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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13
14 SUMMIT ENTERTAINMENT, LLC,
15

16 Plaintiff,

17 v.

18 JOHN DOES 1-10,
19

20 Defendants.
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27
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Case No. CV 09 - 80307 MISC.

DECLARATION OF CHRISTIAN
C. DOWELL IN SUPPORT OF
REQUEST TO ISSUE CIVIL
SUBPOENA PURSUANT TO 17
U.S.C. § 512 (h)

JF

HRL

DECLARATION OF CHRISTIAN C. DOWELL

I, Christian C. Dowell, hereby declare and state:

1. I am a member of the Bar of the State of California and the United States District Court for the Central District of California. I am an associate with the firm Keats McFarland & Wilson LLP, counsel for Summit Entertainment, LLC. I am submitting this declaration in support of Summit Entertainment LLC's civil subpoena under 17 U.S.C. § 512(h), a copy of which is attached hereto as Exhibit 1.

2. Pursuant to 17 U.S.C. § 512(h), Summit Entertainment, LLC submitted a notice of infringement to YouTube.com requesting removal of a video which Summit Entertainment, LLC claims infringes on its motion picture The Twilight Saga: New Moon. YouTube.com removals are performed using an automated tool submitted online, rather than via email or other writing. Attached hereto as Exhibit 2 is a printout which documents the use of YouTube.com's automated online tool.

3. Attached as Exhibit 3 is a copy of printout of the web page at the URL as it stands since the infringing video has been removed.

4. The subpoena attached as Exhibit 1 is sought to identify the identity of an alleged infringer of Summit Entertainment, LLC's copyright rights. This alleged infringer has distributed a copy of a video clip which infringes Summit Entertainment, LLC's rights in the motion picture The Twilight Saga: New Moon. The information sought by the Civil Subpoena will only be used for the purpose of protecting rights under the Copyright Act, 17 U.S.C. § 101, *et seq.*

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that all of the foregoing is true and correct.

Executed this 23 day of November 2009, Beverly Hills, California.

/s/
Christian C. Dowell

Exhibit 1

AO 88 (Rev.11/94) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT
Northern DISTRICT OF CALIFORNIA

SUMMIT ENTERTAINMENT, LLC

v.

SUBPOENA IN A CIVIL CASE

JOHN DOES 1-10

Case Number:¹

TO: YouTube, Inc.
1600 Amphitheatre Parkway
Mountain View, California 94043

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

SBE ATTACHMENT A

PLACE	DATE AND TIME
Barkley Court Reporters, 1250 Aviation Avenue, Suite 200C, San Jose, CA 95110 (408) 885-0550	12/07/2009 10am

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(8).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
---	------

ISSUING OFFICER'S NAME ADDRESS AND TELEPHONE NUMBER

(See Rule 45, Federal Rules of Civil Procedure, parts C & D on reverse)

¹ If action is pending in district other than district of issuance, state district under case number.

EXHIBIT 1
PAGE 3

AO 88 (Rev.11/94) Subpoena in a Civil Case

PROOF OF SERVICE

DATE	PLACE
SERVED	
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE	SIGNATURE OF SERVER
	ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to

attend trial be commanded to travel from any such place within the state in which the trial is held, or the demanding party to contest the claim.

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT _____
PAGE 4

ATTACHMENT A
SUBPOENA IN A CIVIL CASE

1. All information, including documents and electronic files, sufficient to identify the name or names and address or addresses (including IP addresses) of the individual(s) who uploaded the files to:

http://www.youtube.com/index?ytsession=WyvJGgdJLcpWFd2su9kZ7TeFDHJdA_n9LG9SGlOup4bFeJxqOy6iO00Y5OopFVcbeOOP-552gTI_DYBSeF9lZlCbR2YblmffwjITID5dybDkP11bzb_XOqdLwqLv4PenduxNWqF6SngrMHcyXbjr5Hf7pBCwTByKd6EfOjOKdbfOINi56ybXjz_YFHHs0du14a4Hb6IY89dk8sNVeFUGAVPG2yDui3tZwmtkrRfkS_TheOp8STb8LeINakZMmqLOGNI-a2hhcaqkgO2y4_mXm5zVSS9O4cCaNj6gOIqoN_E

EXHIBIT 1
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Exhibit 2



This page lists all of the videos you have selected for removal. If you would like to remove any of these videos from the list before submission, check the box next to each video you would like to remove and click 'Update List'. Once you have only the videos you'd like to flag listed on this screen, please click the 'Submit' button at to send your request to our internal copyright team for processing.

Under your agreement with YouTube, please remember that by flagging these videos, you are stating UNDER PENALTY OF PERJURY that:

- you are the owner, or an agent authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- your notification is accurate and true.

Please note that under Section 512(f) any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability. Please also note that the information provided in this legal notice may be forwarded to the person who provided the allegedly infringing content.

Check All Uncheck All

Remove	Video ID
<input type="checkbox"/>	SNq65pC-NRU

Video Title
Twilight saga 2: New moon full movie part 1

EXHIBIT 2
PAGE 6

Exhibit 3

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This video is no longer available due to a copyright claim by Samml Entertainment.

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EXHIBIT 3
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