

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

AF HOLDINGS, LLC	:	
	:	
Plaintiff,	:	
	:	Civil Action No.
v.	:	2:12-cv-00262-WCO
	:	
RAJESH PATEL,	:	
	:	
Defendant.	:	

Defendant’s Request for Judicial Notice

COMES NOW, Rajesh Patel, by and through counsel, filing this

Defendant’s Request for Judicial Notice:

Requests for Judicial Notice

1. ***People v. Melongo, 214 IL 11482***
People v. Clark, 2014 IL 115776

Exhibit A consists of documents taken from the public Illinois Supreme Court website that posts the official opinions of the Court,¹ which are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” *See e.g. Lamar v. Micou*, 114 U.S. 218 (1885) (“The law of the state of the Union, whether depending upon statutes or upon judicial

¹ These opinions can be obtained from the Illinois Supreme Court’s website:
<http://www.state.il.us/court/Opinions/SupremeCourt/2014/114852.pdf> (Molongo)
<http://www.state.il.us/court/Opinions/SupremeCourt/2014/115776.pdf> (Clark)

opinions, is a matter of which the courts of the United States are bound to take judicial notice without plea or proof.”); *Town of South Ottawa v. Pekins*, 94 U.S. 260, 268 (1876) (judicial notice of a “settled” construction of the Illinois Constitution).

- The fact that 720 ILCS 5/14-2(a)(1) and 720 ILCS 5/14-2(a)(3) are part of Illinois’ criminal wiretapping statute but are facially unconstitutional under Illinois law.

2. *AF Holdings, LLC v. Does 1-1058, DCD 1:12-cv-00048*

Exhibit B (“AF DC Case”) consists of documents taken from PACER for the United States District Court for the District of Columbia, which are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Defendant requests judicial notice of the following facts pursuant to Fed. R. Evid 201(b)(2) & (c)(2):

- ECF stamped January 11, 2012, Dkt. #1 is a complaint filed by Plaintiff that lists IP address 75.89.36.80 (page 25), a work titled “Popular Demand” (page 1), is signed “Paul Duffy (page 7)” and lists the law firm as “Prenda Law Inc.,” an address of “161 N. Clark. St., Suite 3200, Chicago, IL 60601,” and phone number “312-880-9160” (collectively, “Prenda Contact Info”). There is also an e-mail address using the

“@wefightpiracy.com” domain name.

- ECF stamped April 20, 2012, Dkt #32 is a motion for *pro hac vice* admission that contains the Prenda Contact Info beneath the signatures of “Paul Duffy” (page 1) and “John Steele” (page 4).
- ECF stamped October 29, 2012, Dkt. #47 is a notice of voluntary dismissal filed by Plaintiff regarding IP address 75.89.36.80, with the Prenda Contact Info beneath the signature of “Paul Duffy.”
- ECF stamped November 6, 2013, Dkt. #56 is a notice of withdrawal of appearance signed by “John Steele.”

Defendant additionally requests judicial notice that the number of days that Steele as counsel of record in the above case was 566 days (April 20, 2012 through November 6, 2013), and that this time period encompassed the filing dates of docket entries #1 through #88 in this case. *See e.g. Marsh v. Butler County Alabama*, 268 F.3d 1014, fn. 3 (11th Cir., 2001) (taking judicial notice of relative locations based on the Rand McNally Road Atlas and a map found on mapquest.com) (overruled on other grounds).

3. *AF Holdings, LLC v. Does 1-1058, Cox Communications, Inc. et al., United States Court of Appeals for the District of Columbia Circuit, No. 12-7135.*

Exhibit C (“AF DC Appeal”) consists of documents taken from PACER for

the United States Court of Appeals for the District of Columbia, which are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Defendant requests judicial notice of the following facts pursuant to Fed. R. Evid. 201(b)(2) & (c)(2):

- ECF stamped January 28, 2013, document #1417602 is an entry of appearance signed “Paul Duffy” as attorney for Plaintiff listing the Prenda Contact Info except for a different law firm: “Anti-Piracy Law Group.”
- ECF stamped May 27, 2013, document #1494480 is an opinion from the Circuit Court reversing the District Court’s discovery order (page 16).

Pursuant to Fed. R. Evid. 201(b)(1), Defendant also requests judicial notice of the following facts to the extent they are “generally known within the trial court’s territorial jurisdiction.” *Nationalist Movement v. City of Cumming*, 913 F.2d 885, 893 (11th Cir. 1990) (“plaintiff’s rallies and marches are often loud and attract boisterous and sometimes violent counter-demonstrations”);

- An IP address is assigned to a device connected to the Internet and not a particular human being.²

² See e.g. the AF DC Appeal opinion attached previously (pg. 3): “Internet service providers . . . use IP addresses to identify these underlying subscribers, but not

4. ***Lightspeed Media Corporation v. Anthony Smith, et al., ILSD, 3:12-cv-00889*** (“**Lightspeed Case**”)

Exhibit D (“AF DC Case”) consists of documents taken from PACER for the United States District Court for the Southern District of Illinois, which are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Defendant requests judicial notice of the following facts pursuant to Fed. R. Evid 201(b)(2) & (c)(2):

- ECF stamped August 20, 2012, Dkt. #20 shows the Prenda Contact Info beneath the signature of “John Steele.”
- ECF stamped October 31, 2012, Dkt. #50 (page 9) is signed by “Paul Hansmeier” and below that is “Of Counsel to Prenda Law Inc.”
- ECF stamped March 6, 2013, Dkt. #57 is a motion to withdraw as counsel signed by “John Steele.”
- ECF stamped November 27, 2013, Dkt. #100 is an order imposing monetary sanctions on Duffy, Hansmeier, and Steele jointly and severally in the amount of \$261,025.11.
- ECF stamped March 24, 2014 Dkt. #136 is a court order finding Steele, Hansmeier, and Duffy in civil contempt and imposing additional

necessarily the individuals actually accessing the Internet through the subscribers’ connections at any given time.”

monetary sanctions (pages 11-13).

- ECF stamped April 4, 2014, Dkt. #148 is a court order staying compliance with the additional sanctions pending appeal, provided that a bond is posted (page 3).
- ECF stamped April 8, 2014, Dkt. #149 is a bond that was posted.

5. *Lightspeed Media Corporation v. Anthony Smith, United States Court of Appeals for the Seventh Circuit, No. #13-3801* (“Lightspeed Appeal”)

Exhibit E consists of a document taken from PACER for the United States Court of Appeals for the Seventh Circuit, which is “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Defendant requests judicial notice of the following facts pursuant to Fed. R. Evid. 201(b)(1) & (c)(1):

- ECF stamped July 31, 2014, Dkt. #34 is an opinion from the Circuit Court affirming the District Court’s imposition of sanctions and finding of contempt (page 24).

6. *Prenda-Nazaire Filings in Georgia*

Exhibit F constitutes multiple documents taken from PACER filed in

Northern and Middle Districts here in Georgia,³ which are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Defendant requests judicial notice of the following facts pursuant to Fed. R. Evid. 201(b)(2) & (c)(2):⁴

- All of the documents attached as part of Exhibit F were signed by Jacques Nazaire, the same attorney that represented Plaintiff in this case.⁵
- Regarding the *complaints* attached as part of Exhibit F,⁶ below the signature blocks of each document is listed the e-mail address “blgibbs@wefightpiracy.com,” “Of Counsel to Prenda Law Inc.,” and/or the phone number 415-325-5900, to the extent outlined on the Exhibit F coversheet.
- Regarding all of the voluntary dismissals contained in Exhibit F, below the signature line of each is “blgibbs@wefightpiracy.com,” “Of Counsel to Prenda Law Inc.,” and/or the phone number 415-325-5900, to the

³ A table of the documents and their characteristics is provided as part of the exhibit coversheet for the Court’s convenience.

⁴ The numbers of cases brought before *this* court are highlighted in yellow.

⁵ The sole exception being the order of automatic dismissal filed by the Court in the Guava, LLC case having number 5:12-cv-00398.

⁶ The ECF number for the specific documents are provided for the dismissals as well as the complaints.

extent outlined on the Exhibit F cover sheet.⁷

7. Prenda-Gibbs Filings – 415-325-5900 and blgibbs@wefightpiracy.com

Exhibit G consists of multiple documents taken from PACER filed in the United States District Court for the Northern District of California, which are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Defendant requests judicial notice of the following pursuant to Fed. R. Evid. 201(b)(2) & (c)(2):

- All documents outlined on the coversheet of Exhibit G were filed on behalf of Plaintiff and contain the electronic signature of “Brett L. Gibbs,” the phone number 415-325-5900, and the e-mail address “blgibbs@wefightpiracy.com,” as outlined on the exhibit’s coversheet.
- The document designated as #1 lists “Salt Marsh” as the owner of Plaintiff, that “he or she” has read a handbook, and in the upper left-hand corner (page 1) lists Gibbs’ law firm as “Steele Hansmeier PLLC.”
- The document designated as #2 is a notice of name change from Steele Hansmeier PLLC to Prenda Law Inc., and in the upper-left corner (page 1) lists the law firm of Gibbs as Prenda Law Inc.

⁷ With the sole qualification being that the AF Holdings, LLC case having number 1:12-cv-03482 was a “joint” rather than “voluntary” dismissal.

- The document designated as #3 lists “Salt Marsh” as the owner of Plaintiff, that “he or she” has read a handbook, and in the upper left-hand corner (page 1) lists the law firm of Gibbs as Prenda Law Inc.
- The document designated as #4 lists “Salt Marsh” as an *individual* likely to have discoverable information, and in the upper left corner (page 1) lists Prenda Law Inc. as the law firm of Gibbs.
- The documents designated as #5 through #7, in the upper left corner of page 1, state “Of Counsel to Prenda Law Inc.” below the name of Gibbs.

8. Sampling of 415-325-5900 and blgibbs@wefightpiracy.com Elsewhere

Exhibit H consists of multiple documents taken from PACER, which are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Defendant requests judicial notice of the following pursuant to Fed. R. Evid. 201(b)(2) & (c)(2):

- The fact that all filings outlined on the coversheet for Exhibit F contain 415-325-5900 and blgibbs@wefightpiracy.com to the extent outlined on the coversheet, and that they were not filed by Brett Gibbs.

9. “docket@wefightpiracy.com”

Exhibit I consists of multiple documents taken from PACER or through the

CM/ECF system as notices, which are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Defendant requests judicial notice of the following pursuant to Fed. R. Evid. 201(b)(2) & (c)(2):

- *AF Holdings, LLC v. Stein Hals*, TNMD, 3:12-cv-01189, ECF #1, pg. 2 contains “docket@wefightpiracy.com” below the electronic signature of attorney “Sam Trenchi.”
- The ECF notices of filing in this case attached as part of Exhibit I all list “docket@wefightpiracy.com” as an e-mail address for Nazaire, they pertain to filings #1 through #89, and the underlying filings span a time period of March 1, 2013 through November 21, 2013.

Conclusion

Defendant requests that the Court take judicial notice of the foregoing. At issue in this matter are the relationship between Jacques Nazaire, Brett Gibbs, Paul Duffy, John Steele, and Paul Hansmeier, disclosures of interested persons or entities, as well as the financial condition of the foregoing persons as they may be impacted by judgments or sanctions entered against them, and ultimately whether Defendant may recover.

Respectfully submitted August 28, 2014:

/s/ Blair Chintella

Blair Chintella
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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

AF HOLDINGS, LLC	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No.
	:	2:12-cv-00262-WCO
RAJESH PATEL,	:	
	:	
Defendant.	:	

Certificate of Service

I hereby certify that on August 28, 2014, I served the foregoing **Defendant’s Request for Judicial Notice** by filing it through the Court’s CM/ECF system, which will in turn serve a copy upon Plaintiff and non-party Comcast.⁸

Dated August 28, 2014:

Respectfully Submitted:

⁸ This certification pertains to service upon Plaintiff’s local counsel and not Mr. Duffy. Fed. R. Civ. P. 5(a)(1) requires service on a “party” and not all attorneys of record for a party. See e.g. *Daniel Int’l Corp. v. Fishbach & Moore, Inc.*, 916 F.2d 1061, 1063 (5th Cir. 1990); *Buchanan v. Sherrill*, 51 F.3d 227, 228 (10th Cir. 1995). Furthermore, no e-mail address is listed for Mr. Duffy on PACER even though the local rules require attorneys applying for *pro hac vice* admission to register for a CM/ECF account; specifically, paragraph 4 of Exhibit A to Appendix H of the local rules (“An attorney admitted *pro hac vice* must register for a login in accordance with these Administrative Procedures.”)

/s/ Blair Chintella

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