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6 Attorney for Plaintiffs:
7 LHF Productions, Inc; and
8 Fallen Productions, Inc.

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE SOUTHERN DISTRICT OF INDIANA

11 LHF Productions, Inc.; and
12 Fallen Productions, Inc.,

13 Plaintiffs,

14 vs.

15 Derek S. Dueker; and
16 Doe1 aka byanski@gmail.com,

17 Defendants.

) Case No.: 1:20-cv-3159

) **COMPLAINT; EXHIBITS 1-4;**
) **DECLARATION OF DANIEL**
) **ARHEIDT; DEMAND FOR JURY**
) **TRIAL**

) **(1) DIRECT COPYRIGHT**
) **INFRINGEMENT**

) **(2) CONTRIBUTORY**
) **COPYRIGHT**
) **INFRINGEMENT**

) **(3) DMCA VIOLATIONS**

) **(4) BREACH OF CONTRACT**

21 **COMPLAINT**

22
23 Plaintiffs LHF Productions, Inc. and Fallen Productions, Inc. (collectively: "Plaintiffs")
24 file this Complaint against Defendants Derek S. Dueker and Doe1 aka byanski@gmail.com
25 (collectively: "Defendants") and allege as follows:

26 **I. NATURE OF THE ACTION**

27
28 1. This matter arises under the United States Copyright Act of 1976, as amended, 17

1 U.S.C. §§ 101, et seq. (the “Copyright Act”) and the common law of Indiana.

2 2. The Plaintiffs allege that Defendants are liable for: (1) direct and contributory
3 copyright infringement in violation of 17 U.S.C. §§ 106 and 501; (2) violations under the Digital
4 Millennium Copyright Act, 17 U.S.C. §§ 1202; and (3) Breach of Contract in violation of the
5 common law of Indiana.
6

7 **II. JURISDICTION AND VENUE**

8 3. This Court has subject matter jurisdiction over this action pursuant to 17 U.S.C. §§
9 101, et. seq., (the Copyright Act), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338 (patents,
10 copyrights, trademarks, and unfair competition) and 28 U.S.C. § 1367 (supplemental jurisdiction).
11

12 4. Defendants either reside in, solicit, transact, or are doing business within this
13 jurisdiction, and have committed unlawful and tortious acts both within and outside this
14 jurisdiction with the full knowledge that their acts would cause injury in this jurisdiction. As such,
15 Defendants have sufficient contacts with this judicial district to permit the Court’s exercise of
16 personal jurisdiction over them.
17

18 5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) - (c) because: (a)
19 all or a substantial part of the events or omissions giving rise to the claims occurred in this District;
20 and, (b) the Defendants reside or resided, and therefore can or could be found, in this State.
21 Additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright
22 cases), because the Defendants or Defendants’ agents resides and can be found in this District.
23

24 **III. PARTIES**

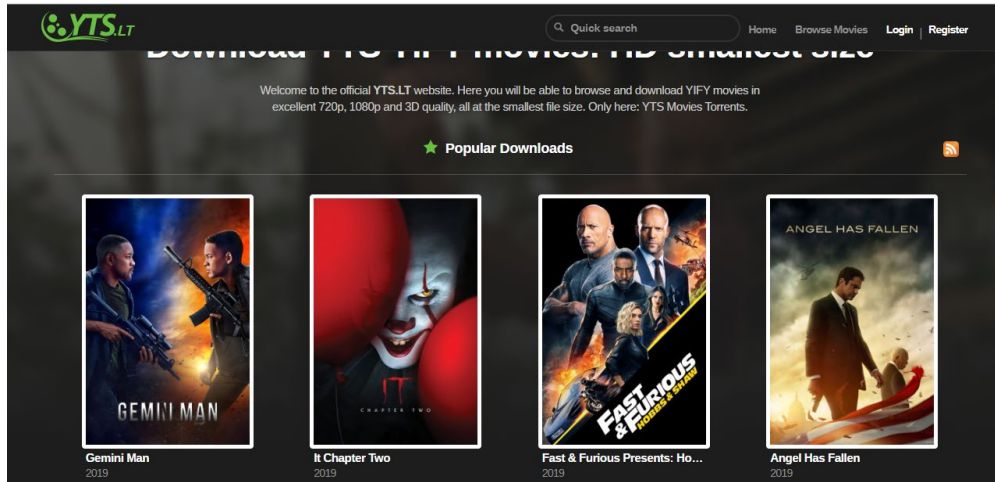
25 **A. The Plaintiffs**

26 6. The Plaintiffs are owners of the copyrights for the motion pictures (hereafter:
27 “Works”), respectively, as shown in Exhibit “1”.
28

1 YTS (“YTS website”).

2 13. The YTS website is currently accessible at YTS.MX and was previously accessible
3 at YTS.AM, YTS.AG and YTS.LT.

4 14. The YTS website is known for distributing torrent files of copyright protected
5 motion pictures.
6



15 15. Defendant Derek S. Dueker (“Dueker”) is an adult residing in Marion County,
16 Indiana.

17
18 16. Defendant Dueker registered for an account with the YTS website using the email
19 address “DEREKDUEKER@GMAIL.COM” and accessed the YTS website from Internet
20 Protocol (“IP”) address 64.20.60.59 as shown in Exhibit “2”.

21 17. According to the American Registry for Internet Numbers (“ARIN”), IP address
22 64.20.60.59 has been assigned to the Internet Service Provider (“ISP”) Interserver since 2012.

23
24 18. Defendant Dueker used a Virtual Private Network (“VPN”) service provided by
25 Interserver to try to conceal his illicit activities.

26 19. Defendant Dueker used his YTS account to download a torrent file associated with
27 LHF’s Work *London Has Fallen* on 2019-05-03 06:33:24 UTC from IP address 64.20.60.59. See
28

1 Exhibit “2”.

2 20. Defendant Dueker downloaded, reproduced and shared copies of the Work *London*
3 *Has Fallen* under file name “London Has Fallen 2016 1080p BluRay x264 DTS-JYK” multiple
4 times on 5/26/2019 from IP address 64.20.60.59. *See* Exhibit “3”.

5 21. Defendant Dueker downloaded, reproduced and shared copies of the Work *London*
6 *Has Fallen* under file names “London Has Fallen (2016) [1080p] [YTS.AG]” numerous times in
7 2019 from IP address 64.20.60.59. *See id.*

8 22. Upon information and belief, Defendant Dueker used the same YTS account to
9 download a torrent file for the First Work *Angel Has Fallen*.

10 23. Upon information and belief, Defendant Dueker also downloaded, reproduced and
11 shared copies of the First Work *Angel Has Fallen* under file names “Angel Has Fallen (2019)
12 [BluRay] [1080p] [YTS.LT]” and “Angel Has Fallen (2019) [WEBRip] [1080p] [YTS.LT]” from
13 IP address 64.20.60.59 between 11/16/2019 and 12/8/2019. *See id.*

14 24. Defendant Doe1 aka byanski@gmail.com (“Doe1”) is, upon information and
15 belief, an individual residing in Marion County, Indiana.

16 25. Defendant Doe1 registered for an account with the YTS website using the email
17 address “byanski@gmail.com” from Internet Protocol (“IP”) address 107.147.35.224 as shown in
18 Exhibit “2”.

19 26. According to ARIN, IP address 107.147.35.224 has been assigned to the ISP
20 Charter Communications since 2013.

21 27. The email address “byanski@gmail.com” used by Defendant Doe1 does not exist
22 and, upon information and belief, was falsely setup by Defendant Doe1 because he knew he was
23 engaging in illegal activities.

1 28. Upon information and belief, Defendant Doe1’s true email address is
2 “dbyanski@gmail.com”.

3 29. Defendant Doe1 used the YTS account to download a torrent file associated with
4 Fallen’s Work *Angel Has Fallen* on 2019-11-26 22:54:36 UTC from IP address 107.147.35.224.
5 *See Exhibit “2”*.

6 30. Defendant Doe1 downloaded, reproduced and shared copies of the Work *Angel*
7 *Has Fallen* under file name “Angel Has Fallen (2019) [BluRay] [720p] [YTS.LT]” multiple times
8 on 11/26/2019 from IP address 107.147.35.224. *See Exhibit “4”*.

9 31. Upon information and belief, Defendants received from Plaintiffs’ agent at least a
10 first notice styled per 17 U.S.C. 512(a) of the Digital Millennium Copyright Act (“infringement
11 notice”) requesting the individual to stop infringement of the Works or other Works via BitTorrent
12 protocol.
13

14 32. The ISP Charter provided the Internet service for Defendant Doe1 at the time of
15 the above infringements. The email service provider Google provided the email accounts
16 Defendants used to login to the YTS website. Plaintiff intends to subpoena the ISP and email
17 provider to learn the subscriber identity of Defendant Doe1.
18

19 33. Further discovery may be necessary in some circumstances in order to be certain
20 of the identity of the proper Defendant. Plaintiff believes that information obtained in discovery
21 will lead to the identification of Defendant Doe1’s true name and permit the Plaintiff to amend
22 this Complaint to state the same. Plaintiff further believes that the information obtained in
23 discovery may lead to the identification of additional infringing parties to be added as Defendants.
24 Plaintiff will amend this Complaint to include the proper names and capacities when they have
25 been determined. Plaintiff is informed and believes, and based thereon allege, that the fictitiously
26
27
28

1 named Defendants participated in and are responsible for the acts described in this Complaint and
2 damages resulting therefrom.

3 **IV. JOINDER**

4 34. Pursuant to Fed. R. Civ. P. 20(a)(1), each of the Plaintiffs are properly joined
5 because, as set forth in detail above and below, the Plaintiffs assert: (a) a right to relief arising out
6 of the same transaction, occurrence, or series or transactions, namely the use of the YTS website
7 by Defendants for copying and distributing Plaintiffs’ Works; and (b) that there are common
8 questions of law and fact.

9
10 35. Pursuant to Fed. R. Civ. P. 20(a)(2), each of the Defendants was properly joined
11 because, as set forth in more detail below, Plaintiffs assert: (a) a right to relief arising out of the
12 same transaction, occurrence, or series of transactions or occurrences; and (b) that there are
13 questions of law and fact that are common to all Defendants. Both Defendants used the same
14 piracy website and shared a copy of the Work *Angel Has Fallen* with, upon information and belief,
15 each other.
16

17 **V. FACTUAL BACKGROUND**

18 ***A. The Plaintiffs Own the Copyrights to the Works***

19
20 36. The Plaintiffs are the owners of the copyright in the Works, respectively. The
21 Works are the subjects of copyright registrations, and this action is brought pursuant to 17 U.S.C.
22 § 411. *See* Exhibit “1”.

23
24 37. Each of the Works were published as motion pictures and currently offered for sale
25 in commerce.

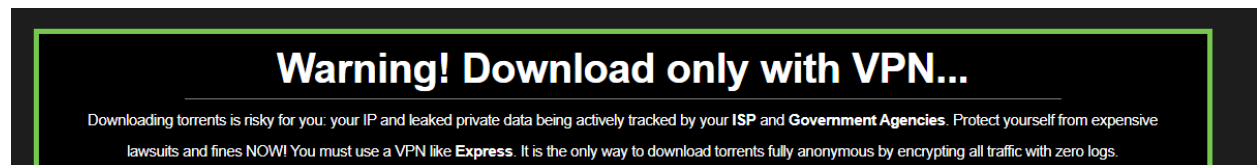
26 38. Defendants had notice of Plaintiffs’ rights through at least the credits indicated in
27 the content of the motion pictures which bore proper copyright notices.
28

1 39. Defendants also had notice of Plaintiffs' rights through general publication and
2 advertising associated with the motion pictures, and packaging and copies, each of which bore a
3 proper copyright notice.

4 40. The YTS website provides torrent files, many including the name "YTS" in their
5 file names, that can be used by a BitTorrent protocol client application ("BitTorrent Client") to
6 download copyright protected content, including Plaintiffs' Works.

7
8 41. Defendants used the YTS website to download the torrent files associated with
9 Plaintiffs' Works.

10 42. The YTS website displays, "WARNING! Download only with VPN..." and
11 further information warning users that their IP address is being tracked by the ISP and encouraging
12 them to protect themselves from expensive lawsuits by purchasing service from a VPN on its
13 homepage. Upon information and belief, this warning has appeared on the YTS website since
14 2018.
15



16
17
18
19
20 ***B. Defendants Used BitTorrent To Infringe the Plaintiffs' Copyrights.***

21 43. BitTorrent is one of the most common peer-to-peer file sharing protocols (in other
22 words, set of computer rules) used for distributing large amounts of data.

23 44. The BitTorrent protocol's popularity stems from its ability to distribute a large file
24 without creating a heavy load on the source computer and network. In short, to reduce the load on
25 the source computer, rather than downloading a file from a single source computer (one computer
26 directly connected to another), the BitTorrent protocol allows users to join a "swarm" of host
27 computers to download and upload from each other simultaneously (one computer connected to
28

1 numerous computers).

2 ***1. Defendants installed a BitTorrent Client onto his or her Computer.***

3
4 45. A BitTorrent Client is a software program that implements the BitTorrent Protocol.
5 There are numerous such software programs which can be directly downloaded from the Internet.

6 46. Once installed on a computer, the BitTorrent Client serves as the user's interface
7 during the process of uploading and downloading data using the BitTorrent protocol.

8
9 47. Defendants installed a BitTorrent Client onto their computers.

10 ***2. The Initial Seed, Torrent, Hash and Tracker***

11 48. A BitTorrent user that wants to upload the new file, known as an "initial seeder,"
12 starts by creating a "torrent" descriptor file using, for example, the Client he or she installed onto
13 his or her computer.

14
15 49. The initial user or seeder of a file used a process referred to as "ripping" to create
16 a copy of motion pictures from either Blu-ray or legal streaming services.

17 50. The initial seeder included the wording "YTS" in the title of the torrent files in
18 order to enhance a reputation for the quality of his or her torrent files and attract users to the YTS
19 website.

20
21 51. The Client takes the target computer file, the "initial seed," here the copyrighted
22 Work, and divides it into identically sized groups of bits known as "pieces."

23 52. The Client then gives each one of the computer file's pieces, in this case, pieces of
24 the copyrighted Work, a random and unique alphanumeric identifier known as a "hash" and
25 records these hash identifiers in the torrent file.

26
27 53. When another peer later receives a particular piece, the hash identifier for that
28 piece is compared to the hash identifier recorded in the torrent file for that piece to test that the

1 piece is error-free. In this way, the hash identifier works like an electronic fingerprint to identify
2 the source and origin of the piece and that the piece is authentic and uncorrupted.

3 54. Torrent files also have an "announce" section, which specifies the URL (Uniform
4 Resource Locator) of a "tracker," and an "info" section, containing (suggested) names for the
5 files, their lengths, the piece length used, and the hash identifier for each piece, all of which are
6 used by Clients on peer computers to verify the integrity of the data they receive.
7

8 55. The "tracker" is a computer or set of computers that a torrent file specifies and to
9 which the torrent file provides peers with the URL address(es).

10 56. The tracker computer or computers direct a peer user's computer to other peer
11 user's computers that have particular pieces of the file, here the copyrighted Work, on them and
12 facilitates the exchange of data among the computers.
13

14 57. Depending on the BitTorrent Client, a tracker can either be a dedicated computer
15 (centralized tracking) or each peer can act as a tracker (decentralized tracking.)
16

17 **3. *Torrent Sites***

18 58. "Torrent sites" are websites that index torrent files that are currently being made
19 available for copying and distribution by people using the BitTorrent protocol. There are
20 numerous torrent websites including the YTS website.

21 59. Defendants went to torrent sites including the YTS website to upload and
22 download Plaintiffs' copyrighted Works.
23

24 **4. *The Peer Identification***

25 60. The BitTorrent Client will assign an identification referred to as a Peer ID to the
26 computer so that it can share content (here the copyrighted Work) with other peers.

27 61. Upon information and belief, each Defendant was assigned a Peer ID by their
28

1 BitTorrent client.

2 ***5. Uploading and Downloading a Work Through a BitTorrent Swarm***

3 62. Once the initial seeder has created a torrent and uploaded it onto one or more
4 torrent sites, then other peers begin to download and upload the computer file to which the torrent
5 is linked (here the copyrighted Work) using the BitTorrent protocol and BitTorrent Client that the
6 peers installed on their computers.

7
8 63. The BitTorrent protocol causes the initial seeder's computer to send different
9 pieces of the computer file, here the copyrighted Work, to the peers seeking to download the
10 computer file.

11 64. Once a peer receives a piece of the computer file, here a piece of the copyrighted
12 Work, it starts transmitting that piece to the other peers.

13
14 65. In this way, all of the peers and seeders are working together in what is called a
15 "swarm."

16 66. Here, Defendants participated in a swarm and directly interacted and
17 communicated with other members of that swarm through digital handshakes, the passing along
18 of computer instructions, uploading and downloading, and by other types of transmissions.

19
20 67. In this way, and by way of example only, one initial seeder can create a torrent that
21 breaks a movie up into hundreds or thousands of pieces saved in the form of a computer file, like
22 the Work here, upload the torrent onto a torrent site, and deliver a different piece of the
23 copyrighted Work to each of the peers. The recipient peers then automatically begin delivering
24 the piece they just received to the other peers in the same swarm.

25
26 68. Once a peer has downloaded the full file, the BitTorrent Client reassembles the
27 pieces and the peer is able to view the movie. Also, once a peer has downloaded the full file, that
28

1 peer becomes known as “an additional seed,” because it continues to distribute the torrent file,
2 here the copyrighted Work.

3 ***6. The Plaintiffs’ Computer Investigator Identified the Defendants’ IP Addresses as***
4 ***Participants in Swarms That Were Distributing Plaintiffs’ Copyrighted Works.***

5 69. The Plaintiffs retained Maverickeye UG (“MEU”) to identify the IP addresses that
6 are being used by those people that are using the BitTorrent protocol and the Internet to reproduce,
7 distribute, display or perform the Plaintiff’s copyrighted Work.
8

9 70. MEU used forensic software to enable the scanning of peer-to-peer networks for
10 the presence of infringing transactions.

11 71. MEU extracted the resulting data emanating from the investigation, reviewed the
12 evidence logs, and isolated the transactions and the IP addresses associated therewith for the files
13 identified by the SHA-1 hash value of the Unique Hash Number.
14

15 72. The IP addresses, Unique Hash Numbers, and hit dates contained in Exhibits “3”-
16 “4” accurately reflect what is contained in the evidence logs.
17

18 73. The logged information in Exhibits “3” -“4” show that Defendants copied pieces
19 of the Plaintiffs’ copyrighted Works identified by the Unique Hash Numbers.

20 74. The Defendants’ computers used the identified IP addresses to connect to the
21 investigative server from a computer in this District in order to transmit a full copy, or a portion
22 thereof, of a digital media file identified by the Unique Hash Number.
23

24 75. MEU’s agent analyzed each BitTorrent “piece” distributed by the IP addresses
25 listed on Exhibits “3” and “4” and verified that re-assembly of the pieces using a BitTorrent
26 Client results in a fully playable digital motion picture of the Work.

27 76. MEU’s agent viewed the Works side-by-side with the digital media file that
28

1 correlates to the Unique Hash Number and determined that they were identical, strikingly similar
2 or substantially similar.

3 *C. Defendants knew the Copyright Management Information included in the*
4 *illegitimate file copies they distributed had been removed or altered without the*
5 *authority of Plaintiffs*
6

7 77. A legitimate file copy of the Works includes copyright management information
8 indicating the title.

9 78. The initial seeder of the infringing file copies of Plaintiffs' Works added the word
10 "YTS" to the file titles to brand the quality of piracy files he or she released and attract further
11 traffic to the YTS website.

12 79. The word YTS is not included in the file title of legitimate copies or streams of the
13 Plaintiffs' Works. The initial seeders of the Works altered the title to falsely include the words
14 "YTS" as CMI.
15

16 80. The file copies Defendants distributed to other peers in the Swarm included this
17 altered CMI in the file title.
18

19 81. Defendants knew that the YTS website from which they obtained their torrent files
20 was distributing illegal copies of the Works.

21 82. Defendants knew that the file copies that they distributed to other peers in the
22 Swarm included the altered CMI without the authority of Plaintiffs.
23

24 83. Defendants knew that the CMI in the title they distributed to other peers in the
25 Swarm included the altered CMI without the authority of Plaintiffs.

26 *D. Defendant Dueker admitted that he downloaded the torrent file for London Has*
27 *Fallen from the YTS website and entered into a settlement agreement with LHF.*
28

1 84. Plaintiffs’ counsel sent a written communication to Defendant Dueker on October
2 30, 2020 by e-mail requesting him to: (1) stop infringing LHF’s Work; (2) disclose: (a) what
3 BitTorrent Client application he used to download the Work; (b) who promoted the BitTorrent
4 Client application to him; and (c) whether his Internet Service Provider had forwarded the
5 infringement notices Plaintiffs’ agent had sent to him; and (3) pay \$950 as a portion of LHF’s
6 damages.
7

8 85. That same day, Defendant Dueker replied by email stating, “Is there any way I can
9 give you the information without paying the \$950?”

10 86. On Nov. 4, 2020, Defendant Dueker agreed to the settlement by stating by email
11 “Apologies for the delay on this. I would like to proceed with the route of settlement. What all do
12 I need to do?”
13

14 87. In reliance on Defendant Dueker’s indication of acceptance, that same day
15 Plaintiffs’ counsel prepared a draft declaration and a proposed settlement and release agreement.
16

17 88. Plaintiffs’ counsel sent an email to Defendant Dueker requesting further
18 information to prepare his draft declaration. Defendant Dueker ceased to reply to Plaintiffs’
19 counsel’s communications

20 ***E. Defendant Dueker breached the settlement agreement.***

21 89. Defendant Dueker failed to make the payment or provide the declaration as called
22 for in the settlement agreement.
23

24 90. LHF had intended to use Defendant Dueker’s declaration to request his ISP to take
25 action against other subscribers confirmed infringing its rights. Without Defendant Dueker’s
26 declaration, LHF cannot ascertain whether Interserver or whatever intermediary ISP Defendant
27 Dueker used to pirate its Work is properly acting on the infringement notices.
28

1 theaters and retail outlets and their employees, and, ultimately, the local economy. The
2 Defendants' misconduct therefore offends public policy.

3 **VIII. THIRD CLAIM FOR RELIEF**
4 **(Digital Millennium Copyright Act Violations)**

5 109. Plaintiffs re-allege and incorporate by reference the allegations contained in each
6 of the foregoing paragraphs.

7 110. Defendants knowingly and with the intent to induce, enable, facilitate, or conceal
8 infringement of the copyright protected Works *London Has Fallen* and *Angel Has Fallen*
9 distributed copyright management information ("CMI") that falsely included the wording "YTS"
10 in violation of 17 U.S.C. § 1202(a)(2).

11 111. Defendants, without the authority of Plaintiffs, or the law, distributed removed or
12 altered CMI knowing that the CMI had been removed or altered to include the wording "YTS"
13 without the authority of Plaintiffs and knowing, or having reasonable grounds to know, that it will
14 induce, enable, facilitate, or conceal infringement of copyright protected Works *London Has*
15 *Fallen* and *Angel Has Fallen* in violation of 17 U.S.C. § 1202(b)(2).

16 112. Defendants, without the authority of Plaintiffs, or the law, distributed Plaintiffs'
17 Copyright protected Works *London Has Fallen* and *Angel Has Fallen* knowing that the CMI had
18 been removed or altered to include the wording "YTS", and knowing, or having reasonable
19 grounds to know, that it will induce, enable, facilitate, or conceal infringement of the copyright
20 protected Works in violation of 17 U.S.C. § 1202(b)(3).

21 113. Particularly, the Defendants knew that the CMI in the file names of the pieces had
22 been altered to include the wording "YTS".

23 114. Particularly, the Defendants distributed the file names that included CMI that had
24 been altered to include the wording "YTS".
25
26
27
28

1 115. Defendants knew that the wording “YTS” originated from the notorious movie
2 piracy website for which each had registered accounts.

3 116. Defendants’ acts constitute violations under the Digital Millennium Copyright Act,
4 17 U.S.C. § 1202.

5 117. Plaintiff is entitled to an injunction to prevent Defendants from engaging in further
6 violations of 17 U.S.C. § 1202.

7 118. Plaintiffs are entitled to recover from Defendants the actual damages suffered by
8 Plaintiffs and any profits Defendants have obtained as a result of their wrongful acts that are not
9 taken into account in computing the actual damages. Plaintiffs are currently unable to ascertain the
10 full extent of the profits Defendants have realized by their violations of 17 U.S.C. § 1202.

11 119. Plaintiffs are entitled to elect to recover from Defendants statutory damages for
12 their violations of 17 U.S.C. § 1202.

13 120. Plaintiffs are further entitled to costs and reasonable attorneys’ fees.

14
15
16 **VIII. FOURTH CLAIM FOR RELIEF BY PLAINTIFF LHF PRODUCTIONS,**
17 **INC. AGAINST DEFENDANT DUEKER**
18 **(Breach of Contract)**

19 121. LHF re-alleges and incorporates by reference the allegations contained in each of
20 the foregoing paragraphs.

21 122. On or about November 4, 2020, LHF and Defendant Dueker entered into a
22 settlement agreement to resolve his infringement of the motion picture *London Has Fallen*.

23 123. The settlement agreement entered into is a valid, binding and enforceable contract.

24 124. LHF relied upon this contract to its detriment.

25 125. Defendant Dueker breached the Agreement by failing to pay the total of \$950.
26
27
28

1 (E) award the Plaintiffs their reasonable attorneys' fees and costs pursuant to 17 U.S.C. §
2 505 against Defendants; and

3 (F) award Plaintiff LHF Productions, Inc. its reasonable attorneys' fees and costs against
4 Defendant Dueker for his breach of the settlement agreement; and

5 (G) grant the Plaintiffs any and all other and further relief that this Court deems just and
6 proper.
7

8 The Plaintiffs hereby demands a trial by jury on all issues properly triable by jury.

9 DATED: Kailua-Kona, Hawaii, December 9, 2020.

10
11 CULPEPPER IP, LLC

12
13 /s/ Kerry S. Culpepper

14 Kerry S. Culpepper

15 Attorney for Plaintiffs
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