

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

MALIBU MEDIA, LLC

Plaintiff,

v.

STEPHEN MCSWEENEY, CHARLIE TOLLEY,
JEREMIAH MCKINNEY, JAMES HELFERICH, ERNEST
NURULLAEVA, and JOHN DOE 1 and 7,

Defendants.

Civil Action No. 1:12-cv-00842

**HELPERICH'S SECOND SET OF
INTERROGATORIES TO PLAINTIFF MALIBU MEDIA, LLC**

NOW COMES, a Defendant, JAMES HELFERICH, ("Helferich") by and through his attorneys, SHAY KEPPLER PHILLIPS, LTD., who pursuant to Rule 33 of the Federal Rules of Civil Procedure, serves the interrogatories set forth below upon the Plaintiff, Malibu Media, LLC, to be answered fully in writing, under oath, within 30 days of service.

Definitions & Instructions

- A. Malibu means or refers to the Plaintiff, Malibu Media, LLC, its divisions, subsidiaries, related companies, or corporations, predecessors, and successors, all present and former officers, directors, agents, attorneys, employees, and all other persons acting or purporting to act on behalf of any of them.
- B. Helferich means or refers to the Defendant, James Helferich.
- C. Documents shall mean or refer to all written or graphic matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, and all electronically stored information and tangible things within the scope of Rule 34(a) of the

Exhibit A

Federal Rules of Civil Procedure, that is in the possession custody, or control of the party on whom this request is served, or to which the party can obtain access.

- D. Identify, when used with respect to an individual, means to state the name and present address of each person requested.
- E. Identify, when used with respect to a business entity means to state the company's legal name and the names under which it does business, to specify its form, and to identify all of its principal proprietors, officers, and directors, as well as the state or country of formation, incorporation, or registration.
- F. Person means or refers to any applicable individual, corporation, partnership, association, organization, and any other entity of all types and natures.
- G. Relate to, including its various forms, such as relating to, shall mean consist of, refer to, reflect, or be in any way logically or factually connected with the matter discussed.
- H. Whenever appropriate, the singular form of a word shall be interpreted in plural. And as well as or shall be construed either disjunctively or conjunctively as necessary to bring as much information as possible into the scope of the interrogatory.
- I. With respect to any matters, documents, or statements that purport to be privileged, a statement shall be provided by the attorneys for Malibu, setting forth as to each:
 - a. Name of the sender and author of any document or communication;
 - b. Name of the recipients of the document, copies thereof, or communications;
 - c. The date of the document or communication;
 - d. A brief description of the nature and subject matter of the document or communication;
 - e. The specific grounds for claiming such privilege.

Interrogatories

8. Please consider your Responses to Defendant's First Request for Admissions Dated May 29, 2013. Therein, you deny that Malibu "has no knowledge pertaining to whether or not Defendant James Helferich is the actual infringer" (Response 3) and you deny that Malibu "brought suit against Defendant James Helferich without actual knowledge of whether or not he was the alleged infringer" Please provide a detailed explanation of the actual knowledge that Malibu Media, LLC had that James Helferich, rather than another person, was the likely infringer of Malibu's alleged rights.

Answer:

9. List each and every individually recorded incidence of Helferich's IP address allegedly uploading infringing files to any investigator being used by Malibu.

Answer:

Dated: Aug 5, 2013

Respectfully submitted,

/s/ Jonathan LA Phillips

Jonathan LA Phillips

Attorney, pro hac vice, for Defendant Helferich

Shay Kepple Phillips, Ltd

456 Fulton St.

Ste. 255

Peoria, Illinois 61602

309.494.6155 (p)

309.494.6156 (f)

jphillips@skplawyers.com

CERTIFICATE OF SERVICE

I certify that on Aug. 5, 2013 a the foregoing Helferich's First Set of Interrogatories to Malibu Media LLC was served, as follows:

Paul J. Nicoletti
NICOLETTI & ASSOCIATES, P.C.
36880 Woodward Ave.
Suite 100
Bloomfield Hills, MI 48304
Attorneys for Plaintiffs
Email

ERNEST NURULLAEVA
1555 McCollough Drive
Indianapolis, IN 46260
Pro se
US Mail - Certified

/s/ Jonathan LA Phillips
Jonathan LA Phillips
Attorney, pro hac vice, for Defendant Helferich
Shay Kepple Phillips, Ltd
456 Fulton St.
Ste. 255
Peoria, Illinois 61602
309.494.6155 (p)
309.494.6156 (f)
jphillips@skplawyers.com