

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT INDIANA**

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	Civil Case No. <u>1:13-cv-00205-WTL-MJD</u>
)	
v.)	
)	
KELLEY TASHIRO, and)	
N. CHARLES TASHIRO,)	
)	
Defendants.)	
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**PLAINTIFF’S WITNESS AND EXHIBIT LIST FOR THE EVIDENTIARY HEARING
CURRENTLY SET FOR JANUARY 29, 2015 AT 9:00 a.m.**

Plaintiff, Malibu Media, LLC (“Plaintiff”), by and through undersigned counsel and pursuant to this Court’s Order at CM/ECF 165, hereby files its exhibit and witness list in advance of the evidentiary hearing currently set for January 29, 2015 at 9:00 a.m. Plaintiff hereby reserves the right to supplement or amend this list at any time prior to the evidentiary hearing.

PLAINTIFF’S WITNESSES:

Plaintiff may call the following witnesses at the evidentiary hearing:

- (1) Defendant Kelley Tashiro – Defendant will testify to the facts surrounding all her hard drives and the deletion of evidence within the hard drive after receiving notice of the instant lawsuit.
- (2) Defendant Charles Tashiro – Defendant will testify to the facts surrounding all his hard drives and the deletion of evidence within the hard drive after receiving notice of the instant lawsuit.
- (3) Patrick Paige – Plaintiff will call Patrick Paige to discuss the results of his test of

IPP's software and detection process and his examination of the Defendants' hard drives. He may also be used to rebut any testimony that may be offered by the Defendants' experts.

(4) Tobias Fieser – Plaintiff may call Mr. Fieser to testify about the detection and reporting of the alleged infringement.

(5) Michael Patzer – Plaintiff may call Mr. Patzer to testify about the design, implementation, and maintenance of Excipio's data collection system. Additionally, Mr. Patzer will testify about how BitTorrent works and how Excipio's data collection system collects evidence about BitTorrent use.

(6) Brittany Snook – Plaintiff may call Ms. Snook to testify that Malibu Media, LLC owns the copyrights to the works at issue.

(7) Any witness the Defendant intends to call to the extent that they are not precluded from testifying by motion *in limine*.

PLAINTIFF'S EXHIBITS:

To the extent admissible, Plaintiff may use the following exhibits at the evidentiary hearing:

(1) Select portions from the deposition of Comcast's 30(b)(6) representative proving that Defendant was assigned the subject IP address at the relevant time and that Defendant was sent DMCA notices notifying her of copyright infringement traced to her internet account.

(2) Select portions from Defendant's depositions of Tobias Fieser and Michael Patzer regarding Plaintiff's investigator's infringement detection processes and anything else about which they may be deposed.

(3) The PCAP evidence proving that the infringement took place from Defendant's IP address.

- (4) The notice from Comcast that was sent to Defendant Kelley Tashiro informing her that a lawsuit had been instituted against her.
- (5) Patrick Paige's expert witness reports regarding his test of IPP's software and his examination of the Defendants' hard drives.
- (6) Defendants' Answers to Plaintiff's Interrogatories.
- (7) The invoice from Patrick Paige evidencing the costs incurred for his services in relation to this litigation.
- (8) All of Defendants' discovery responses to Plaintiff's discovery.
- (9) All documents Defendant has produced in the litigation.
- (10) All documents that may be produced by any of the witnesses Defendant intends to call at the evidentiary hearing.

Dated: December 15, 2014

Respectfully submitted,

NICOLETTI LAW, PLC

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2014, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

By: /s/ Paul J. Nicoletti