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EXHIBIT F

1 (hereinafter the “infringers”) illegally reproduced and distributed Petitioner’s copyrighted work via
2 the BitTorrent file sharing protocol and, upon information and belief, continue to do the same.

3 The infringers’ identities are unknown to Petitioner. Instead, each infringer is known to
4 Petitioner only by an Internet Protocol (“IP”) address, which is a number assigned to devices, such
5 as computers, connected to the Internet. In the course of monitoring Internet-based infringement of
6 its copyrighted content, Petitioner’s agents observed unlawful reproduction and distribution
7 occurring among the IP addresses listed in Exhibit B to the petition, via the BitTorrent protocol.
8 Petitioner cannot ascertain the infringers’ actual identities without information from infringers’
9 Internet Service Providers (“ISPs”).

10 Petitioner brings this petition to ascertain the identities of those individuals illegally
11 reproducing and distributing Petitioner’s copyrighted work. Upon information and belief, infringers’
12 ISPs can provide Petitioner with information sufficient to identify the infringers and name them in a
13 federal lawsuit. Through this petition, Petitioner requests to serve subpoenas *duces tecum* to the ISPs
14 listed on Exhibit A to this petition to release the information Petitioner requires. Petitioner seeks the
15 name, address, telephone number, e-mail address and Media Control Access number of each account
16 holder associated with the IP addresses listed on Exhibit B to the petition.

17 Other copyright holders have previously attempted to bring Doe Defendant actions for
18 copyright infringement and has met with varying degrees of success. While some Courts have
19 allowed Petitioner to seek expedited discovery against Doe Defendants, others have not.
20 Accordingly, in Petitioner’s view this action is Petitioner’s only reliable means of discovering the
21 identities of California-based infringers.

22 **FACTUAL BACKGROUND**

23 Petitioner is the exclusive rights holder with respect to certain copyrighted works. The
24 copyrighted work at issue in this petition has been granted a certificate of registration from the
25 United States Copyright Office. The copyrighted work is legally available for purchase to bona fide
26 purchasers, but was obtained by the infringers through illegal distribution means.

1 authorization by acting in concert with other anonymous individuals on the Internet via the
2 BitTorrent file sharing protocol.

3 **B. Petitioner Seeks Information that Would Identify the Account Holders of the IP**
4 **Addresses that Petitioner’s Agents Observed Infringing Petitioner’s**
5 **Copyrighted Work**

6 Petitioner seeks very specific and limited information: the name, address, telephone numbers,
7 e-mail addresses and Media Control Access of the account holders associated with each IP address
8 listed on Exhibit B to the Verified Petition. This information is crucial to Petitioner’s eventual case
9 against the infringer(s) and is currently in the possession of ISPs.

10 **C. The Information Petitioner Seeks Will be Destroyed or Deleted by the ISPs with**
11 **a Short Period of Time**

12 ISPs have variant policies regarding the length of time they preserve information about what
13 IP address was associated with a given subscriber at a given date and time—as demonstrated by
14 Exhibit C to the Verified Petition. Certain ISPs store this information for as short a period as weeks
15 or even days before potentially permanently erasing the data they contain. *Id.* Petitioner needs access
16 to this information now or there is a significant risk that the data will be made forever unavailable.
17 Without access to the relevant data, Petitioner would be unable to bring its lawsuit to protect its
18 copyrighted works.

19 **II. DISCOVERY OF THE INFORMATION SOUGHT IN PETITIONER’S SUBPOENAS**
20 **IS CONSISTENT WITH NOTIONS OF FAIRNESS AND PRACTICALITY**

21 Discovery of the information sought in Petitioner’s subpoenas would not frustrate notions of
22 fairness and practicality. The information requested by Petitioner is limited to the basic contact
23 information of the account holders. Petitioner intends to use the information disclosed pursuant to
24 its subpoenas only for the purpose of protecting its rights under the copyright laws. The information
25 is readily obtainable from the ISPs and the disclosure of personally identifying information by cable
26 providers was contemplated by Congress nearly three decades ago in the Cable Communications
27 Policy Act of 1984, Pub. L. 98-549, § 2, 98 Stat. 2794 (codified as amended at 47 U.S.C. § 551
28 (2001)). Cable operators may disclose such information *only* when ordered to do so by a court.

1 § 551(c)(2)(B) (2001). *See also* Petition Exhibit E. The Act also requires an ISP to notify each
2 subscriber about whom disclosure is sought about the subpoena, thus providing them with a notice of
3 a pending subpoena and an opportunity to appear and object. *Id.*

4 **A. The ISPs Will Notify the Account Holders of Petitioner’s Subpoena Request**

5 Pursuant to the Cable Communications Policy Act of 1984, the account holders will be given
6 notice of Petitioner’s subpoena. *Id.* This notification will provide the account holders with notice of
7 Petitioner’s subpoena and an opportunity to appear and object to the disclosure of their information.
8 *See infra* Section II(C) below.

9 **B. Account Holders Should Receive 30 Days from the Date of Service to File any**
10 **Motions with this Court Contesting the Subpoena**

11 As outlined in Petitioner’s proposed order, account holders should receive 30 days from the
12 date of service of notification to file a motion with this Court, if desired, to contest Petitioner’s
13 subpoena. This amount of time provides ample opportunity to raise an objection to Petitioner’s
14 discovery request with the Court. Account holders have standing to raise certain objections to
15 Petitioner’s subpoena. For example, under Federal Rule of Civil Procedure 45, an individual can
16 move to quash a nonparty subpoena if it “requires disclosure of privileged or other protected matter,
17 if no exception or waiver applies.” Fed. R. Civ. P. 45(c)(3)(A)(iii). Allowing the account holders to
18 be heard ensures that due process is had and that the requirements of Rule 27 are met.

19 **C. The Subpoenaed Entity Will Preserve any Subpoenaed Information Pending the**
20 **Resolution of any Timely Filed Motion to Quash**

21 The ISPs should preserve contested data until the Court decides on a timely filed motion to
22 quash so the rights of both Petitioner and the account holders are maintained. If an account holder
23 files a motion to quash, the ISP should refrain from disclosing the information pending the Court’s
24 decision, but preserve the information so that it may be provided if the Court rules in Petitioner’s
25 favor.

CONCLUSION

Petitioner pleads that (i) the identities of the infringers are unknown to Petitioner, (ii) the identities of the infringers are likely known to the infringers' ISPs, and (iii) Petitioner needs this information to bring a copyright infringement lawsuit against the infringers. For the foregoing reasons, Petitioner respectfully requests that the Court issue an order requiring the ISPs listed in Exhibit A to provide Petitioner with the name, address, telephone number, e-mail address and Media Control Access of the account holders associated with each IP address listed in Exhibit B.

Respectfully Submitted,

Ingenuity 13 LLC,

DATED: October 28, 2011

By: /s/ Brett L. Gibbs, Esq.

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