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MAY 20 2013

AT GREENBELT  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

BY

DEPUTY

May 20, 2013

VIA ECF

Honorable Roger W. Titus  
Honorable Paul W. Grimm  
United States District Court  
District of Maryland  
6500 Cherrywood Lane  
Greenbelt, MD 20770

Re: Comment on Court's Draft Order in Malibu Media v. John Does Cases in District of Maryland, Lead Case No. 8:12-cv-1195-PJM

Judge Titus and Judge Grimm:

I write to express my support for the procedure outlined by the Court in the draft order filed on May 16, 2013. See, e.g., *Malibu Media, LLC v. John Does*, 8:12-cv-01195-PJM, ECF No. 47.

I anticipate that having a Special Master conduct the communications with ISPs, rather than the somewhat-notorious third party "settlement negotiators" that Malibu Media has employed in the past, would be a big step in the right direction and would eliminate some of the potential for abuse. The conduct of proceedings using a pseudonym is also key in that regard. Ideally, I would like to see some additional specifics as to the nature of the contemplated interactions between the Special Master and the ISP Subscribers identified by subpoena. However, I also recognize that this is at a preliminary stage, and that details can be developed as this program moves forward.

Obviously, if the information that the ISP subscribers share with the Special Master may be used against them, I believe there should be a warning to that effect at the outset of any communications, along with an explanation of the subscribers' right to counsel. I can say with absolute certainty, based on my own personal experience, that this will likely be the first interaction many of the ISP subscribers in such a program will have with the legal system. So I think it would be important to build in to the program some way of educating the ISP subscribers as to their basic legal rights.

Another concept which I would propose as food for thought, would be a mechanism where both the plaintiff and the ISP subscribers could opt-in to binding arbitration conducted by the Special Master, conditioned upon a cap upon the maximum monetary penalty.

In essence, what the system seems to be lacking is a mechanism for copyright infringement small claims. Perhaps this program could be an innovative step in that direction.

I would like to again commend the Court for paying attention to this kind of litigation, which affects hundreds of thousands of people nationally, and for exploring an innovative solution.

Respectfully,



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Cc(s): Counsel of record, by electronic mail