

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

AF Holdings, LLC, a St. Kitts and Nevis
limited liability company,

Plaintiff,

v.

David Harris,

Defendant.

No. CV-12-02144-PHX-GMS

ORDER

Pending before the Court is a motion to Stay Litigation or Discovery filed by anonymous non-parties, (Doc. 44).

Apparently, prior to Plaintiff's filing of its Motion for Request of Issuance of Subpoenas (Doc. 39), it served subpoenas on various ISP providers. Six non-parties who indicate that they will be subject to the subpoenas, identified by six IP addresses, request that the subpoenas be quashed, that this Court enter a protective order on their behalf and that this Court stay this litigation pending an order to show cause hearing involving Plaintiff and set for April 2 in Los Angeles in the Central District of California, and the resolution of another action in the state of Minnesota that has just begun.

The show cause hearing in the Central District of California case has now passed. Judge Wright has written his decision as a result of that hearing. In that hearing Judge Wright determined that in the action before him that also involved the alleged infringement of a copyrighted production through a BitTorrent swarm, the principals of Plaintiff did not in good faith disclose their identity, nor their personal interest in the

1 lawsuits. Judge Wright notes that had he been aware of such interests, and AF Holdings
2 methods of operation, it would have influenced the extent to which he regulated and/or
3 permitted discovery of IP subscriber information. He further noted that the assignment
4 agreement, pursuant to which AF Holdings asserted the right to bring the suit, was signed
5 in the name of Alan Cooper. Mr. Cooper appeared before him in the Order to Show
6 Cause hearing and testified that Mr. Cooper had never had any interest in AF Holdings,
7 but was instead a groundskeeper for one of the persons who appears to hold a principal
8 financial interest in AF Holdings. Although the claims in that case had already been
9 dismissed, Judge Wright entered sanctions.

10 Such determinations are, of course, disturbing, as they may apply to this action.
11 Plaintiff bases its right to bring this action on a Copyright Assignment Agreement
12 attached as Exhibit B to its Complaint. In Exhibit B, as apparently was the case in the
13 Los Angeles action before Judge Wright, Alan Cooper purportedly signs the Copyright
14 Assignment Agreement on behalf of AF Holdings, and a Raymond Rogers signs on
15 behalf of Assignors, Heartbreaker films. There is now substantial reason to question the
16 validity of the assignment on which Plaintiff bases its case.

17 On its own motion, therefore,

18 **IT IS ORDERED** that Plaintiff show cause **within seven (7) days** of the date of
19 this Order why this Court should not dismiss this case. To the extent that Plaintiff asserts
20 a right in the continuation of this case, Plaintiff is ordered to identify: (1) the persons
21 who signed Exhibit B in the names of Raymond Rogers and Alan Cooper; (2) all persons
22 who hold any interest in Plaintiff; and (3) if Exhibit B to the Complaint is in fact not
23 signed by Alan Cooper and/or Raymond Rogers why Plaintiff and/or counsel should not
24 be sanctioned pursuant to the Court's inherent power and Fed. R. Civ. P. 11 for filing a
25 fraudulent document with this Court. In the interim, this action is stayed until further
26 Order of this Court.

27 ///

28 ///

