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IN THE UNITED STATES DISTRICT COURT FOR THE  
 CENTRAL DISTRICT OF CALIFORNIA

INGENUITY13 LLC,  
 Plaintiff,  
 v.  
 JOHN DOE,  
 Defendant.

**Case No. 2:12-cv-08333-DMG-PJW**  
**PLAINTIFF’S RESPONSE**  
**IN OPPOSITION TO MOVANT’S**  
**NOTICE OF RELATED CASES**

An anonymous individual claiming to be the “Putative John Doe in 2:12-cv-8333-DMG-PJW” (“Movant”) filed, through Attorney Morgan Pietz, a Notice of Related Cases. (ECF No. 11.) Movant asserts that six different cases,<sup>1</sup> involving different plaintiffs, different defendants, and different copyrighted works are somehow related. (*Id.*)<sup>2</sup> Movant’s assertions are based on unsubstantiated insinuations of misconduct set forth in a letter filed in the United States District Court of

<sup>1</sup> *AF Holdings LLC v. John Doe*, 2:12-cv-05709-ODW-JC (C.D. Cal. 2012), *Ingenuity13 LLC v. John Doe*, 2:12-cv-06635-GHK-RZ (C.D. Cal. 2012), *Ingenuity13 LLC v. John Doe*, 2:12-cv-06660-GAF-AGR (C.D. Cal. 2012), *Ingenuity13 LLC v. John Doe*, 2:12-cv-07385-DSF-FFM (C.D. Cal. 2012), *Ingenuity13 LLC v. John Doe*, 2:12-cv-07386-DMG-JEM (C.D. Cal. 2012), *Ingenuity13 LLC v. John Doe*, 2:12-cv-08322-DMG-PJW (C.D. Cal. 2012), and, *Ingenuity13 LLC v. John Doe*, 2:12-cv-08333-DMG-PJW (C.D. Cal. 2012).

<sup>2</sup> A summary of the cases is as follows:

Case Number	Plaintiff	Copyrighted Work at Issue	IP Address
2:12-cv-05709	AF Holdings	Popular Demand	66.27.196.248
2:12-cv-06635	Ingenuity13	Anything for Daddy	99.12.183.52
2:12-cv-06660 (DISMISSED WITH PREJUDICE ON 11/1/12)	Ingenuity13		
2:12-cv-07385	Ingenuity13	Anything for Daddy	99.59.96.29
2:12-cv-07386	Ingenuity13	Teen Sex First Anal	108.38.135.253
2:12-cv-08322	Ingenuity13	A Peek Behind the Scenes at a Show	71.83.94.169
2:12-cv-08333	Ingenuity13	A Peek Behind the Scenes at a Show	108.13.119.253

1 Minnesota by attorney Paul Godfread. (ECF No. 11-1.) Like attorney Godfread,  
2 Movant has failed to even perform a basic investigation to determine whether the  
3 allegations contained in the letter are true<sup>3</sup>. Like attorney Godfread, Movant provides  
4 no evidentiary support for his assertions. And like attorney Godfread, Movant's  
5 assertions claims are categorically false. One Minnesota court determined that  
6 attorney Godfread's letter did not merit any action. *AF Holdings LLC v. Roenum Hean*,  
7 No. 12-cv-1449 (D. Minn. Dec. 3, 2012), ECF No. 19 ("Attorney Paul Godfread's  
8 letter request seeking 'leave to file a motion to intervene and to seek discovery' has  
9 been reviewed by the court. The court will take no action on the request."). In accord  
10 with that decision, the Court should strike Movant's notice of related cases.

11 Movant sets forth four issues of law and fact that he believes to be common  
12 among the related cases. (ECF No. 11 at 2-5.) Movant does not provide any actual  
13 evidentiary support for these issues but instead relies on Movant's counsel's personal  
14 belief that the unsupported claims in attorney Godfread's letter *may* be accurate. (*Id.*  
15 at 4) ("For some time, *undersigned counsel* has *suspected* that John Steele and/or  
16 Prenda Law, Inc. may hold an undisclosed pecuniary interest in the outcome of this  
17 litigation.") (emphasis added); (*id.* at 4) ("there are *suggestions* that in these kinds of  
18 cases the lawyers are paid on a contingent fee basis, but the split between the lawyers  
19 and the clients *may* be 70/30 or even 90/10 in favor of the lawyers, which *may*  
20 constitute improper fee splitting.") (emphasis added). Movant's equivocal language in  
21 his notice demonstrates that Movant may not even believe the claims in attorney  
22 Godfread's letter. Movant's assertions here certainly cannot be taken seriously, as to  
23 give them any credence would require this Court, and other courts across the country,  
24 to relate all online copyright infringement cases on the basis of, at best, a UCLA  
25 Entertainment Law Review Article (which does not once mention either of the

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<sup>3</sup> This is not surprising, considering that one of the cases Movant seeks to relate was dismissed with prejudice over a month ago, on November 1<sup>st</sup>. (*See supra* at n. 2.)

1 plaintiffs whose cases Movant seeks to relate), and, at worst, the biased and misguided  
2 website “fightcopyrighttrolls.com”.

3 Movant attempts to further defame Plaintiff by attaching and referencing a  
4 hearing transcript from a case in the Middle District of Florida and arguing that “it  
5 appears that plaintiff’s lawyers may truly be the parties in interest in these cases”.  
6 (ECF No. 11 at 4-5) (citing *Sunlust Pictures, Inc. v. Tuan Nguyen*, No. 12-1685 (M.D.  
7 Fla. 2012)); (see also ECF No. 11-2). First, the only way in which Movant has  
8 demonstrated that that transcript is at all relevant to the instant action (much less to the  
9 question of whether the aforementioned six cases are related) is the fact that Prenda  
10 Law, Inc. is mentioned in the transcript, and the undersigned is of counsel for Prenda  
11 Law, Inc. Under this rationale, literally any situation in which a particular law firm is  
12 even accused of misconduct would give rise to the need to relate all cases in which  
13 that firm is taking part. Second, Movant’s allegation that “it appears that plaintiff’s  
14 lawyers may truly be the parties in interest in these cases” is not substantiated, in any  
15 way, by the evidence that he has offered. (ECF No. 11 at 5.) Indeed, even Movant is  
16 only willing to go so far as to say that “it appears” that is the case. (*Id.*) Apparently,  
17 “fightcopyrighttrolls” is not a sufficient basis, even for him, to stake his reputation  
18 upon these unfounded conspiracy theories.

19 Movant goes on to argue that “in each case there will be the exact same  
20 *identical* question regarding the propriety of the pre-Rule 26 subpoenas. Specifically,  
21 multiple courts in this district are now being asked to consider whether the subpoenas,  
22 by themselves, are ‘very likely’ to result in the identification of actual defendants.”  
23 (ECF No. 11 at 9) (emphasis in original). As an initial matter, Movant  
24 mischaracterizes the standard for plaintiffs seeking the identities of unknown  
25 defendants. Plaintiffs are not required to show that the discovery is “very likely” to  
26 lead to the identification of the unknown defendant, but instead “the plaintiff should  
27 be given an opportunity through discovery to identify the unknown defendants, *unless*  
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1 *it is clear* that discovery would not uncover the identities.” *Gillespie v. Civiletti*, 629  
2 F.2d 637 (9th Cir. 1980) (emphasis added).

3 More importantly, the question of the degree to which cases such as this are  
4 related to each other has been addressed multiple times, in cases in which multiple  
5 Doe defendants were joined together. Federal courts, particularly in California, have  
6 repeatedly held that joinder of multiple Doe defendants is improper. *See, e.g. Malibu*  
7 *Media v. Does 1-7*, No. 2:12-cv-1459 GEB CKD (E.D. Cal.) (Does 2-7 dismissed  
8 without prejudice); *Media Products, Inc. v. Does 1-128*, No. 2:12-cv-01937 LKK  
9 DAD (E.D. Cal.) (Does 2-131 dismissed without prejudice); *Discount Video Center,*  
10 *Inc. v. Does 1-5041*, No. C 11-02694-CW (N.D. Cal.) (Does 2-5041 severed from the  
11 action and dismissed without prejudice). For that reason, Plaintiff in the instant action  
12 chose to file an individual case against an individual Doe defendant. For the Court to  
13 now hold that the cases are related would be to demonstrate an unjustifiable prejudice  
14 against Plaintiff, and against this sort of action generally. Holders of copyrights are  
15 entitled to compensation under the United States Copyright Act, and it would be a  
16 miscarriage of justice for these cases to be held to be not so related that joinder is  
17 permissible, but related enough that Plaintiff is not entitled to a separate evaluation of  
18 its claims with respect to each Defendant, each of whom will undoubtedly offer  
19 unique circumstances, defenses, and legal theories in support of his defense.

20 Movant further argues that “there are multiple *pre-service* issues Courts are  
21 typically asked to consider in these kinds of cases.” (ECF No. 11 at 7) (emphasis in  
22 original). Though this is a roughly accurate description of the circumstances, the fact  
23 remains that, post-service, each case becomes its own unique set of circumstances. To  
24 assert that cases are related simply because there are similar issues centering around  
25 service of process would lead to the relation of an absurd number of cases within the  
26 judicial system—e.g., every case in which service must be made by publication  
27 because reasonable efforts failed to uncover the location of the defendant.

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As Plaintiff has demonstrated above, the rationales offered by Movant simply fall short. Plaintiff would opine that Movant’s attorney has sought to relate these cases for no further reason than his own convenience, as he represents each of the Doe defendants in the cases he seeks to assert are related—except, of course, for case 2:12-cv-6660, which was dismissed with prejudice over a month ago. Neither Movant’s counsel’s convenience, nor the ill-conceived rationales that he has provided in his Notice of Related Cases, justify the course of action that he proposes.

**CONCLUSION**

For the reasons contained herein, the Court should hold that the cases that Movant seeks to relate are, in fact, unrelated. Further, the Court should strike Movant’s repeated unsubstantiated allegations regarding fraud.

Respectfully submitted,  
PRENDA LAW, INC.

**DATED: December 7, 2012**

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**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was served via the Court's CM/ECF system on December 7, 2012 on all counsel or parties of record who are deemed to have consented to electronic service.

\_\_\_\_\_/s/ Brett L. Gibbs, Esq.\_\_\_\_\_  
Brett L. Gibbs, Esq.