

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

IN THE UNITED STATES DISTRICT COURT

MAY 23 2012

DISTRICT OF COLORADO

GREGORY C. LANGHAM
CLERK

IN THE MATTER OF:)
)
 SUNLUST PICTURES, LLC,)
)
 PLANTIFF,)
)
 vs.)
)
 JOHN DOE,)
)
 DEFENDANT.)

Case No.: 12-CV-00656-CMA-KMT

**DECLARATION OF JOHN DOE
(IP 24.178.117.167) IN SUPPORT
OF MOTION TO DISMISS AND/OR
ISSUE A PROTECTIVE ORDER**

Movant John Doe (IP 24.178.117.167) declares under penalty of perjury as follows:

1. I make this Declaration in support of my Omnibus Motion to Dismiss, Sever, and/or Quash the Subpoena (the "Omnibus Motion") in the above captioned case.
2. I make this Declaration as " John Doe ", one of 1,385 purported "joint tortfeasors" listed in Exhibit A to Plaintiffs Complaint [Doc. No. I-I] in the above captioned case, so as not to disclose my identity or any personally identifying information about me as sought by Sunlust Pictures, LLC through its subpoena (the "Subpoena") to my Internet Service Provider, Charter Communication, Inc. (Charter).
3. I have received a copy of a Subpoena and correspondence dated April 11, 2012 from Charter stating, among other things, that:
 - a. Charter received a Subpoena in the above captioned case seeking disclosure of customer information associated with the IP Address 24.178.117.167 used on 2012-02-26

1 b. Charter is not a party to the lawsuit, and has taken no part in this filing;

2 4. A redacted copy of the accompanying correspondence I received from Charter is attached
3 as Exhibit "1" to this Declaration and is incorporated herein as if set forth verbatim
4 herein.

5 5. A true and correct copy of the above mentioned Subpoena is attached as Exhibit "2" to
6 this Declaration and is incorporated herein as if set forth verbatim herein.

7 6. Exhibit A to Complaint [Doc. No. 1-1], which Plaintiff purports to list the IP addresses of
8 Defendant's "joint tortfeasors" along with the time of their alleged infringement,
9 identifies the IP address 24.178.117.167 as having infringed Plaintiff's copyright on
10 2012-02-26 16:36:06 (UTC).

11 7. I am not a resident of Colorado and have never been a resident of Colorado.

12 8. I have not contracted to insure any person, property, or risk in Colorado.

13 9. I have not committed a tortious act in Colorado.

14 10. I have never caused an injury to persons or property within Colorado.

15 11. I have not operated, conducted, engaged in or carried on any business or business venture
16 in Colorado, nor do I have an office or agency in Colorado.

17 12. I do not regularly do or solicit business in Colorado.

18 13. I do not derive any income, much less substantial income, from any activities connected
19 with Colorado.

20 14. I have never entered into or breached a contract in Colorado.

21 15. I have never traveled to Colorado, either for business or personally.

22 16. The IP address allegedly assigned to me by Charter (24.178.117.167) is for a cable
23 connection located outside of Colorado.

24 17. I do not engage in any persistent course of conduct in Colorado.

25 18. I have no substantial or regular and systematic contacts with Colorado.

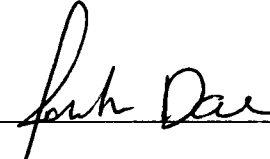
1 19. I do not consent to personal jurisdiction in the state of Colorado.

2 20. Should the Court require or request me to do so, I will file a notarized version of this
3 declaration which includes my personal information. I will, however, seek to file such
4 an Affidavit under seal.

5 **FURTHER DECLARANT SAYETH NAUGHT**

6 Under penalty of perjury, I declare that the foregoing facts are true and correct.

7
8 EXECUTED, this 18 day of May, 2012

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10 
11 _____
12 John Doe

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IP 24.178.117.167



Charter Communications, Inc.
Legal Department
12405 Powerscourt Dr.
St. Louis, MO 63131
Fax: 314-909-0609

IMPORTANT LEGAL NOTICE: PLEASE READ CAREFULLY

May 8, 2012

OBJECTION DEADLINE



May 22, 2012, 4:00 pm CT

References Used In This Notice

- Court Case: Sunlust Pictures, LLC (the "Plaintiff") v. Doe, Court Case No. 1:12-cv-00656-CMA-KMT
- Court: United States District Court for the District of Colorado
- Copyrighted Work: Unknown
- Identifying Information: Accountholder Name, Address(es), Telephone Number, Email Address(es), IP log
- Charter Case Number: 12-1425
- Your ID Number: 5

Dear Sir or Madam:

Charter has received a subpoena from attorneys for the Plaintiff seeking certain information about your Charter internet account ("Account"), including the Identifying Information listed above. The Court has issued an order compelling Charter to disclose this information relating to your Charter Account. Charter respects the privacy of its subscribers, and will disclose customer information only to the extent required by law, as indicated in Charter's privacy policy on www.charter.com. Because a court order authorizes the Plaintiff to obtain this information, Charter must disclose these records unless you formally oppose disclosure in the Court by the objection deadline stated above. Copies of the court order and subpoena are attached, as well as any other documentation that may have been court-ordered to be provided with this notice.

Exhibit 1

Charter records indicate that an IP address listed on an exhibit to the subpoena was assigned to your Account at the given date and time. Below is a copy of the log that associates the IP with your Account in this format: IP Address – Modem MAC – CPE MAC – IP Lease Start Time – IP Lease End Time.
24.178.117.167 00:1a:c3:52:be:96 e0:91:f5:b7:25:9a 2011-01-22 22:16:26 2012-04-04 20:48:29

Please note: Charter cannot provide you legal representation and cannot object to the subpoena or court order on your behalf. If you wish to take action in this matter, you should contact an attorney immediately, who can advise you of your specific legal rights. If you intend to oppose the order, you should do so without delay in the court identified in the subpoena and order. **AN OBJECTION MADE SOLELY TO CHARTER IS INSUFFICIENT; OBJECTIONS MUST BE MADE DIRECTLY TO THE COURT. HOWEVER, CHARTER MUST BE NOTIFIED OF AN OBJECTION NO LATER THAN THE OBJECTION DEADLINE GIVEN ABOVE.**

If you file an opposition to the order, you or your attorney should provide a copy of the objection you submitted with the Court to Charter (attention "Legal – File-Sharing Team" via facsimile at 314-909-0609) by the objection deadline stated above so that Charter may withhold disclosure of your information. **PLEASE CLEARLY INDICATE IN YOUR COPY TO CHARTER (1) THAT YOUR OBJECTION WAS MADE TO THE COURT AND (2) PROVIDE YOUR NAME AND ADDRESS OR A COPY OF THIS LETTER, EVEN IF YOUR OBJECTION TO THE COURT IS ANONYMOUS. WITHOUT THIS INFORMATION CHARTER CANNOT WITHHOLD DISCLOSURE OF YOUR INFORMATION.**

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Illinois

SUNLUST PICTURES, LLC)

Plaintiff)

v.)

JOHN DOE)

Defendant)

Civil Action No. 1:12-cv-00656-CMA-KMT

(If the action is pending in another district, state where: District of Colorado)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Subpoena Compliance/Custodian of Records: Charter Communications, LLC c/o Illinois Corporation Service Copmany; 801 Adlai Stevenson Dr., Springfield, IL 62703.

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: In accordance with the conditions in the attached order, provide the name, current (and permanent) addresses, telephone numbers, e-mail addresses and Media Access Control addresses of all persons whose IP addresses are listed in the attached spreadsheet. We will be pleased to provide data to you in the most efficient and cost effective format if you let us know what your preferred format is.

Place: Prenda Law Inc. 161 N Clark St. Suite 3200 Chicago, IL 60601 Date and Time: 05/07/2012 10:00 am

Exhibit 2

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 03/26/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Paul A. Duffy Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party)

Sunlust Pictures, LLC, who issues or requests this subpoena, are: Paul Duffy, Prenda Law, Inc.; 161 N. Clark St. Suite 3200, Chicago IL 60601; paduffy@wefightpiracy.com; (312) 880-9160