22 document. It will take just a moment to pull it.

23                   THE COURT: Okay. Go ahead.

24                   MR. PIETZ: In any event, Mr. Ranallo, perhaps you  
25 can look for that.

1 MR. BRODSKY: Your Honor, may I inquire of the  
2 court for a moment?

3 THE COURT: Sure.

4 MR. BRODSKY: I am not quite sure what the  
5 relevance of this is, the foundation for it or exactly  
6 what counsel is doing. It just seems to be his own  
7 statement of his investigation.

8 THE COURT: Do you know the general subject that  
9 we are going to discuss now?

10 MR. BRODSKY: I believe so, your Honor.

11 THE COURT: Okay. That is what I think it is, and  
12 hopefully it will help him. Now, when it gets down to  
13 the source of this material and the accuracy of this  
14 material, I hope I will be hearing from you gentlemen. I  
15 don't have the independent knowledge of this one way or  
16 the other. Thank God for the adversarial process.

17 MR. WAXLER: Your Honor, so, then, should  
18 Mr. Pietz be on the stand if he is going to give  
19 essentially testimony about this exhibit?

20 THE COURT: I don't make a habit of placing  
21 lawyers under oath, but this case may change that. I  
22 figure officers of the court will not knowingly make  
23 misrepresentations to the court, will they.

24 MR. WAXLER: No, they won't.

25 THE COURT: Until this case.

1 MR. WAXLER: My client hasn't in this case.

2 MR. PIETZ: Your Honor, to explain what it is,  
3 what I thought I might do is to give a very brief  
4 overview of the organization, and, then, I thought I  
5 would go through some specific documents about Mr. Steele  
6 and a couple of arguments. So this is really argument,  
7 essentially, a couple of exhibits that go to Mr. Steele's  
8 connection to the California as well as a couple of  
9 points about Mr. Paul Hansmeier and Mr. Duffy.

10 THE COURT: Okay.

11 MR. PIETZ: So, in any event, this is a chart that  
12 was essentially prepared. This was prepared by my office  
13 essentially as a tool to aid in the understanding of how  
14 Prenda Law appears to have evolved over the past few  
15 years.

16 Essentially, it started out here with Steele  
17 Hansmeier, and John Steele -- I know that is a little  
18 hard to see -- John Steele, Paul Hansmeier and Brett  
19 Gibbs. Mr. Steele and Mr. Hansmeier were the named  
20 partners in the firm, and Mr. Gibbs was the of counsel  
21 originally. When they first started out, circa 2011 --

22 THE COURT: I am going to have to stop you. How  
23 do you know that Mr. Gibbs was of counsel with Steele and  
24 Hansmeier?

25 MR. PIETZ: Your Honor, I can point to the

1 specific exhibit, but there are pleadings of which the  
2 court can take judicial notice where he is listed on the  
3 pleadings as of counsel to Steele Hansmeier.

4 THE COURT: You are aware of the fact that  
5 Mr. Hansmeier doesn't know what capacity Mr. Gibbs was  
6 working at his law firm?

7 MR. PIETZ: Correct, your Honor. So, in any  
8 event, let me put it this way. Mr. Gibbs filed documents  
9 in federal court indicating on the caption that he was of  
10 counsel to Steele Hansmeier.

11 THE COURT: Okay.

12 MR. PIETZ: Now, I believe I can also speak to  
13 this if the court is so inclined that Mr. Lutz was  
14 holding himself out to the world as a paralegal at that  
15 time, working, according to Mr. Paul Hansmeier, solely  
16 for Mr. Steele. At this time, most of the lawsuits with  
17 a few exceptions filed by Prenda around 2011 were on  
18 behalf of a porno production, pardon me, adult  
19 entertainment production company that actually people  
20 have heard of before. And that is this list of clients  
21 here.

22 What happened is that sometime in 2012, the  
23 Steele Hansmeier firm was disbanded or become Prenda,  
24 sold its client book to Prenda Law. We are not entirely  
25 sure exactly the nature of the transaction, but, in any

1 event, at that point, Paul Duffy became involved as the  
2 nominal figurehead of the Prenda Law enterprise.  
3 However, there are indications that Mr. Steele and  
4 Mr. Hansmeier remain involved and Mr. Gibbs has declared  
5 that he essentially continued on as of counsel handling  
6 the same cases only now on behalf of Prenda Law, Inc.  
7 rather than Steele Hansmeier LLC.

8           At the same time that Steele Hansmeier became  
9 Prenda, sometime around, then, in 2012, I am not exactly  
10 sure, Mr. Hansmeier started up his own shingle in  
11 Minnesota, the virtual office called the Alpha Law Firm  
12 LLC. So, essentially, Mr. Hansmeier sometimes files  
13 pleadings in federal court that list his affiliation as  
14 Alpha Law Firm LLC, but, by the same token, Mr. Gibbs has  
15 identified Mr. Paul Hansmeier as being the person from  
16 whom he took direction at Prenda.

17           And, indeed, the court may recall from the  
18 deposition transcript read over the weekend that  
19 Mr. Hansmeier testified that, indeed, his clients  
20 deposited their trust account funds into the Prenda Law  
21 Firm account rather than to the Alpha Law Firm account.

22           THE COURT: Stop. I hate to interrupt you.

23           But she means more to me than this argument,  
24 and we have had her going at light speed for an  
25 hour-and-a-half. Right. So I am going to take a break,

1 and we can all take a break. How about 10 minutes.

2 Okay.

3 MR. PIETZ: Very good. Thank you, your Honor.

4 (Recess from 2:58 to 3:09.)

5 THE COURT: All right. Mr. Pietz.

6 MR. PIETZ: Thank you. I will attempt to keep  
7 this section very brief, and then we will move on to some  
8 documentary evidence. This is just a summary.

9 So, as I was saying, sometime around 2012,  
10 there was a bit of a shift in the Prenda business  
11 strategy. Mr. Hansmeier -- so what happened is these  
12 companies, AF Holdings, LLC, Ingenuity 13 LLC and then  
13 there is a couple of other companies which are the ones  
14 in the CFAA cases. That is Arte de Oaxaca LLC and Guava  
15 LLC. And the CFAA cases have primarily been filed in  
16 state court and have indeed tried to use -- certain  
17 states have presuit discovery procedures that are more  
18 lenient than Federal Rule of Civil Procedure 27. So it  
19 is sort of a newer twist is these state court CFAA cases  
20 and Arte de Oaxaca.

21 But, in any event, according to Mr. Hansmeier  
22 in his deposition, these essentially shell company  
23 plaintiffs are owned by a mystery trust. Mr. Hansmeier,  
24 as 30(b)(6) deponent -- well, anyway, I won't go into  
25 that. The court read it. According to Mr. Gibbs'

1 special counsel, though, on the same day, February 19th,  
2 there is conflicting testimony essentially saying that  
3 Livewire Holdings LLC is actually the current holder of  
4 AF Holdings and Ingenuity 13.

5           So, in any event, these are the parent  
6 companies, some mystery trust and Livewire Holdings LLC.  
7 There is documents, you know, I had this sort of set  
8 aside to potentially go through with Mr. Gibbs, but I can  
9 also just show the documents, show what I have. In any  
10 event, there is documents showing Mr. Gibbs as in-house  
11 counsel for Livewire Holdings.

12           There are various other connections between  
13 Livewire Holdings and the attorneys we see over here.  
14 Mr. Dugas is a local counsel who has worked at both  
15 Prenda and Alpha Law which I can show through his  
16 LinkedIn profiles, obviously, not central to the case.  
17 Mr. Dugas' wife has been identified on LinkedIn as  
18 in-house counsel for Livewire Holdings.

19           In addition, what I will talk about now is the  
20 way that we see the lawyers. Mr. Hansmeier has been both  
21 30BC deponent for AF and as its counsel. In any event,  
22 what seemed to happen is that at some point these cases  
23 filed on behalf of Ingenuity, AF Holdings, Arte de Oaxaca  
24 and Guava LLC are cases where what appears to have  
25 happened is the lawyers essentially took assignment of

1 the underlying intellectual property rights in these  
2 mysterious shell companies. One recurring theme here is  
3 the way that when we are seeing the straw men, there is  
4 always a connection to John Steele. So, for example, in  
5 the VPR International, we see John Steele is the  
6 attorney. We see Alan Cooper listed on the corporate  
7 registration. The address listed for VPR International,  
8 the 4532 East Villa Teresa Drive. My understanding based  
9 on documents that have been submitted with the court is  
10 that is an address that comes up for John Steele's sister  
11 and a gentleman named Anthony Saltmarsh, in addition, of  
12 course, to being the address listed for Mr. Cooper.

13 So on various federal court filings in the  
14 Northern District of California, all of which are  
15 attached as exhibits to the deposition that was lodged  
16 with the court which the court read over the weekend,  
17 when pressed to identify the person at AF Holdings who  
18 would be made available for an early neutral settlement  
19 evaluation conference, there are various court filings  
20 listing the owner of AF Holdings as somebody named Salt  
21 Marsh, two words.

22 So, in any event, what seems to perhaps be the  
23 case is that this Anthony Saltmarsh lived at this address  
24 with John Steele's sister which was essentially used as a  
25 front for various entities involved in Prenda activities.



1 I don't want to spend too much time on just  
2 the overview. What I thought I might do is shift instead  
3 to taking the nonappearing folks individually. And I  
4 thought I might start with Mr. Steele. So I have some  
5 documents which go to that, and I will switch back now  
6 to -- okay. There we go. So I will note that in the  
7 declaration submitted to the court by Mr. Steele on  
8 Friday, he claims that he resides in the State of  
9 Florida.

10 I will point out that when Mr. Steele was  
11 under threat of sanction in the state of Florida, he  
12 declared to the court there that he resided in the State  
13 of Nevada and only visited the State of Florida. So I  
14 have here the affidavit of John Steele that he filed, and  
15 you can see the file stamp on the top. It is Middle  
16 District of Florida, Case No. 812 CV 1685 that was filed  
17 on December 20th, 2012. And, in Paragraph 2, Mr. Steele  
18 swore to the court that my legal residence is Las Vegas,  
19 Nevada, and I also spend one to two weeks a month in  
20 Miami, Florida. So my understanding must be then that  
21 sometime between last December and now Mr. Steele has  
22 decided that his residence is not Nevada but rather  
23 Florida.

24 In any event, and before moving on, I would  
25 ask the court to take judicial notice of the fact that in

1 the -- that this affidavit which was filed in the public  
2 record in the Middle District of Florida that Mr. Steele  
3 states that he spends one to two weeks a month in Miami,  
4 Florida. Mr. Ranallo can pass out copies of the  
5 affidavit to everybody.

6 So, in any event, let's look at some other  
7 documents about Mr. Steele. And what I would start with,  
8 I believe, is a declaration here, and I will ask  
9 Mr. Ranallo again to pass this out for the court, the  
10 declaration of Michael B. Stone, and what this  
11 declaration is, the declaration itself is essentially  
12 just authenticating the document, but the document at  
13 issue is a collection of pleadings in a Northern District  
14 of California action in which it was a case filed on  
15 behalf of a Prenda client.

16 Well, this I think was an actual company that  
17 people have heard of in an earlier case, but in any  
18 event, here, we see the pleading. So the declaration  
19 authenticates it, and then Exhibit 1 is a copy of the  
20 complaint which as we can see was filed in the United  
21 States District Court for the Northern District of  
22 California, and it is Civil Action No. 511 CV 3648.

23 Well, in any event, the interesting thing  
24 about this complaint is who signed the subpoena that was  
25 directed in this case at a John Doe defendant who resided

1 in California. And the answer, and here we see a copy of  
2 the subpoena, pardon me, authenticated by Mr. Stone.  
3 This is the letter that the ISP normally sends out, and,  
4 here, we see a copy of the subpoena itself. And this is  
5 in the same action.

6 Then, we see, there, that this subpoena which  
7 again was signed by John Steele in a California action  
8 requesting information of a John Doe defendant in the  
9 State of California. So, essentially, I would ask that  
10 this declaration of Michael Stone be admitted into  
11 evidence as Exhibit, I believe, we are on 9.

12 Is that correct, Madam Clerk?

13 THE CLERK: 10.

14 MR. PIETZ: Pardon me. 10. I am one behind.

15 THE COURT: All right. Any objection?

16 MR. WAXLER: Your Honor, I just question the  
17 relevancy of it as to Mr. Gibbs. Again, it is not one of  
18 the cases that you put in your OSC.

19 THE COURT: It will be admitted.

20 MR. PIETZ: Similar document that I will move onto  
21 next. What we have here is a declaration which was filed  
22 on the docket in a case in the Northern District of  
23 California by a man named Samuel Teitelbaum. It is  
24 Northern District of California No. 311 CV 5628. And we  
25 can see here that it is pending in the Northern District

1 of California.

2 In this declaration, Mr. Teitelbaum explains  
3 that he received a letter directed to him in California  
4 from Prenda Law and that the letter which was mailed to  
5 him in California which is there is a copy of it right  
6 here. It is on Steele Hansmeier letterhead, and if we go  
7 to the last page, we see that the letter, mailed into the  
8 State of California in a case pending in the Northern  
9 District of California, is signed by John Steele,  
10 attorney and counselor at law.

11 So, in any event, I would ask that this be  
12 admitted into evidence as Exhibit 11, and these both go  
13 to showing that Mr. Steele has indeed reached into the  
14 State of California in terms of his actions in BitTorrent  
15 copyright litigation cases.

16 THE COURT: All right. Will be received.

17 MR. PIETZ: So what I will do now, I think that  
18 the other facts that I had already pointed out about the  
19 other gentlemen who are not here today, so I mean Paul  
20 Hansmeier and Paul Duffy, I pointed out in my opposition  
21 to the objections which was filed on Friday, but, in  
22 general, I would argue the jurisdictional issue as  
23 follows.

24 What we have from Mr. Gibbs is a declaration  
25 saying that anything that was potentially improper in

1 these cases was done at the direction of his superiors at  
2 the Prenda law firm. He identifies those people as John  
3 Steele and Paul Hansmeier. Interestingly enough,  
4 Mr. Duffy isn't on the list or perhaps maybe not as much.

5 Mr. Duffy has his California bar license in  
6 the state of California and has substituted in in  
7 Mr. Gibbs' place in a variety of actions in the Northern  
8 District of California. Mr. Hansmeier, in addition to  
9 being identified by Mr. Gibbs as essentially running a  
10 law firm doing business in California, flew to California  
11 apparently of his own free will to appear as the  
12 corporate 30(b)(6) deponent of AF Holdings LLC. So we  
13 have Mr. Hansmeier reaching into the state of California,  
14 attending a deposition in California in a Northern  
15 District of California case, representing essentially  
16 that the same plaintiff that is at issue here, AF  
17 Holdings LLC.

18 So at least with respect to Mr. Duffy who has  
19 his bar license here and Mr. Hansmeier who flew here as a  
20 30(b)(6) deponent and has been identified, I think it is  
21 fairly clear that probably both general and specific  
22 jurisdiction exists.

23 Mr. Steele has perhaps been a little more  
24 careful about trying to keep his fingerprints off here,  
25 but I would remind the court that Mr. Gibbs has

1 identified him as essentially running a law firm in  
2 California which by the way is not qualified to do  
3 business in California, and I checked with the state bar  
4 and it is not registered as a law firm here.

5 But in any event --

6 THE COURT: You talking about Prenda now?

7 MR. PIETZ: Talking about Prenda. Yes, sir.

8 In any event, I apologize. I don't have  
9 documents to back that up, but I can provide them. But,  
10 in any event, I think that with respect to Mr. Steele  
11 when you take Mr. Gibbs' declaration and add it together  
12 with a subpoena signed by Mr. Steele. And, pardon me, I  
13 will note one other thing about the declaration of  
14 Michael Stone. In addition to authenticating the  
15 documents, he also included some back and forth, some  
16 meet and confer correspondence he had with Mr. Steele.

17 So, essentially, Mr. Stone noticed the fact  
18 that Mr. Steele was not licensed in California and that  
19 he had signed the subpoena and wrote to Mr. Gibbs saying  
20 this subpoena is invalid. And what happened is that  
21 Mr. Steele wrote back directly without cc'ing Mr. Gibbs  
22 and essentially shrugged off the concerns about the  
23 subpoena being signed by an attorney who doesn't have a  
24 license in California.

25 So, in any event, I think that with respect to

1 Mr. Steele, when you add together the subpoena issued  
2 into the state of California, a demand letter issued  
3 under the state of California as well as Mr. Gibbs'  
4 testimony, it is pretty clear that the court has personal  
5 jurisdiction.

6 I don't have a tremendous number of additional  
7 exhibits on this topic. However, I do have quite a few  
8 with respect to what I view as Mr. Gibbs' central role in  
9 the Prenda law organization.

10 MR. BRODSKY: Your Honor, may I make one comment?

11 THE COURT: You can make more than that. Thank  
12 you.

13 Yes. Go ahead.

14 MR. BRODSKY: We are not taking a position at the  
15 present time on the jurisdictional issues that the court  
16 is deciding, but there were statements made about my  
17 client that I believe mischaracterize the evidence that  
18 has been put forward.

19 THE COURT: Okay. Listen, let me just sort of  
20 tell you the way we are going to proceed here. At this  
21 point, you will have the floor. All right. I can't  
22 imagine you are going to raise too much in opposition to  
23 the jurisdictional issue. Otherwise, he is in. So you  
24 go right ahead.

25 Now, a number of things -- I am just going to

1 give you some of my thinking. A number of things were  
2 stated in your papers. Some of them caused me some  
3 concern because they were inaccurate. For example, you  
4 make the argument that certain people were identified as  
5 infringers because there was no way, for example, that  
6 someone else could have been piggy-backing off of their  
7 modem because of the size of the lot, where the house is  
8 situated on the lot, the proximity or lack of proximity  
9 of other residences around, et cetera.

10 Your representation of these homes and the  
11 neighborhoods and juxtaposition of other houses around  
12 them was simply not accurate. Not in the least bit. And  
13 I found that troublesome when you are asking me, then, to  
14 accept all of your our arguments.

15 So I just want to throw that out there to let  
16 you know some of my thinking.

17 MR. WAXLER: Our turn, your Honor?

18 THE COURT: I don't care who. It is this side.

19 MR. WAXLER: We will call Mr. Gibbs to the stand,  
20 your Honor.

21 THE COURT: All right.

22 (The witness was sworn.)

23 MR. PIETZ: Your Honor, before we move onto  
24 Mr. Gibbs, may I request that we admit into evidence the  
25 affidavit of John Steele as Exhibit 12, the Michael Stone



1 declaration as Exhibit 13 -- oh. Pardon me. Stone and  
2 Teitelbaum have already been admitted so just the  
3 affidavit of John Steele. I would ask that that be  
4 admitted as Exhibit 12.

5 THE COURT: I think that's right. Are we up to  
6 12? Okay. All right.

7 THE CLERK: If you could state your full and true  
8 name for the record and spell your last name.

9 THE WITNESS: Sure. Brad Gibbs, G-I-B-B-S.

10

11

DIRECT EXAMINATION

12

BY MR. WAXLER:

13

Q Mr. Gibbs, who is your present employer?

14

A I am not currently employed.

15

Q You became employed -- I'm sorry. You became an of  
16 counsel, 1099 independent contractor for Steele

17

Hansmeier; correct?

18

A Yes.

19

Q Was Steele Hansmeier an existing law firm at the  
20 time that occurred?

21

A I believe they had been existing for a number of  
22 months at that point.

23

Q What were you told your role would be at Steele  
24 Hansmeier?

25

A Basically, California counsel for Steele Hansmeier

1 in bringing lawsuits on behalf of their clients.

2 Q Were you paid as an employee?

3 A No.

4 Q Did you share in Steele Hansmeier profits?

5 A No.

6 Q Were you on the management of Steele Hansmeier?

7 A No.

8 Q And who did you understand were the decision makers  
9 of Steele Hansmeier?

10 A John Steele and Paul Hansmeier.

11 Q When you were an of counsel to Steele Hansmeier,  
12 who supervised you?

13 A John Steele and Paul Hansmeier.

14 Q Did you have periodic meetings while at Steele  
15 Hansmeier to discuss cases?

16 A Yes, we did.

17 Q And were those weekly meetings?

18 A Yes. Sometimes they would be sending the schedule,  
19 but, yes, mostly weekly meetings.

20 Q Who participated in those meetings?

21 A John and Paul would call me, and they would hold a  
22 weekly meeting.

23 Q And were these by phone or in person?

24 A These were by phone.

25 THE COURT: Were they ever in person.

1 THE WITNESS: I went sometimes and met them, and  
2 then we had meetings, yes, in person at that point, but  
3 this was only a couple of times.

4 THE COURT: This is out of California?

5 THE WITNESS: Yes. Well, I have met with Paul  
6 Hansmeier in California prior to this deposition, but the  
7 other, everything was out of California.

8 Q BY MR. WAXLER: When -- were any cases that you filed  
9 while at -- while of counsel to Steele Hansmeier, were  
10 any of those cases settled?

11 A Yes.

12 Q And did the checks, the settlement checks come to  
13 you?

14 A No.

15 Q Did you have a client trust account in any account  
16 in which you had an interest at all as a signatory?

17 A No. Actually, I don't even have a client trust  
18 account.

19 Q So the checks were sent to Steele Hansmeier's trust  
20 account?

21 A I don't know. I would assume they were. They  
22 weren't sent to me. They were sent to Steele Hansmeier.

23 Q And how did you learn that Prenda law was going to  
24 substitute in or take over the cases from Steele  
25 Hansmeier?

1 A Basically, I heard of the name Prenda Law. They  
2 told me that Prenda Law was now taking over the business.  
3 Steele Hansmeier was no longer going to exist at that  
4 point.

5 Q And who is they in that answer?

6 A That would be John Steele and Paul Hansmeier.

7 Q Were you on the management committee at all of  
8 Prenda Law?

9 A No.

10 Q Were you partner at Prenda Law?

11 A No.

12 Q What was your affiliation with Prenda Law?

13 A The same as it was for Steele Hansmeier which would  
14 be of counsel, California counsel essentially for Prenda  
15 Law.

16 Q So you were compensated with a 1099?

17 A Yes. That is correct.

18 Q And did that ever change over the course of the  
19 time which you were counsel to Prenda Law?

20 A In terms of what?

21 Q In terms of your relationship with that firm?

22 A No. I would only say that they, John and Paul, had  
23 asked me to help the other counsel in different states,  
24 basically, like, give them advice in doing their own  
25 cases in different states. That was the only change

1 really. Other than that, I was just California counsel.

2 Q While of counsel to Prenda Law, did you ever  
3 receive any settlement checks?

4 A Myself personally, no.

5 Q Did you have a client trust account at Prenda Law  
6 that you somehow administered or controlled?

7 A No.

8 Q And were you supervised at Prenda Law?

9 A Yes, I was.

10 Q Who were you supervised by?

11 A Paul Hansmeier and John Steele.

12 Q Were you supervised by Paul Duffy?

13 A No.

14 Q And when you say supervised, could you just  
15 describe what you mean by that? How did they supervise  
16 you?

17 A Sure. You know, they essentially were the ones  
18 that would initiate cases. By that, I mean, they would  
19 tell me they wanted to file certain cases in California,  
20 for instance, and they would instruct me to go ahead and  
21 file those. And they would give me the authority to do  
22 so. I would be told what cases we are looking at and how  
23 many cases we are talking about, and then I would file  
24 the cases.

25 And they would give me general guidelines on

1 what to do and sometimes the cases would be settled by  
2 John as was pointed out earlier, and sometimes they gave  
3 me certain parameters which I could settle the case  
4 myself.

5 Q Did you ever talk to anybody that you understood to  
6 be the client, AF Holdings?

7 A No. The communications were solely through Paul  
8 Hansmeier and John Steele.

9 Q Did you ever talk to anybody who said they were  
10 affiliated with Ingenuity 13?

11 A Well, I mean, aside from Mark Lutz who is the CEO  
12 of Ingenuity 13, but aside from that, no. All my  
13 communications were straight through Paul Hansmeier and  
14 John Steele.

15 Q Did Mr. Lutz ever give you direction on the  
16 handling of any of these cases directly?

17 A No. Actually, I only found out about that  
18 connection, I would say, after the cases in the Central  
19 District were filed, about him being the CEO. I didn't  
20 know that before.

21 Q And the cases that were filed in the Central  
22 District were dismissed; correct?

23 A That is correct.

24 Q And whose decision was it to dismiss those cases?

25 A Ultimately, it was John Steele and Paul Hansmeier's

1 decisions. We had talked about it. As counsel of record  
2 here, I just kind of broke down like a cost benefit  
3 analysis of those cases. And they said, basically, go  
4 ahead and dismiss them because -- they said go ahead and  
5 dismiss them.

6 Q When the cases were filed, did you have a  
7 discussion with anybody about whether notice of  
8 interested parties should be filed?

9 A I did. Yeah.

10 Q And who did you have discussions with?

11 A Mostly Paul Hansmeier. Yes. Mostly Paul Hansmeier  
12 but sometimes John Steele, I guess. I don't know. It  
13 was a while ago I guess.

14 Q Did you file those notices of interested parties?

15 A Yes.

16 Q What did they say in connection with AF Holdings.

17 A They said there was no other interested parties.

18 Q Do you have any personal knowledge of that  
19 statement as untrue?

20 A No, I did not. No. I still don't. I mean, in  
21 terms of I know there is other things involved in terms  
22 of the trust and stuff like that, but in terms of other  
23 people involved, I was only taking direction from these  
24 guys in terms of these types of filings.

25 Q And these guys are?

1 A These guys are Paul Hansmeier and John Steele.

2 Q In connection with Ingenuity 13 cases did you file  
3 notices of interested parties?

4 A That is correct. Yes.

5 Q And were you ever advised that the information --  
6 how did you obtain the information for those notices?

7 A Well, I just, I would ask them, you know, are there  
8 any other people that I should be noticing on this  
9 document that I am filing with the court.

10 Q Who is them in your response?

11 A That would be Paul Hansmeier and John Steele.

12 Q Were you told not to do that again. Instead of  
13 saying them, were you told by Paul Hansmeier, John Steel  
14 that the information you included in those notice of  
15 interested parties was correct?

16 A So they actually told me, I was instructed to fill  
17 those documents out like I did.

18 Q There was a question raised by the court this  
19 morning about the failure to have filed notices of  
20 related cases. My question is did you consider filing  
21 notices of related cases when you filed the actions in  
22 the Central District of California?

23 A Yes, we did.

24 Q And could you please describe for the court what  
25 your thought process was as a result of, in not filing



1 these notices?

2 A So we had filed -- well, I filed on behalf of  
3 Steele Hansmeier, then Prenda Law, a number of cases in  
4 the Northern District of California, and those were cases  
5 with multiple people in them.

6 And what the court in the Northern District of  
7 California concluded, almost every court, at that point,  
8 after filing multiple cases was that joinder was not  
9 valid and that they basically told us in no uncertain  
10 terms that these cases weren't related. Therefore, that  
11 informed my belief in terms of whether we wanted to  
12 relate these cases or not. They said these cases,  
13 essentially, through their orders and through live  
14 hearings, that these cases aren't related, they should be  
15 brought as individual actions. So it was just a decision  
16 to bring those individual actions and not relate the  
17 cases based on that.

18 Q And your experience in Northern California, that  
19 predated the filings of the Central District actions that  
20 we are here to discuss today?

21 A Yes. I don't even know if I was admitted into the  
22 Central District at that point.

23 THE COURT: Let me jump in a second. You were  
24 told in the Northern District of California that when you  
25 filed a lawsuit on behalf of either AF Holdings or

1 Ingenuity 13 versus Does 1 through many, that that  
2 joinder was improper; correct?

3 THE WITNESS: Some cases. Some cases it was not  
4 improper. Some judges felt differently.

5 THE COURT: All right. But if it involved  
6 different movies, downloads, different times, different  
7 people, different places, different ISP addresses, they  
8 said you need to file separate lawsuits; right?

9 THE WITNESS: Some of them were the same clients,  
10 same videos.

11 THE COURT: Okay. But even then?

12 THE WITNESS: Yes.

13 THE COURT: Even then, you had to file separate  
14 lawsuits?

15 THE WITNESS: Yes. We were pointing that  
16 direction even there was a footnote in one of the courts'  
17 opinions saying basically that we were trying to get  
18 around the filing fee, and that is what they thought so  
19 we should file individual cases from there on out.

20 THE COURT: Of course, you were, but that is not  
21 where we are going here. Now, that deals with joinder in  
22 one lawsuit and consolidating really separate and  
23 complete causes of action, different parties in a single  
24 lawsuit.

25 Now, what we are talking about here is with

1 respect to your notice of related case.

2 THE WITNESS: I understand.

3 THE COURT: You do because I can hear it now. I  
4 can hear you going it is compound, all the stuff that you  
5 do.

6 Do you realize -- no. Did you equate the  
7 instructions you got from the court regarding improper  
8 consolidation of a lot of cases, a lot of claims into a  
9 single complaint, did you somehow conflate that with the  
10 issue of related cases, notices of related cases? And  
11 you know what that is for, here; right?

12 THE WITNESS: I understand.

13 THE COURT: You understand why we are looking for  
14 that.

15 THE WITNESS: I understand.

16 THE COURT: Tell me what your understanding is as  
17 to why the court is interested in knowing whether or not  
18 there are related cases.

19 THE WITNESS: Because if they are similar cases,  
20 my belief is the court wants to know about those so the  
21 court can handle it so that there are uniform decisions  
22 essentially that are held from the same court.

23 THE COURT: Excellent. A completely different  
24 objective -- right -- than consolidating a lot of  
25 different lawsuits in one complaint; right? Completely

1 different. This is judicial economy.

2 THE WITNESS: I understand. Yes. I understand  
3 what you are saying. In terms of that it was just the  
4 decision that was made, and perhaps it was the wrong  
5 decision, but, you know, the decision was made.

6 THE COURT: Okay. Don't do that. Decision that  
7 was made. Who made that decision?

8 THE WITNESS: It was a discussion amongst myself,  
9 Paul Hansmeier and John Steele and, probably, mostly,  
10 Paul Hansmeier. I don't even know if Steele was involved  
11 in that discussion or not, and that is just what we  
12 decided to do.

13 THE COURT: All right. The law firm that you were  
14 working for -- and I guess initially we are talking  
15 Steele Hansmeier or the other way around.

16 THE WITNESS: It was Steele Hansmeier.

17 THE COURT: Okay. Did that firm have, in its  
18 California office, did it have a client trust account?

19 THE WITNESS: In California.

20 THE COURT: Yes.

21 THE WITNESS: Well, I was working of counsel to  
22 them. So, no, I never had my own client trust account.  
23 The funds were always going through the law firm.

24 THE COURT: Were you operating out of your home?

25 THE WITNESS: Yes, I was originally.

1 THE COURT: Did at any time you ever have a  
2 business office even if it was a suite any place?

3 THE WITNESS: Not for Steele Hansmeier.

4 THE COURT: What about Prenda?

5 THE WITNESS: Prenda Law, yes. They wanted me to  
6 get an office. So I got an office, and I actually moved  
7 twice.

8 THE COURT: At that time, did you have a client  
9 trust account?

10 THE WITNESS: No, your Honor.

11 THE COURT: Was it your understanding that in  
12 California that you were required to have a client trust  
13 account?

14 THE WITNESS: My belief was that considering I was  
15 working as of counsel to the Prenda Law, and Prenda Law  
16 had the trust account, that was my understanding of how  
17 the money was dealt with. I didn't ever -- they never  
18 saw my bank account. I was paid like by Prenda Law as an  
19 attorney, of counsel attorney, 1099. And so my  
20 understanding was that they had a trust account. And,  
21 therefore, you know, the people that were working with  
22 them did not need trust accounts themselves.

23 THE COURT: Okay. All right. And you only handle  
24 one kind of business; right?

25 THE WITNESS: What do you mean by that, your

1 Honor? I only handle one kind of business?

2 THE COURT: Yes.

3 THE WITNESS: Can you explain your question? You  
4 mean in terms of just being plaintiff's lawyer?

5 THE COURT: Plaintiff's lawyer for copyright  
6 infringement for the adult film industry.

7 THE WITNESS: Well, no, actually. So originally  
8 when I was working for Steele Hansmeier, I was also  
9 working for an arbitrator. So I had other business, but  
10 it was just a 1099 worker at the same time. I was  
11 helping him out with his cases, and so when Prenda law  
12 came around, we basically, I said, look, you guys are  
13 trying to put a lot of work on my plate essentially, and  
14 I am kind of split here. And they said, well, we would  
15 like to basically have you work solely for Prenda Law,  
16 this is being Paul Hansmeier and John Steele. And so I  
17 wrapped up my arrangement with the arbitrator, and I  
18 became exclusive doing stuff for Prenda Law at that  
19 point.

20 THE COURT: Listen, last January, this past  
21 January, a few weeks ago, I guess you started withdrawing  
22 as counsel of record.

23 THE WITNESS: That is correct, yes.

24 THE COURT: All right. And you just testified  
25 that you are no longer employed by Prenda?

1 THE WITNESS: That is correct. I am no longer  
2 employed by Prenda or any other corporation or LLC that  
3 is involved in these cases. I have moved on. I am going  
4 to work again for the arbitrator and find some other work  
5 essentially. You know, so that is where I am right now.  
6 Actually, I was working for Livewire for two months, but  
7 there was actually a couple of things that happened in  
8 terms of I never even got paid for my two months there.

9 THE COURT: Two months where?

10 THE WITNESS: Two months at Livewire.

11 THE COURT: You did get paid by Prenda though;  
12 right?

13 THE WITNESS: Before that, yes. During 2012, yes.

14 THE COURT: So why did you leave?

15 THE WITNESS: Well, there is multiple reasons for  
16 it. Personal reasons, I am getting married soon. So I  
17 wanted to focus on that, but, you know, to be honest with  
18 you --

19 THE COURT: That would be good.

20 THE WITNESS: Yeah. No. I am looking forward to  
21 it. And to be honest with you, these types of things  
22 raising up themselves, I just didn't want to be  
23 affiliated with it anymore. It wasn't worth it. I was  
24 getting a lot of harassment. My family was receiving  
25 e-mails and correspondence from people, my fiance, my

1 parents. I just didn't see, and I was getting a lot of  
2 negative exposure that, you know, I just didn't want  
3 anymore ultimately.

4 And, then, also, I didn't really get along  
5 with one of the people that managed me. So I, you know,  
6 I decided to go ahead and exit and told them about that,  
7 and, yeah, and that is the situation essentially.

8 THE COURT: Okay.

9 Q BY MR. WAXLER: Just to complete your employment  
10 picture because there was perhaps some gaps. You learned  
11 sometime in late 2012 that Prenda Law was no longer going  
12 to be your, I will just say the word employer but you  
13 weren't going to be of counsel to Prenda Law anymore;  
14 correct?

15 A That is correct.

16 Q And how were you informed of that?

17 A I was told I would say middle December or so.  
18 There was a brainstorming issue about -- they were, John  
19 Steele and Paul Hansmeier were brainstorming about  
20 whether they wanted basically to start their own company,  
21 I guess. And the company was Livewire, turned out to be  
22 Livewire. And that Livewire would essentially buy AF  
23 Holdings and Ingenuity 13 and Guava.

24 And so I was informed that as of January 1,  
25 you know, Livewire extends you this offer, and basically



1 if you don't accept this offer, then, you know, we are  
2 going to part ways. So the offer was to be in house  
3 counsel for Livewire, and so I was hired W2 employee for  
4 this company which is a holding company of copyrights.

5 Q And you understood that one of the subsidiaries of  
6 that company included AF Holdings; correct?

7 A That was my understanding, yeah.

8 Q When did you come to a different understanding?

9 A Oh. Well, during the deposition, I came to a  
10 different understanding because obviously the deposition  
11 was said what was said, and I asked Paul Hansmeier about  
12 that.

13 Q And what we are talking about here is  
14 Mr. Hansmeier's testimony that there was a trust that  
15 owned AF --

16 A That is correct.

17 Q And before that testimony, you heard that  
18 testimony, you understood as of January 1, that Livewire  
19 would own --

20 A Yes.

21 Q Livewire would own AF Holdings?

22 A That is correct.

23 Q And that is why in at least one of the pleadings  
24 you put that you are in house counsel for AF Holdings  
25 because that was a company that was owned by Livewire;

1 correct?

2 A I was specifically told to sign as in house counsel  
3 for AF Holdings by Paul Hansmeier in that case. I was  
4 actually because of Mark Lutz' position as CEO, I was  
5 trying to get his signature for that document, but Paul  
6 Hansmeier said, no, you are in house counsel for Livewire  
7 thereby in house counsel for AF Holdings, you sign it on  
8 behalf of the client.

9 Q Is one of the other reasons you decided to leave  
10 Livewire is because you learned that the stamp was being  
11 used for your signature?

12 A Yes. Certain letters were sent out without my  
13 knowledge. I never authorized them, never approved them.  
14 When I questioned John about them, he was, like,  
15 basically said, this is your role. This is what you have  
16 to do. You have to send these letters out, and I said I  
17 don't feel comfortable, these aren't even my cases,  
18 essentially. And, you know, I actually e-mailed Mark  
19 Lutz about that, and he said you got to talk with John  
20 and Paul about this.

21 THE COURT: I'm sorry. What kind of letters are  
22 we talking about? Is that the settlement letters?

23 THE WITNESS: Settlement letters. They had been  
24 using -- they originally said they were going to do a  
25 stamp for me for certain things, but I thought they were

1 only for my cases. And, you know, later, I found out  
2 that stamp might have been used for cases that I never  
3 even participated in or seen the letters before they went  
4 out.

5 THE COURT: Let me make sure I understand now.  
6 Livewire eventually became the parent of AF Holings and  
7 Ingenuity 13 LLC?

8 THE WITNESS: That was my understanding. I was  
9 told that, yeah. And that is why I was hired and a lot  
10 of people were hired in terms of working as W2 employees  
11 for Livewire. So it was the company that was a holdings  
12 company that would do litigation as well as distribution.  
13 That is what they told me.

14 THE COURT: And you were a W2 employee?

15 THE WITNESS: That's correct. And I still have  
16 not been paid for that position.

17 Q BY MR. WAXLER: That was for a period of two months;  
18 correct?

19 A That's correct. And I gave him my notice early  
20 February essentially.

21 THE COURT: Where was Livewire's offices?

22 THE WITNESS: Livewire has an address of  
23 Washington DC address, but, obviously, I don't know if it  
24 has an office to be honest with you. It is just a matter  
25 of, kind of a cloud type office. It might be a situation

1 where -- I am just speculating right now.

2 THE COURT: You have never visited Washington DC  
3 offices?

4 THE WITNESS: No. I believe it is just a PO box  
5 over there. That is just a mailing address for them.

6 THE COURT: Did that form letter requesting  
7 payment of the settlement sums, did that letter change to  
8 reflect that payment now should be sent to Livewire at  
9 the Washington DC address?

10 THE WITNESS: Absolutely. It wasn't sent to me or  
11 anything like that. It was sent to that mailbox, and  
12 then I believe it would be sent back to somebody at some  
13 point somewhere. But that is the kind of issues that I  
14 started having, and along with a lot of other different  
15 issues. So I just decided to -- I asked them if I could  
16 go ahead and substitute out with Paul Duffy who had a  
17 license in California. I talked to Paul Duffy about  
18 that, he said sure, and then I proceeded to do that.

19 THE COURT: All right. So you substituted out.  
20 Now, how long were you general counsel for Livewire?

21 THE WITNESS: Two months basically. I mean, I  
22 guess you could say, I think the official documents were  
23 signed. It never actually specified that I was in house  
24 counsel, but that is what I was told. The documents were  
25 just general employment documents, but that was from I

1 think January 7th on. That's when I signed the  
2 documents.

3 Q BY MR. WAXLER: You were not general counsel. You  
4 were in house counsel; right?

5 A In house counsel. Sorry.

6 Q You have never held the position of general  
7 counsel, have you?

8 A No.

9 THE COURT: Did you know about any other employees  
10 there?

11 THE WITNESS: Yes.

12 THE COURT: Was there a bookkeeper or an  
13 accountant?

14 THE WITNESS: Yes.

15 THE COURT: Do you know whether -- well, okay.

16 Thank you.

17 MEMBER OF THE AUDIENCE: Your Honor?

18 THE COURT: You are?

19 MEMBER OF THE AUDIENCE: Jason (inaudible). I  
20 represent Godfread and Cooper in some of the defamation  
21 cases.

22 THE COURT: You represent Godfread?

23 MEMBER OF THE AUDIENCE: Yes.

24 THE COURT: So back in Minnesota, lawyers have  
25 lawyers?

1 MEMBER OF THE AUDIENCE: I am from Massachusetts.

2 THE COURT: And how can I help you?

3 MEMBER OF THE AUDIENCE: I had a conversation with  
4 Mr. Gibbs probably back in October regarding AF Holdings  
5 where he told me that he was national counsel for AF  
6 Holdings and that any settlement negotiations were to be  
7 made through him. And the local counsel for that case  
8 confirmed that he was the one who told me to contact  
9 Mr. Gibbs.

10 THE COURT: Have you come to understand as have I  
11 that every representation made by a lawyer associated  
12 with Prenda is not necessarily true?

13 MEMBER OF THE AUDIENCE: I have known that for  
14 three years.

15 THE COURT: Okay. Good. So you aren't shocked,  
16 are you?

17 MEMBER OF THE AUDIENCE: No.

18 THE COURT: Nor am I, but thank you.

19 MEMBER OF THE AUDIENCE: You are welcome.

20 Q BY MR. WAXLER: Mr. Gibbs, you know you are under  
21 penalty of perjury testifying here today?

22 A That is correct.

23 Q Have you ever made a representation to a court in  
24 the Central District of California or any other court  
25 that you know is untrue?

1 A No.

2 THE COURT: Well, that isn't exactly accurate, is  
3 it? You have caused documents to be filed with, let's  
4 just be kind and say falsified signatures.

5 THE WITNESS: Your Honor, I had no idea that these  
6 were allegations --

7 THE COURT: That is "yes" or "no".

8 THE WITNESS: Your Honor, I think it is still an  
9 open question.

10 THE COURT: Oh. No. It is not an open question.  
11 We have had the individual testify under oath. Those  
12 were not his signatures on these documents.

13 THE WITNESS: And that is the first time I have  
14 heard in terms of him saying out loud that he absolutely  
15 did not sign those papers, those exact papers. He said  
16 before he was not associated with the companies, but that  
17 is the first time I heard him say he did not sign those  
18 exact papers.

19 THE COURT: Are you saying that you have had prior  
20 conversations with him where he either admitted or  
21 tacitly admitted that he signed?

22 THE WITNESS: No, your Honor. I haven't had any  
23 conversations with Mr. Cooper.

24 THE COURT: That was my thought. I thought that  
25 you had never met the man.

1 THE WITNESS: No. I never met the man. He never  
2 met me, and I have never talked with him.

3 THE COURT: And you were acting on the  
4 representation of John Steele that --

5 THE WITNESS: And Paul Hansmeier.

6 THE COURT: -- that they actually had the  
7 signatures, the authentic signature of the real Alan  
8 Cooper?

9 THE WITNESS: Yes. I was told that. And I  
10 investigated that in terms of, you know, what is going on  
11 here when the first Alan Cooper issue arose, and I was  
12 told that there was no issue, that he -- that he did sign  
13 the document. And so I also did a little bit of research  
14 and found out that the assignor, even if the assignor is  
15 invalid, it still is a valid document. So combining  
16 those two things, I still believed -- I don't think I  
17 filed a case after that. It was just a matter of kind of  
18 addressing with these guys, and they were my sole  
19 information for this type of thing.

20 THE COURT: Okay. You also indicated that you had  
21 on file the original or notarized signature of Alan  
22 Cooper, but you really don't, do you?

23 THE WITNESS: No. No. I never said I had on  
24 file. No. Prenda law or Steele Hansmeier had it on  
25 file. They told me they had it on file, and that is I



1 believe what was in the declaration. So I said, okay,  
2 you know, do we have this notarized copy, do you guys  
3 have it over there? I don't think I ever saw it, but  
4 they told me, yes, we have copies of this, it is here,  
5 and you can go ahead and file that based on our  
6 representation to you.

7 THE COURT: Do you feel like you have been duped  
8 by Hansmeier and Steele?

9 THE WITNESS: In a way, yes.

10 THE COURT: Okay. This has been very  
11 enlightening.

12 Q BY MR. WAXLER: Mr. Gibbs -- I just have a few more  
13 your Honor. Mr. Gibbs, have you ever been a 30(b)(6)  
14 witness for AF Holdings?

15 A No.

16 Q Have you ever been a 30(b)(6) witness for Ingenuity  
17 13?

18 A No.

19 Q Have you ever received client funds in any of your  
20 capacities as counsel affiliated with Steele Hansmeier or  
21 Prenda Law?

22 A No.

23 Q The court expressed some disappointment in the  
24 manner in which you described how you determined the  
25 location of the houses that sat on the lots, and the

1 router, the ability for the router to pick up people who  
2 were not authorized to pick up that signal. And let me  
3 ask you some questions about that.

4 A Sure.

5 Q It is your understanding that when wireless routers  
6 are used and they determine what the distance is where  
7 they would be able to pick up a signal, that those  
8 determinations are made where there is an open field and  
9 not placed in the middle of a structure?

10 A Yeah. I have read some reports on that and that  
11 the projections are basically favorable to them because  
12 there is no obstacles in the middle, there is nothing  
13 like walls or fences or bushes or trees which have a  
14 great effect on wireless signals.

15 Q Tell me how you described the Denton residence and  
16 what facts you had to support your description of the  
17 Denton residence?

18 THE COURT: Which city? Is this Santa Maria or  
19 West Covina?

20 THE WITNESS: I believe it is the second one.

21 MR. WAXLER: I will find it, your Honor.

22 MR. PIETZ: Your Honor, I might suggest we look at  
23 Exhibit II which is the picture, the geographical Google  
24 maps picture of the two residences.

25 THE COURT: That is why I wanted to know. I mean,

1 I went to Google Earth as well, and I just want to know  
2 which one we are talking about because in West Covina,  
3 you made some representations of fact that you cannot  
4 possibly know to be true.

5 THE WITNESS: Well, your Honor, based on my  
6 personal knowledge of wireless networks, I believed they  
7 were true.

8 THE COURT: I am talking about of the residence  
9 itself. It is a gated community.

10 I'm sorry. I didn't mean to interrupt you.

11 MR. WAXLER: I am happy to address that, your  
12 Honor.

13 Q Mr. Gibbs, the map that you have seen that was  
14 offered by Mr. Gibbs and Mr. Pietz -- and I apologize if  
15 I am butchering your name, by the way --

16 MR. PIETZ: Pietz.

17 MR. WAXLER: Pietz.

18 Q That is not the type of map that you saw; correct?

19 A No, that is not.

20 Q Please describe the map that you looked at when you  
21 made the representations in the filings that we have done  
22 in this courthouse.

23 A It was a map that you could go down the street, it  
24 is actually focused on the house, not on an overview like  
25 that, but it is on, basically, there is like a street

#2252

1 view on Google that allows you to, like, look around the  
2 house essentially. Kind of. It is limited to a certain  
3 extent though.

4 Q What did you see when you looked at that map?

5 A I saw a house that I believed it was likely not  
6 something that wifi could have broadcasted out to  
7 neighbors.

8 Q Did you see a gate?

9 A I did see a gate.

10 Q Did you see several structures?

11 A I did.

12 Q Did you see bushes and shrubs and trees around,  
13 between the house structure and the street where someone  
14 might be driving by?

15 A I did. Actually, the aerial view, I think, is even  
16 covering the house if I remember correctly. So, yeah, it  
17 is -- I mean, in terms of trees, there is a lot of trees  
18 there.

19 Q And it is your understanding that the wireless  
20 signal doesn't just fly over these trees, does it?

21 A No. Actually, I mean, there is just certain things  
22 that -- I mean, I think everyone kind of knows when they  
23 go into certain people's houses and say, hey, I want to  
24 use the wifi connection, there are certain rooms in the  
25 house that don't get, even in the same house that don't

#2253

1 get the wifi connection. So, yes, walls, trees, these  
2 things definitely have a dramatic effect. Sometimes,  
3 concrete wall, for instance, sometimes it just altogether  
4 stops something. That is my understanding of it.

5 Q Was your description of the residence in West  
6 Covina when you signed your declaration and submitted  
7 these papers and we submitted these papers on your behalf  
8 accurate to the best of your knowledge.

9 A Yes, it was. It was based on my personal  
10 knowledge. Yes.

11 Q And do you still believe it is accurate despite the  
12 very different map that was submitted to the court?

13 A That is correct. I believe that map might be -- I  
14 don't even know where the yards come, or I don't know how  
15 that works.

16 Q Would the same be true for the residence in Santa  
17 Maria?

18 A It was the same analysis essentially. It was just  
19 part of the full analysis, but yeah.

20 Q In other words, there were walls, there were  
21 buildings, there were shrubs, all of which would block  
22 the signal and reduce by a great extent the range of the  
23 wireless network?

24 A Yes. That was my impression from them, the street  
25 maps from Google.

#2254

1 MR. WAXLER: May I have one moment, your Honor?

2 THE COURT: Certainly.

3 Q BY MR. WAXLER: Mr. Gibbs, did you knowingly violate  
4 the discovery orders from this court?

5 A No.

6 Q Did you cause to be served on the ISP providers the  
7 October 19, 2012 discovery order by this court?

8 A Yes. I mean, at least, I thought I did. I had  
9 requested it.

10 Q And it was your understanding that that was done?

11 A It was my understanding. I confirmed it  
12 afterwards, and they said it was taken care of.

13 Q And the first time you learned that an ISP may not  
14 have received a copy of that order was when?

15 A I believe it was in the response by the ISP, AT&T  
16 possibly.

17 MR. WAXLER: I have nothing further, your Honor.  
18 Thank you.

19 THE COURT: Okay. Thank you. But you started  
20 getting responses from some of the Internet service  
21 providers, didn't you?

22 THE WITNESS: I didn't get the responses.

23 THE COURT: All right. You filed a status report  
24 with the court?

25 THE WITNESS: Yes.

#2255

1 THE COURT: Right?

2 THE WITNESS: Yes.

3 THE COURT: And at the time you filed that status  
4 report, there had been no returns on those subpoenas;  
5 right?

6 THE WITNESS: Yes.

7 THE COURT: Then about a week later --

8 THE WITNESS: Well, sorry, let me qualify my  
9 answer. There were -- at that point, there was nothing  
10 in the computers that showed there was any returns on the  
11 subpoenas.

12 THE COURT: Okay. That changed a few days later.

13 THE WITNESS: It changed, I think, on the 7th.  
14 Yes.

15 THE COURT: And, of course, you updated that  
16 status report, you advised the court, then -- right --  
17 that suddenly, for whatever reason, people are now  
18 starting to send you information on your subscribers;  
19 right? You updated your filing, didn't you?

20 Actually, no, you didn't.

21 THE WITNESS: I didn't, your Honor, but if I can  
22 explain why.

23 THE COURT: Yes.

24 THE WITNESS: Okay. So I did some investigation  
25 on that, and what I was told, and, again, I don't handle

#2256

1 the subpoenas. These are handled out of the Chicago and  
2 Minnesota offices. I was told that these things are  
3 usually delivered and that either hand-delivered or I  
4 believe mailed but most likely they are just a few blocks  
5 away. Like CT Corporation is just a few blocks away,  
6 that CT Corporation would send, mail back the  
7 information.

8 I didn't realize that that information was  
9 faxed back by Verizon. I never knew that. And I did  
10 some investigation on it. And I, also, I talked to Paul  
11 Duffy, and the exact date of the court's order in that  
12 case, there had been -- he had had some eye surgery and  
13 he also had some trauma related to it.

14 So what he said was he wasn't picking up his  
15 mail as frequently during that time period. So I thought  
16 that the information had been received essentially by,  
17 through his mailbox at that point but hadn't been input  
18 in the computer until later. So that was my  
19 understanding. That was my understanding of what had  
20 happened.

21 Q BY MR. WAXLER: Do you now regret not advising the  
22 court when you learned on November 7th that Prenda Law  
23 had received information in response to those subpoenas  
24 and that there was information in the status report that  
25 was not correct?



#2257

1 A Absolutely. Absolutely.

2 MR. WAXLER: Thank you, your Honor.

3 THE COURT: Mr. Pietz.

4

5 CROSS-EXAMINATION

6 BY MR. PIETZ:

7 Q Mr. Gibbs, I would ask you to refer to the binder  
8 that is there with you to Exhibit EE which is the  
9 substitution of counsel that was filed apparently with  
10 your CM/ECF account listing you as in house counsel for  
11 AF Holdings.

12 A Yes, I am familiar with that document.

13 Q So Mr. Gibbs, just to clarify, then, your testimony  
14 is that when you filed that document, that was an  
15 accurate representation -- correct -- that you were at  
16 that moment in house counsel for AF Holding?

17 A When I filed that document, I believed I was. What  
18 I was told afterwards and after the deposition was that  
19 that merger or that acquisition hadn't happened therefore  
20 it was still owned by the trust. So I, essentially, I  
21 had been told to go ahead and file as in house counsel,  
22 but, for some reason, Livewire didn't own AF Holdings at  
23 that time.

24 Q So can you just pin down for me exactly when it was  
25 that your capacity as in house counsel for AF Holdings

#2258

1 begun and exactly when it terminated?

2 A Well, my understanding was that -- my understanding  
3 when I was told that I was in house counsel for Livewire  
4 that I was therefore in house counsel for AF Holdings and  
5 the other companies as well, Ingenuity and Guava.

6 And only did I find out later when I was  
7 exiting and I was already leaving all these cases  
8 essentially, only then, I found out that they had not  
9 actually acquired -- Livewire had not acquired AF  
10 Holdings according to Mr. Hansmeier.

11 Q Mr. Gibbs, have you ever authorized anyone else to  
12 use your CM/ECF password?

13 A I don't -- I might have. I don't know.

14 Q Who?

15 A An individual by the name of Carl. He worked for  
16 me, or he worked with me, I guess you would say. He  
17 actually worked for Prenda Law.

18 Q How about John Steele?

19 A No. I don't think so. Not to my knowledge. I am  
20 not saying -- in terms of authority, I did not, no.

21 Q How about Paul Hansmeier, did you ever authorize  
22 him to use your CM/ECF password?

23 A I don't believe so. I mean, I know he had my -- he  
24 had access to my passwords at one point, so he might  
25 have, yeah.

#2259

1 Q What was your business telephone number while you  
2 worked for Prenda Law?

3 A It was (415)325-5900.

4 Q And what was your business e-mail address when you  
5 worked for Prenda Law?

6 A It was blgibbs@wefightpiracy.com.

7 Q Have you ever instructed Prenda local counsel to  
8 file pleadings using your business e-mail and business  
9 telephone number on the pleadings even though it was  
10 their name and physical address?

11 A So, yes, my name is on -- my e-mail address and my  
12 number and my phone number is on certain cases in other  
13 states. I was instructed to do so like that by Paul  
14 Hansmeier. And, essentially, the way that was explained  
15 to me was that I would essentially forward all of the  
16 communications to the outside counsel. Yeah. So.

17 MR. PIETZ: Before we move on any farther, I would  
18 ask that Exhibit EE be admitted into evidence as Exhibit  
19 13.

20 Q Mr. Gibbs, I have some copies of a few different  
21 complaints, one that was filed by a local counsel in  
22 Nebraska and three complaints filed by local counsel in  
23 Florida all of which list the name of the local counsel,  
24 a mailing address in those respective states and an  
25 e-mail address, blgibbs@wefightpiracy.com and your 415

#2260

1 telephone number, is that consistent with your  
2 understanding of what the normal practice was at Prenda  
3 that your business e-mail and phone would be on pleadings  
4 all around the country?

5 MR. WAXLER: Objection. Irrelevant, your Honor.

6 THE COURT: Overruled.

7 THE WITNESS: That was what I was instructed to do  
8 by Prenda, yeah, was to do that because I was essentially  
9 helping those guys out on their cases. It was their  
10 case, but, yes.

11 Q BY MR. PIETZ: I would ask Mr. Ranallo to pass out  
12 No. 2 which is the declaration of Matt Catlett, an  
13 attorney in Nebraska, and he is authenticating the  
14 service copy of the complaint filed in Nebraska listing  
15 Mr. Gibbs. I would ask that that be admitted into  
16 evidence as Exhibit 14.

17 Similarly, Mr. Ranallo, if you would be so  
18 kind as to pass out 3, 4 and 5 which are the complaint in  
19 Sunlust v. Nguyen, First Time Video. Here is Sunlust v.  
20 Nguyen. That is Middle District, Florida. We also have  
21 First Time Videos v. Paul Uphold and Openmind Solutions  
22 v. Barry Wolfson.

23 MR. WAXLER: Your Honor, I would object to the  
24 introduction of those exhibits.

25 THE COURT: Right. We don't need this. We have

#2261

1 basically got his testimony.

2 MR. PIETZ: Fair enough.

3 THE COURT: And we have got the testimony on the  
4 reason why, but I got to tell you, that doesn't sound  
5 reasonable to me that you would be inviting telephone  
6 calls, litigation in Florida on a case that you know  
7 nothing about. How do you field these calls?

8 THE WITNESS: No, sir. I would pass the messages  
9 on to the other attorneys.

10 THE COURT: Back to Florida?

11 THE WITNESS: Yes. I would pass the messages on  
12 to them because, essentially, it was just easy for them  
13 at that point. I was like their secretary essentially,  
14 and that is the way that Prenda wanted to do it.

15 THE COURT: Why?

16 THE WITNESS: I don't know. I mean, they changed  
17 the practice at some point where people were putting  
18 their own e-mails, their own numbers, but I don't know  
19 why that was the way it was structured originally.

20 And I don't know. I mean, I don't know who  
21 had access to my e-mail either. So I don't know, like, I  
22 have no idea if I was sent something or if someone else  
23 read it.

24 Q BY MR. PIETZ: Did John Steele have access to your  
25 e-mail?

#2262

1 A He did. I don't know if he did throughout, but he  
2 did.

3 Q Would he routinely respond to e-mail inquiries at  
4 the blgibbs@wefightpiracy.com e-mail address?

5 A I never knew it because he didn't CC me on them, or  
6 he didn't let me know he was doing them. But I believe  
7 he did.

8 Q Did Paul Hansmeier have access to that e-mail  
9 address?

10 A I think he had access. I have no idea whether he  
11 used it or not.

12 Q How about Mr. Duffy, Paul Duffy, did he have access  
13 to that e-mail account?

14 A I don't think so.

15 Q Mr. Gibbs, earlier, you testified that some things  
16 were sent out with your signature stamped on there that  
17 didn't have your approval. I would like to refer now --  
18 actually, before I venture any farther afield, I would  
19 ask that the court take judicial notice of the complaints  
20 I have just identified as Exhibits, I think, 15, 16 and  
21 17.

22 In any event, moving on, now, to what has been  
23 previously identified in this action as Exhibit X, ask  
24 that it be admitted now as Exhibit 18.

25 Essentially, I would just like to ask you a

#2263

1 question to confirm.

2 A Sure.

3 Q Is this the kind of letter you are talking about?

4 This was a demand letter sent in the Guava, St. Clair

5 County, Illinois case. I note that it is dated -- what

6 is the date on it? January 30th. And it is,

7 essentially, a, you know, a demand letter. And then I

8 will go to the last page there. It has a pleading in

9 there. So, in any event, on the last page of the letter

10 itself, there is a stamped signature, what appears to be

11 a stamped signature that says Brett Gibbs. Is it your

12 testimony that this letter was sent out without your

13 authorization?

14 A That is my testimony.

15 Q You had no knowledge whatsoever that this letter

16 was being sent out?

17 A No. Not with my name on it. I don't even

18 remember -- no one ever told me about this before I found

19 out. I actually found out through an opposing counsel

20 that contacted me and wrote me a letter saying,

21 basically, you know, you have nothing on my client, and

22 you communicate through me. So I was kind of confused,

23 but I eventually saw the letter, and it had my stamped

24 signature on it.

25 Q Mr. Gibbs -- I will represent to the court that

#2264

1 this letter has been sent to over 300 Internet users  
2 across the country. Have you done anything to correct  
3 the fact that this letter went out with your signature on  
4 it without your authorization? I note that it was filed  
5 in late January.

6 A Yeah. I actually talked with Mark Lutz, and Mark  
7 said, I said, Mark, do not send any of these letters out  
8 anymore that are, you know, please contact me and let me  
9 know what is happening before you send out these letters.  
10 And the response from Mr. Lutz was I don't control those  
11 types of things, you have to talk with Paul and John.

12 Q Fair enough. Mr. Gibbs, have you ever hired local  
13 counsel for Prenda Law?

14 A Actually, the hiring, no, because the hiring  
15 process was done by John Steele.

16 Q Are you familiar with an attorney in Florida named  
17 Matthew Wasinger?

18 A Yes. Yes.

19 Q Are you aware of the fact that Mr. Wasinger  
20 testified under oath in federal court in Florida at the  
21 Sunlust hearing that you hired him and that, as far as he  
22 understood, you were a principal of Prenda law? Are you  
23 aware of that, Mr. Gibbs?

24 MR. WAXLER: Objection, your Honor. It is  
25 irrelevant. It is also hearsay.



#2265

1 MR. PIETZ: I am asking Mr. Gibbs if he is aware  
2 of it.

3 THE COURT: Sustained. I have got the picture.  
4 Okay. And I appreciate it. Thank you.

5 MR. PIETZ: I will move along, your Honor.

6 THE COURT: Okay. To what? Give me a blueprint.

7 MR. PIETZ: Fair enough, your Honor. I will  
8 explain the broad strokes of the categories I have, and  
9 whatever the court is interested in, we will move to  
10 that.

11 In addition to a few more things about  
12 Mr. Gibbs hiring, firing and even threatening local  
13 counsel, I have evidence on him being delegated  
14 independent authority to settle cases which he actually  
15 concluded. Contrary to Mr. Gibbs' assertion which is a  
16 little confusing in light of the fact that he says I  
17 spoke to Mark Lutz, in any event, with respect to his  
18 assertion that he never had any direct client contact, I  
19 have a number of documents which actually show -- some of  
20 which are Mr. Gibbs' own prior words showing that, in  
21 fact, at least according to him, he was communicating  
22 back and forth with the client, whatever that means, and  
23 my theory is that that may mean John Steele.

24 But in any event, beyond the direct client  
25 interaction, you know, I could ask Mr. Gibbs about his

#2266

1 investigation in the case, about the petition, but those  
2 are the broad strokes, your Honor. If the court has got  
3 the picture, I don't need to necessarily get into all the  
4 documents.

5 THE COURT: I do have the picture, and I know who  
6 the client is. We have talked about the client, and the  
7 client has been running everything. Yeah, I know who the  
8 client is.

9 MR. PIETZ: Very good.

10 THE COURT: Okay. Thank you.

11 Gentlemen. Mr. Brodsky, you look bored.

12 MR. BRODSKY: I am not bored, your Honor.

13 THE COURT: All right.

14 MR. WAXLER: We have no further questions, your  
15 Honor.

16 THE COURT: All right.

17 Unless anyone has anything else in terms of  
18 evidence to offer, the matter will stand submitted. All  
19 right.

20 Thank you, sir. You may step down?

21 THE WITNESS: Thank you, your Honor.

22 THE COURT: Good luck to you.

23 All right. How about this, I will leave this  
24 up to counsel, if you wish. If you would like to sum up  
25 your position, you may do so at this time. It is not

#2267

1 necessary. I am just making that offer.

2 MR. WAXLER: Thank you, your Honor for giving us  
3 the opportunity to clear Mr. Gibbs' name, and what I  
4 would like to add to the declarations that he has  
5 submitted and the papers that we have submitted is that  
6 Mr. Gibbs did not intend to disrespect this court or  
7 disobey any orders of this court. Mr. Gibbs had no  
8 knowledge that perhaps others may have knowingly or  
9 unknowingly disregarded some orders of this court in  
10 terms of the service of the knowledge of the October 17th  
11 order.

12 The order itself, you know, did not require  
13 service on the ISP's, but that was what Mr. Gibbs wanted  
14 to do. And that is the undisputed testimony here today  
15 that that is what he wanted to do was to have those ISP's  
16 notified of that. And he took no action whatsoever, your  
17 Honor, to do discovery, formal discovery of those ISP's  
18 or ask the ISP's to follow-up on the information  
19 provided.

20 So Mr. Gibbs stands before you, your Honor, he  
21 is I think we could say humbled by this experience, and I  
22 think he is regretful that he has perhaps been put in a  
23 position where the court at least in the original OSC  
24 made comments suggesting that he was a culpable party  
25 here. And he is not, your Honor. And I hope you see it

#2268

1 that way too.

2 And I thank you very much for your time.  
3 Appreciate the opportunity you have given us to clear his  
4 name.

5 THE COURT: Thank you, counsel.

6 Anything from this side? You don't have to.

7 MR. PIETZ: I will keep it very brief, your Honor.

8 I can appreciate that there may be more  
9 parties, other people who are more culpable than  
10 Mr. Gibbs with respect to what has occurred in these  
11 cases. However, I think the assertion that Mr. Gibbs is  
12 merely an independent contract attorney is simply not  
13 credible. I would just simply leave it at this, there is  
14 ample evidence showing that Mr. Gibbs was been involved  
15 since day one or at least very shortly thereafter on a  
16 key level exercising operational control over this  
17 litigation on a national basis.

18 So while I am sympathetic that perhaps to a  
19 certain extent, maybe there are other people more  
20 culpable, I will just leave it that certainly there is  
21 ample evidence showing that Mr. Gibbs indeed played a key  
22 role in all of this.

23 Thank you, your Honor.

24 THE COURT: Okay. I just have one question,  
25 gentlemen. As a licensed attorney in this state,

#2269

1 particularly when it is only your name on the pleadings,  
2 don't you think you have some responsibility to assure  
3 the accuracy of those pleadings? Or is it permissible  
4 simply to go they told me to do so or the senior partner  
5 said it is okay, it may not have sounded right to me, but  
6 they said it was okay. Could you do that really?

7 MR. WAXLER: Your Honor, I am going to suggest  
8 that that is not what happened on a key issue.

9 THE COURT: Okay.

10 MR. WAXLER: On a key issue, the issue involving  
11 Alan Cooper, there was not one shred of information that  
12 Alan Cooper wasn't Alan Cooper until Mr. Gottfried's  
13 letter in November of 2012 at which point Mr. Gibbs  
14 immediately questioned whether this was accurate or not.  
15 And the most important thing is that Mr. Gibbs filed no  
16 further pleadings after that time which purported to rely  
17 on Mr. Cooper being the assignee of AF Holdings. And so  
18 Mr. Gibbs reacted to the notion.

19 He investigated and he did nothing further on  
20 it. He was assured that Alan Cooper was Alan Cooper, but  
21 so he -- he did something other than said somebody told  
22 me. And on the other issues, your Honor, these were not  
23 examples of him relying on anybody else to do things that  
24 were improper. He was doing discovery. He was doing  
25 investigations. They were supervising him, but he was

#2270

1 acting like a California lawyer doing what he thought in  
2 his best judgment should be done as a California lawyer  
3 in these cases.

4 THE COURT: All right.

5 MR. WAXLER: Thank you.

6 THE COURT: Thank you, counsel.

7 All right. Again, the matter stands  
8 submitted. We are adjourned.

9 MR. WAXLER: Thank you, your Honor.

10 MR. PIETZ: Thank you, your Honor.

11 (Proceedings concluded.)

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CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Date: March 17, 2013

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR