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9 Attorneys for Putative John Doe in 2:12-cv-08333-ODW-JC

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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 INGENUITY 13, LLC, a Limited
14 Liability Company Organized Under
15 the Laws of the Federation of Saint
16 Kitts and Nevis,

17 Plaintiff,

18 v.

19 JOHN DOE,
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21 Defendant.
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Case Number: 2:12-cv-08333-ODW-JC

Case Assigned to:
District Judge Otis D Wright, II

Discovery Referred to:
Magistrate Judge Jacqueline Chooljian

Case Consolidated with Case Nos.:
2:12-cv-6636; 2:12-cv-6669; 2:12-cv-
6662; 2:12-cv-6668

**REQUEST FOR LEAVE
TO FILE A REPLY**

REQUEST FOR LEAVE TO FILE A REPLY

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2 The putative John Doe in 2:12-cv-08333-DMG-PJW by and through counsel,
3 hereby requests leave to file a brief reply, of no more than 10 pages, by Tuesday
4 April 16, 2013, in response to the new information contained in the three Responses
5 to the Order to Show Cause filed by counsel for Paul Duffy, Prenda Law, Inc., and
6 Angela Van Den Hemel (ECF No. 108); for Paul Hansemeier (ECF No. 109); and
7 for John Steele (ECF No. 110). The proposed pleading would focus on the
8 following:

9 First, there are two documents, not yet before this Court, establishing that
10 John Steele, at least, *does* have an interest in Prenda clients, including AF Holdings.
11 The documents are (i) a legal brief submitted by Steele's (prior) outside counsel to
12 the State Bar of Florida, wherein Mr. Steele explained that "The Prenda law firm is
13 comprised of Attorney Joe Perea and Paralegal Mark Lutz. Mr. Steele is actually a
14 client of Prenda. *Steele maintains an ownership interest in several of Prenda's*
15 *larger clients.* His presence at Prenda would be solely in the capacity of a client."
16 (emphasis added). Since this pleading was filed in a judicial proceeding before the
17 State Bar of Florida, this Court can properly take judicial notice of it. Further, (ii)
18 there is a meet and confer email from AF Holdings / Prenda's local counsel in
19 Florida, a Mr. Jacques Nazaire, wherein he states that Mr. Steele has an interest in
20 AF Holdings, LLC. Specifically, while writing to Georgia John Doe defense
21 counsel Blair Chintella about the Alan Cooper situation, Mr. Nazaire stated in an
22 email "I would like to subpoena him [*i.e.*, *Alan Cooper*] and have him state under
23 oath that he has never received a dime from *John Steele, who has an interest in*
24 *AF.*" (emphasis added). Although the email is hearsay, it is admissible as an
25 admission by a party opponent, because it was made by Mr. Nazaire in his capacity
26 as an agent of AF Holdings, LLC. These documents directly rebut assertions made
27 by Mr. Steele's counsel (assertions, which, it should be noted, were unsupported by
28 any declaration from Mr. Steele) that there is "no evidence" Steele is involved with

1 the “clients” or this litigation. Undersigned counsel had hoped to question Mr. Steele
2 about these documents at the April 2, 2013, hearing. Similarly, there is also
3 evidence that Mr. Hansemeier has been more involved in this case than he lets on.

4 Second, the outrageous attacks made on the real Alan Cooper are shameful.
5 However, they are also easily discredited, and undersigned counsel would appreciate
6 an opportunity to do so. Similarly, the other two declarations submitted by Mr.
7 Duffy and Prenda also have problems, which undersigned counsel would like to
8 briefly address and refute. Rebuttal will include a declaration by a defense IT expert.

9 Third, there is an important issue in this case, with potentially far-reaching
10 implications that go beyond Prenda, which is in danger of being overshadowed by
11 the allegations of fraud and attorney misconduct. Specifically, Prenda’s current
12 special counsel has offered the most spirited defense to date of the “shoot first and
13 identify [] targets later” business model, which Judge Milton Shadur of the Northern
14 District of Illinois chastised John Steele about all the way back in 2011. *Boy Racer,*
15 *Inc. v. Does 1-22*, No. 11 C 2984, Slip Op. (N.D. Ill. May 9, 2011) (Shadur, J.). At
16 the April 2, 2013 hearing, undersigned counsel had also hoped to further probe
17 Prenda representatives on reasonableness of the Wagar and Denton investigations
18 and of the “snapshot” infringement theory, but the blanket invocation of the Fifth
19 Amendment by Prenda’s associated attorneys obviously prevented that from
20 occurring. As undersigned counsel previously noted, the role that Rule 11(b)
21 pleading standards should play in these kinds is an important issue that has been
22 underexplored in existing case law. In light of the potential precedential importance
23 of an order on that issue, a reply to all the new legal arguments is likely in order.

24 In addition to the three main issues noted above, there are a few other smaller
25 points which undersigned counsel would also like the opportunity to address.
26 Accordingly, the putative John Doe in 12-cv-8333 respectfully requests leave of
27 Court to file a final reply of no more than ten pages, plus rebuttal exhibits, by
28 Tuesday April 16, 2013.

1 Respectfully submitted,
2 DATED: April 10, 2013

THE PIETZ LAW FIRM

3
4 /s/ Morgan E. Pietz

5 Morgan E. Pietz
6 THE PIETZ LAW FIRM
7 Attorney for Putative John Doe(s)
8 Appearing on Caption
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