

FEDERAL COURT OF APPEAL

BETWEEN:

VOLTAGE HOLDINGS, LLC

Appellant

- and -

DOE #1 *et al.*
(see Schedule 1 for list of Defendants)

Respondents

- and -

**SAMUELSON-GLUSHKO CANADIAN INTERNET POLICY &
PUBLIC INTEREST CLINIC**

Intervener

VOLTAGE'S REPLY MEMORANDUM OF FACT AND LAW

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TO: THE ADMINISTRATOR
Federal Court of Appeal

**AND TO: SAMUELSON GLUSHKO CANADIAN INTERNET POLICY
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VOLTAGE'S REPLY MEMORANDUM OF FACT AND LAW

Overview

1. In its factum,¹ CIPPIC deviates from its permitted mandate and makes factual determinations that are not based in the record. It mischaracterizes Voltage's arguments on the law of authorization. It ignores the Supreme Court of Canada's requirement that these types of matters should be brought as quickly, easily and efficiently as possible while ensuring fair treatment of all.

2. CIPPIC's intervention materials are heavily partisan and contrary to its mandate to provide a public interest perspective on these matters. Its arguments should be disregarded and this Appeal allowed.

¹ All citations to Paragraphs herein are to CIPPIC's factum

A. Preliminary Matter – CIPPIC violates scope of intervention order – fails to take proper stance – acts as defence counsel and not in the public interest

3. As a preliminary matter prior to the hearing, Voltage asserts that CIPPIC has violated the order permitting it to intervene by arguing issues that are not before the Court. CIPPIC further takes a strong adversarial stance contrary to its obligations to intervene in the public interest and to not act as defence counsel for the Default Defendants. In its factum, paragraphs 9, 10 and 38-40, CIPPIC raises new issues outside of the scope of this appeal. As at the date of filing, CIPPIC has not responded to Voltage's October 30, 2022 request to remove those paragraphs from the record. Pending a response, Voltage reserves its rights to bring a motion to strike those paragraphs prior to the hearing of this appeal.

Order of the Court dated September 12, 2022 (Schedule 1).

B. The Supreme Court of Canada affirmed that “making available” is copyright infringement in both the context of reproduction and communicating to the public – Voltage pleaded violation of both rights

4. At Paragraphs 9–10, CIPPIC argues for the first time that the *ESA* decision in effect modifies the decision of the Motion Judge as Voltage did not plead or provide evidence that:

- (a) offering a work for download through BitTorrent engages s. 3(1)(f) of the *Copyright Act* (no violation of the communication rights under the *Copyright Act*);
- (b) the Default Defendants “made available” the Work for streaming; and
- (c) the Default Defendants infringed Voltage's reproduction rights by downloading a durable copy of the Work.

5. These arguments were not raised before the Motion Judge and are not found in the Notice of Appeal. They go outside of the permissible scope of intervention. In any event, CIPPIC's arguments are incorrect for the following reasons:

- (a) Voltage pleads at paras. 13 and 14 of the Statement of Claim (see Schedule 2) that “offering a work for download via the internet” is an infringement of the communication right under s. 3(1)(f) and Voltage relies on s. 2.4(1.1) of the *Copyright Act*;
- (b) Voltage pleads at para. 25 of the Statement of Claim that each Defendant unlawfully made the Work available for download and failed to take steps to ensure a downloader was authorized to do so; and
- (c) Para. 44 of the Statement of Claim asserts that the act of offering to distribute the Work (‘offer to upload’) is *inter alia* an unlawful communication to the public, and that each Defendant has unlawfully reproduced the Work.

6. The Supreme Court of Canada in *ESA* affirmed that “making available” a Work (e.g. “offering to upload” a work) engages a copyright owner’s rights, regardless of whether the work is streamed or downloaded, or whether the public communication, performance, authorization or reproduction rights were violated.

107 [...] If a person makes a work available for downloading without authorization, that person infringes the copyright owner’s right to authorize reproductions. That is so regardless of whether the works are ultimately downloaded.

108 Together, the performance, reproduction, and authorization rights in s. 3(1) of the *Copyright Act* give effect to Canada’s obligations under art. 8 and they do so in a technologically neutral manner. If a work is streamed or made available for on-demand streaming, the author’s performance right is engaged. If a work is downloaded, the author’s reproduction right is engaged. If a work is made available for downloading, the author’s right to authorize reproductions is engaged. There are no gaps in protection.

[Society of Composers, Authors and Music Publishers of Canada v. Entertainment Software Association, 2022 SCC 30 at paras. 107, 108 \[ESA\], VBOA, Tab 5.](#)

7. Voltage properly pleaded and provided evidence to support infringement for each Default Defendant.

C. Voltage is not presenting a “new test” for authorization – wilful blindness (“sufficient indifference”) has always been part of the test for authorization including in *CCH*, *CAIP* and *ESA* – Voltage is not relying on or suggesting a *Moorhouse* authorization standard

8. At Paragraphs 16-28 CIPPIC argues that Voltage’s “wilful blindness” standard is new, and that Voltage is seeking to replace the Canadian law of authorization (initially set out in *CCH*) with the standard set out in the rejected Australian *Moorhouse* decision. The opposite is true. Voltage seeks to use precisely the *CCH*, *CAIP* and *ESA* tests for authorization.

9. *CCH* held that authorization “can be inferred from acts that are less than direct and positive, including a sufficient degree of indifference”; the Supreme Court recently reaffirmed this test in *ESA*. *CAIP* provides specific examples where indifference may rise to the level of authorization, namely when notice has been given and nothing is done to stop infringement.

[*CCH Canadian Ltd. v. Law Society of Upper Canada*, 2004 SCC 13 at para. 38](#), VBOA, Tab 17.

104 “It is an infringement of copyright for any person to do, without the consent of the copyright owner, anything that by this Act only the owner of the copyright has the right to do”: s. 27(1). This includes the right to “authorize” a reproduction or performance: s. 3(1). To “authorize” means to sanction, approve and countenance: *CCH*, at para. 38, citing *Muzak Corp. v. Composers, Authors and Publishers Association of Canada, Ltd.*, 1953 CanLII 47 (SCC), [1953] 2 S.C.R. 182, at p.193. Whether a reproduction or performance has been authorized is a question of fact and can be “inferred from acts that are less than direct and positive, including a sufficient degree of indifference”: *CCH*, at para. 38.

[*ESA* at para. 104](#), VBOA, Tab 5.

126 [...] an Internet Service Provider may attract liability for authorization because “. . . indifference, exhibited by acts of commission or omission, may reach a degree from which authorisation or permission may be inferred. It is a question of fact in each case” See also *Godfrey v. Demon Internet Ltd.*, [1999] 4 All E.R. 342 (Q.B.).

127 The knowledge that someone might be using neutral technology to violate copyright (as with the photocopier in the *CCH* case) is not necessarily sufficient to constitute authorization, which requires a demonstration that the defendant did “(g)ive approval to; sanction,

permit; favour, encourage” (CCH, at para. 38) the infringing conduct. I agree that notice of infringing content, and a failure to respond by “taking it down” may in some circumstances lead to a finding of “authorization”.

[CAIP at paras. 126–127](#), VBOA, Tab 3.

10. In US law, willful blindness is part of the law of copyright infringement. Service providers can be held contributorily liable if they have actual knowledge that specific infringing material is available using their system, and can take simple measure to prevent further damages to copyright works, yet continue to provide access to infringing works. In this context, willful blindness can satisfy the requirement of actual knowledge: “Persons who know enough to blind themselves to direct proof of critical facts in effect have actual knowledge of those facts”. Willful blindness is knowledge in copyright law as it is in the law generally.

***Umg Recordings, Inc. v. Grande Communs. Networks, LLC* (2019), 384 F. Supp. 3d 743 (WD Tex) at footnote 7 and 768, VBOA, Tab 18.**

11. The Supreme Court of Canada in *CCH* rejected the *Moorhouse* test for authorization, namely that mere knowledge that copying equipment could be used for infringement was sufficient to establish authorization.

[CCH at paras. 39–41](#), VBOA, Tab 17, rev’g [2002 FCA 187 at paras. 113–114](#).

12. Voltage is not seeking to establish the *Moorhouse* test, or any “new” test for authorization. Voltage is relying on the standard Canadian authorization test as set out in *CCH*, *CAIP* and *ESA*. Voltage is seeking to prove that each Default Defendant committed “acts of omission” by not responding to notices of infringement and permitting infringement to continue, which therefore amounted to “a sufficient degree of indifference” sufficient to amount to authorization. Voltage asserts that this is akin to “willful blindness”.

13. The Default Defendants have had at least four occasions to rise to the occasion and take action to have infringement on their accounts cease. They:

- (a) received a warning notice advising that infringement was occurring on their internet accounts and were given a grace period to have it cease;
- (b) received a second notice advising that the infringement had not ceased and that action could be taken against them;
- (c) were personally served with a Statement of Claim; and
- (d) received a reminder letter giving notice that default judgement could be taken against them.

MacDonald Affidavit at paras. 10–14, 16–19, 22, AB, Tab 3, Pages 55–58.

14. Parliament specifically enacted the Notice and Notice Regime to give new tools to copyright owners to fight online infringement. The Regime should be interpreted so as to “allow copyright owners to protect and vindicate their rights as quickly, easily and efficiently as possible while ensuring fair treatment of all”. While these new tools must be used fairly, there is no doubt that the sending and receiving of notices is central to the regime set out by Parliament, whose “primary goal is to deter infringement”. The Supreme Court of Canada in *Rogers v. Voltag*e reiterated the primacy and importance of taking action in respect of a notice received under the Notice and Notice Regime.

34 [...] “Deterring online copyright infringement entails notifying [the subscriber], because it is only that person who is capable of stopping continued online copyright infringement.”

35 [...] Where, for example, a parent or an employer receives notice, he or she may know or be able to determine who was using the IP address at the time of the alleged infringement and could take steps to discourage or halt continued copyright infringement. Similarly, while institutions or businesses offering Internet access to the public may not know precisely who used their IP addresses to illegally share copyrighted works online, they may be able, upon receiving notice, to take steps to secure its Internet account with its ISP against online copyright infringement in the future.

46 [...] the notice and notice regime should be interpreted so as “to allow copyright owners to protect and vindicate their rights as quickly, easily and efficiently as possible while ensuring fair treatment of all”.

***Rogers v. Voltag*e at paras. [23](#), [34](#), [35](#) and [46](#), VBOA, Tab 4.**

15. The Default Defendants have been provided fair treatment. They have had at least four opportunities to act and have failed to do anything to mitigate the harm to Voltage. Parliament intended the notices to be acted on. Parliament intended that failure to respond to a notice would lead to litigation.

“notice and notice is not a silver bullet; it’s just the first step in a process by which rights holders can go after those they allege are infringing. . . . Then the rights holder can use that when they decide to take that alleged infringer to court”

[Rogers v. Voltage at para. 24](#), VBOA, Tab 4.

16. The Default Defendants’ failure to respond to the warning notices is an “act of omission” (two “acts of omission”), which are aggravated by failing to defend or otherwise respond to this Action. The Default Defendants therefore authorized the infringement of the Work by having being indifferent to the actions taking place on their account with knowledge that they were taking place. This is a sufficient degree of indifference to ground authorization.²

D. Technological neutrality is maintained

17. At Paragraph 17, CIPPIC argues for the first time that Voltage’s claim would impose a different standard on internet subscribers than on photocopier providers in *CCH*, violating technological neutrality. This argument does not take into account the decision of this Court where it held that the law must evolve and adapt to new technologies (in particular following the *Copyright Modernization Act*):

Much has changed in the 17 years since the decision in *CCH*. The content and channels of artistic creation and expression have evolved in ways that were beyond contemplation in 2004. To remain relevant, the law must adapt to the evolving digital environment, the channels through which artistic endeavour is expressed and the means by which copyright may be infringed.

[Salna v. Voltage Pictures, LLC, 2021 FCA 176 at para. 3](#) [*Salna*], VBOA, Tab 16.

² This argument is in respect of authorizing infringement, Voltage maintains its position that each Default Defendant should also be liable for direct infringement.

18. The principle of technological neutrality is analogous to the principle of equality – it is not equal to give everyone the same size boot when allocating boots to individuals. Similarly, different technologies must be analyzed in proportion to their differences (and similarities). The effect must be equal, but the treatment of each technology must be different in order to obtain equality.

E. Notice and Notice Regime requires subscribers to police their internet accounts in response to notices

19. At Paragraph 27, CIPPIC argues that Voltage’s theory of authorization would cause harm in various ways. None of these are of any true concern or create new obligations:

- (a) *Require policing of neighbours’ “communicative activities”* — Voltage’s authorization standard only requires that internet subscribers take action to stop infringement in response to a notice. Neighbours are not normally using someone else’s internet and if they are doing to infringe, this is not a “communicative activity” that deserves protection;
- (b) *Chills expressive activity* — As the Supreme Court of Canada held, freedom of expression does not require the facilitation of violating intellectual property rights.

[Google Inc. v. Equustek Solutions Inc., 2017 SCC 34 at para. 45, 48, VBOA, Tab 19.](#)

- (c) *Expands liability* — Voltage seeks for the Court to give effect to the Notice and Notice Regime as Parliament intended. Parliament directed for notices to be sent to subscribers, who could take action to stop the infringement, even if they were not the direct infringer. All persons, whether individuals, institutions or businesses, can take action to stop continued infringement on their networks.

[Rogers v. Voltage at para. 35, VBOA, Tab 4.](#)

- (d) *Imposes “unrealistic technological solutionism”* — The uncontested evidence of Benjamin Perino is that almost all routers provide security settings, such as Wi-Fi passwords, device blacklists or whitelists or blocking internet traffic. As contemplated by the Supreme Court of Canada, internet subscribers may seek assistance from their ISPs to secure their internet account.

Perino Affidavit at para. 20, AB, Tab 4, Page 203.

Similarly, while institutions or businesses offering Internet access to the public may not know precisely who used their IP addresses to illegally share copyrighted works online, they may be able, upon receiving notice, to take steps to secure its Internet account with its ISP against online copyright infringement in the future.

[Rogers v. Voltage at para. 35](#), VBOA, Tab 4.

- (e) *Deter innovation* — The Default Motion concerns residential internet users and a motel illegally making copies of a movie available online. None of these are innovative tech companies employing a disruptive innovation. Moreover, no one is allowed to infringe Voltage’s copyright, whether for innovative reasons or not.

20. Voltage’s proposed remedies are simple, easy to implement, and proportional to the infringement. If a neighbour is unlawfully using the internet, change the Wi-Fi password. If the infringer is a tenant, let the tenant get their own internet account. If a roommate or recalcitrant child (or spouse) is the cause, block BitTorrent on the router or by device. If the subscriber is the actual infringer, stop infringing. Some of these solutions (e.g. blocking BitTorrent) are more technologically difficult, but all solutions are able to be implemented by a phone call to the subscriber’s ISP.

F. Parliament granted new tools to copyright owners to foster legitimate online markets

21. At paragraph 28, CIPPIC states that Parliament did not intend for copyright owners to sue infringers, but instead pursue “market-based solutions”. CIPPIC’s position is the opposite from what Parliament intended.

22. CIPPIC relies on a government publication that states that legitimate markets can only develop by allowing copyright owners to sue infringers:

The *Copyright Modernization Act* recognizes the significant harm to online business models caused by illegal file sharing, while at the same time ensuring that laws and penalties are aimed at those who profit from infringement of copyright.

...

The Government considers online piracy to be a serious offence. In addition to criminal sanctions that already exist in Canada, the Bill gives copyright owners the tools to pursue those who enable online copyright infringement.

The *Copyright Modernization Act* send a clear message that copyright infringement is unacceptable.

It recognizes that the most effective way to stop online copyright infringement is to target those who enable and profit from the infringements of others. By allowing copyright owners to pursue these “enablers”, such as illegal peer-to-peer file sharing sites, this Bill supports the development of significant legitimate markets for downloading and streaming in Canada. This supplements existing criminal punishments for those who aid and abet infringement.

[Government of Canada, “What the *Copyright Modernization Act* Says About Penalties and Remedies for Infringement” \(3 October 2011\), VBOA, Tab 20.](#)

23. The government publication relied on by CIPPIC provides an example of an individual who illegally downloads five songs, and that (once sued) the statutory damages would be between \$100 and \$5,000 for such infringement. Parliament has provided the tools and means for copyright owners to enforce their copyright and stop online piracy, and it limited the amount of damages that may be sought. This is the corollary for permitting copyright owners to vindicate their rights as efficiently as possible.

[Government of Canada, “What the *Copyright Modernization Act* Says About Penalties and Remedies for Infringement” \(3 October 2011\), VBOA, Tab 20.](#)

24. At Paragraph 29, CIPPIC suggests that Voltage seeks a “low-cost litigation mill for extracting settlements and default judgements.” CIPPIC’s highly adversarial position has ominous overtones, which are inappropriate.

Voltage seeks to rely on the specific provisions Parliament enacted to combat online piracy, nothing more.

G. CIPPIC speculates and exaggerates effect of notices

25. At Paragraph 30 and the accompanying footnote, CIPPIC incorrectly reasons that because only 10% of first notices have a corresponding second notice, that a “single notice deters 90% of recipients”. This misrepresents how the Forensic Software works as described in the Perino Affidavit:

It is impossible to know with certainty when the P2P users started infringing the Work and when they stopped infringing the Work. The Forensic Software does not check particular IP addresses to see if they are offering copies of the Work; rather, it joins BitTorrent swarms to investigate if anyone in the swarm is uploading copies of the Work. ... While it is possible that the P2P user ceased offering copies of the Work after the last capture, the P2P user may have continued to offer to upload copies of the Work afterwards.

...

It is possible that there were more days that an individual was distributing the Work to the various swarms, but the Forensic Software did not detect it. The Forensic Software does not “trace” particular IP addresses — it just joins a swarm and checks for IP addresses offering to distribute (upload) the Work. This makes it difficult to find infringers, and the fact that it works at all is a testament to the fact that this type of online infringement is everywhere and is widespread.

Perino Affidavit at paras. 45, 50, AB, Tab 4, Pages 208, 210.

26. The Forensic Software does not check or trace particular IP addresses. As an analogy, it is like a police speed trap. The fact that a driver is only caught speeding once does not mean that the driver never sped again. However, if a driver is caught by a speed trap twice, this is a strong indication that the driver is a frequent speeder. Similarly, people who are “caught” infringing twice and receive two notices (e.g. the Default Defendants) are high infringers.

H. CIPPIC suggests ISPs have a “list of devices” that can identify users of an internet account without foundation or evidence

27. At Paragraph 39, when discussing the potential actions Voltage could take against infringers, CIPPIC suggests that the ISPs record or could provide a “list of devices” that engage with a subscriber’s router. There is no evidence in the record to suggest that ISPs are able to, or do, track the devices that use their subscribers’ router. This has never been raised before and should be struck from CIPPIC’s factum as it goes beyond the scope of CIPPIC’s intervention.

I. Voltage has particularized its claim against each Default Defendant

28. At Paragraph 43, CIPPIC makes the incorrect claim that Voltage did not particularize its evidence in respect of each subscriber. Voltage made great efforts to particularize the evidence for each Default Defendant. Voltage provided the records of every infringement detected and every file the Default Defendants made available (offered for upload). In addition, Voltage prepared a detailed summary chart indicating the relevant dates, details of service and extent of infringement for each Default Defendant. Voltage further particularized the damages separately for each Default Defendant based on individual criteria.

Perino Affidavit, Exhibits “B” and “D”, AB, Tabs 4B, 4D, Pages 216–283, 287–363.

MacDonald Affidavit at paras. 21–32, Exhibit “C”, AB, Tab 3C, Pages 57–62, 68–71.

J. CIPPIC demands intrusion into privacy of subscribers in order to show “what else” Voltage could have done to prove infringement

29. At Paragraphs 52 and 60, CIPPIC argues that Voltage should have conducted “investigations” to identify the direct infringer. It is unclear what “investigations” CIPPIC has in mind or what evidence it believes Voltage would obtain, or how it would obtain it. Similarly, the evidence CIPPIC believes is available on third party discovery is not particularized or based on evidence in the record. Voltage submits that the uncontradicted and accepted evidence in

this matter is that, short of an Anton Piller order, all of the available evidence has been obtained and disclosed to the Court.

30. Note that in this case the *Norwich* order only permitted Voltage to obtain the name and physical address of the subscriber. In earlier cases, email addresses of the subscribers were sought and denied by the Court as being too intrusive into the privacy of the subscriber. The prior case law also held that seeking more information through discovery was not permitted – e.g. to obtain the names of other infringers known to the subscriber.

Voltage Pictures, LLC v. John Doe, 2016 FC 881 at paras. [16-17](#), VBOA, Tab 21, rev'd on other grounds [2017 FCA 97](#), rev'd on other grounds [2018 SCC 38](#).
[Motorola Inc. v. Katz](#), 1998 CanLII 8198, VBOA, Tab 12.

K. CIPPIC's reliance on foreign authorities is misplaced

31. At Paragraph 55, CIPPIC relies on two foreign authorities, *Cobbler Nevada* and *Media CAT*, for the proposition that internet account holders cannot be inferred to be the persons who infringed copyright. These cases are not apposite in the present matter.

32. Neither of these decisions is a default judgment motion. In *Cobbler Nevada*, the defendant put forward evidence of other users and action taken to stop the infringement. As held in *Umg Recordings*, which distinguished *Cobbler Nevada*, knowledge of actual infringement and failure to take simple measures to stop further infringement was held to potentially result in liability.

Further, the evidence in *Cobbler Nevada* indicated that after the defendant learned of the infringement, he and his staff attempted to identify the infringer and instructed everyone living in home to stop infringing. ... In this case in contrast, the allegation is that Grande took affirmative steps to foster infringement by continuing to provide internet service to specific customers about whom it had actual knowledge of repeated infringement. This case, therefore, fits more appropriately into a corollary principle announced in *Grokster*, that "where evidence goes beyond . . . the knowledge that [a product or service] may be put to infringing uses, and shows statements or actions directed to promoting infringement," liability may attach.

Distilling these principles into a rule of liability, service providers like Grande "can be held contributorily liable if [they] ha[ve] actual

knowledge that specific infringing material is available using its system, and can take simple measures to prevent further damages to copyrighted works, yet continue[] to provide access to infringing works."

Umg Recordings at footnote 6 and p. 768, VBOA, Tab 18.

33. In *Golden Eye*, the England and Wales High Court considered the *Media CAT* decision in a *Norwich* motion, and noted differences in facts and evidence. While noting that an individual other than the subscriber may be responsible for P2P filesharing, the Court ultimately held that there was an arguable case that "many, but not all, of the subscribers to whom those IP addresses were allocated by [the ISP] at those dates and times were the persons engaged in such filesharing".

Golden Eye (International) Ltd & Anor v Telefonica UK Ltd, [2012] EWHC 723 (Ch) at paras [48](#), [59–63](#), [103.vi](#), [105](#), VBOA, Tab 22.

L. The standard on a default judgment motion is a balance of probabilities, not a balance of possibilities

34. At paragraph 61, CIPPIC identifies several possible forms of relief that it argues could provide additional evidence. None of these forms of relief are particularized on seemingly practicable.

ALL OF WHICH IS RESPECTFULLY SUBMITTED



NOVEMBER 18, 2022

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Part V — List of Authorities

Rules / Statutes

1. *Federal Courts Rules*, SOR/98-106, Rules 3, 183, 222, 223, 228, 236, 282, 288
2. *Copyright Act*, R.S.C. 1985, c. C-42, s. 2.4(1.1), 27(1), 38.1(1)(b), 41.25, 41.26

Authorities

3. [*Society of Composers, Authors and Music Publishers of Canada v. Canadian Assn. of Internet Providers*, 2004 SCC 45](#)
4. [*Rogers Communications Inc. v. Voltage Pictures, LLC*, 2018 SCC 38](#)
5. [*Society of Composers, Authors and Music Publishers of Canada v. Entertainment Software Association*, 2022 SCC 30](#)
6. [*Housen v. Nikolaisen*, 2002 SCC 33](#)
7. Halsbury's Laws of Canada (online), *Civil Procedure*, "Nature of the Burden: Trials: Evidence" (XI.5(2))
8. Sopinka, Lederman & Bryant: *The Law of Evidence in Canada*, 6th ed. (Toronto: LexisNexis Canada, 2022)
9. [*Dumais Estate v. Canada \(Indigenous and Northern Affairs\)*, 2020 FC 25](#)
10. [*TekSavvy Solutions Inc. v. Bell Media Inc.*, 2021 FCA 100](#)
11. [*Trimble Solutions Corporation v. Quantum Dynamics Inc.*, 2021 FC 63](#)
12. [*Motorola Inc. v. Katz*, 1998 CanLII 8198](#)
13. *Newfoundland Processing Ltd. v. "South Angela"*, 1995 CarswellNat 1796 (FCTD)
14. [*Benhaim v. St-Germain*, 2016 SCC 48](#)
15. [*Snell v. Farrell*, \[1990\] 2 SCR 311](#)
16. [*Salna v. Voltage Pictures, LLC*, 2021 FCA 176](#)
17. [*CCH Canadian Ltd. v. Law Society of Upper Canada*, 2004 SCC 13](#)

Additional Authorities

18. *Umg Recordings, Inc. v. Grande Communs. Networks, LLC* (2019), 384 F. Supp. 3d 743 (WD Tex)

19. [Google Inc. v. Equustek Solutions Inc., 2017 SCC 34](#)
20. [Government of Canada, "What the Copyright Modernization Act Says About Penalties and Remedies for Infringement" \(3 October 2011\)](#)
21. [Voltage Pictures, LLC v. John Doe, 2016 FC 881](#)
22. [Golden Eye \(International\) Ltd & Anor v Telefonica UK Ltd, \[2012\] EWHC 723 \(Ch\)](#)

Schedule 1

Federal Court of Appeal



Cour d'appel fédérale

Date: 20220912

Docket: A-129-22

Ottawa, Ontario, September 12, 2022

Present: RIVOALEN J.A.

BETWEEN:

VOLTAGE HOLDINGS, LLC

Appellant

and

DOE #1 *et al.*

(See Schedule 1 for list of Defendants)

Respondents

ORDER

WHEREAS the present appeal follows the dismissal of the appellant's *ex parte* motion for default judgment against several defendants (all named as respondents in this appeal);

AND WHEREAS by informal motion, sent by letter dated August 23, 2022, Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic (CIPPIC) is requesting leave to intervene in this appeal;

AND WHEREAS the appellant, by letter dated August 24, 2022, advises that it is unable to consent to the motion, but does not oppose it;

AND WHEREAS the appellant has consented to the time lines set out in this Order;

AND WHEREAS CIPPIC was granted leave to intervene before the Federal Court in the default judgment motion in the absence of the defendants;

AND WHEREAS the appeal arises in the context of a motion for summary judgment in respect of mass file-sharing copyright litigation and no defendants proposed to participate in the hearing;

AND WHEREAS the hearing of this appeal raises the same public interest issues identified by CIPPIC and the Federal Court;

THIS COURT ORDERS that

1. The motion for leave to intervene of Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic is granted, the style of cause is amended so that all subsequent documents in this appeal shall show it as intervener and will read as follows:

BETWEEN:

VOLTAGE HOLDINGS, LLC

Appellant

and

DOE #1 *et al.*

(See Schedule 1 for list of Defendants)

Respondents

and

**SAMUELSON-GLUSHKO CANADIAN INTERNET POLICY
AND PUBLIC INTEREST CLINIC**

Intervener

2. The intervener must accept the record as adduced by the appellant, and is not entitled to file additional evidence;
3. The extent to which the intervener is allowed to make oral submissions shall be determined by the panel hearing the appeal.
4. The appellant shall serve and file its memorandum of fact and law by September 23, 2022.
5. The intervener shall file, on or before October 28, 2022, a memorandum of fact and law not exceeding 15 pages.
6. The appellant may file, on or before November 11, 2022, a reply memorandum of fact and law not exceeding 15 pages.
7. Within 20 days after service of the reply memorandum of fact and law described in paragraph 6 herein, the appellant shall serve and file a requisition to request that a date be set for the hearing of the appeal.
8. The intervener shall not be entitled to receive or be subject to any order as to costs.

« Marianne Rivoalen »

J.A.

Schedule 1 – List of defendants and specific information regarding infringement of such defendants

**SCHEDULE 1 – LIST OF DEFENDANTS AND SPECIFIC INFORMATION
REGARDING INFRINGEMENTS OF SUCH DEFENDANTS**

	Name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
1.	Doe #1, name and address unknown	156.34.2.57	2017-09-23 12:14:22	2017-10-03 15:41:47
2.	Doe #2, name and address unknown	156.34.180.12	2017-09-23 14:26:32	2017-10-01 03:36:54
3.	Doe #3, name and address unknown	142.162.128.245	2017-09-23 14:13:46	2017-10-01 10:05:58
4.	Doe #4, name and address unknown	47.54.165.90	2017-09-22 21:55:01	2017-10-02 23:33:27
5.	Doe #5, name and address unknown	156.57.220.81	2017-09-24 14:49:05	2017-11-03 00:35:45
6.	Doe #6, name and address unknown	108.175.82.55	2017-09-24 23:55:18	2017-10-03 21:25:32
7.	Doe #7, name and address unknown	47.55.135.155	2017-09-28 12:02:47	2017-10-06 16:46:00
8.	Doe #8, name and address unknown	99.192.57.154	2017-10-03 15:46:37	2017-10-15 17:37:56
9.	Doe #9, name and address unknown	99.192.98.62	2017-10-21 01:18:19	2017-10-29 01:16:02
10.	Doe #10, name and address unknown	156.34.231.116	2017-10-23 21:20:10	2017-11-08 04:56:55
11.	Doe #11, name and address unknown	99.192.98.54	2017-10-31 15:58:55	2017-11-08 02:13:16
12.	Doe #12, name and address unknown	142.166.216.146	2017-11-02 00:08:42	2017-11-10 04:39:17
13.	Doe #13, name and address unknown	142.177.66.92	2017-11-22 12:29:40	2017-11-30 00:30:50
14.	Doe #14, name and address unknown	47.55.141.234	2017-12-06 05:04:51	2017-12-17 10:23:54
15.	Doe #15, name and address unknown	142.167.107.117	2018-01-08 02:54:10	2018-01-16 07:38:54
16.	Doe #16, name and address unknown	142.162.97.180	2018-01-08 22:17:39	2018-01-22 04:03:57
17.	Doe #17, name and address unknown	70.26.9.128	2017-09-04 15:47:34	2017-09-22 20:40:39
18.	Doe #18, name and address unknown	67.68.98.171	2017-09-09 17:37:40	2017-09-24 19:40:14
19.	Doe #19, name and address unknown	67.68.221.129	2017-09-21 18:07:52	2017-09-30 15:19:05
20.	Doe #20, name and address unknown	76.68.210.170	2017-09-23 04:08:35	2017-10-07 23:12:04
21.	Doe #21, name and address unknown	64.228.79.220	2017-09-23 02:44:57	2017-10-01 00:14:25
22.	Doe #22, name and address unknown	70.51.181.6	2017-09-21 23:51:26	2017-10-20 13:09:37
23.	Doe #23, name and address unknown	65.93.22.84	2017-09-23 14:20:10	2017-11-01 01:52:09
24.	Doe #24, name and address unknown	65.93.37.104	2017-09-22 20:29:47	2017-10-01 02:13:30

	Name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
25.	Doe #25, name and address unknown	70.52.111.190	2017-09-24 23:22:52	2017-10-06 01:28:51
26.	Doe #26, name and address unknown	174.95.209.150	2017-09-28 20:57:47	2017-10-10 00:16:33
27.	Doe #27, name and address unknown	174.91.58.211	2017-10-01 19:28:16	2017-10-12 07:30:15
28.	Doe #28, name and address unknown	69.158.120.153	2017-10-02 02:10:25	2017-10-15 18:12:41
29.	Doe #29, name and address unknown	69.157.112.66	2017-10-08 17:07:02	2017-10-26 09:23:29
30.	Doe #30, name and address unknown	70.54.41.122	2017-10-09 23:43:14	2017-10-19 08:17:40
31.	Doe #31, name and address unknown	76.68.166.197	2017-10-18 14:47:27	2017-10-28 15:44:59
32.	Doe #32, name and address unknown	174.94.24.88	2017-10-25 04:34:03	2017-11-12 04:05:48
33.	Doe #33, name and address unknown	76.68.165.22	2017-10-28 17:13:06	2017-11-19 05:22:22
34.	Doe #34, name and address unknown	70.55.183.190	2017-11-02 18:51:24	2017-11-11 03:31:49
35.	Doe #35, name and address unknown	70.53.243.234	2017-11-05 15:17:04	2017-12-01 23:56:50
36.	Doe #36, name and address unknown	67.70.141.111	2017-11-22 21:18:01	2017-12-01 16:44:10
37.	Doe #37, name and address unknown	174.89.225.185	2017-11-23 04:26:11	2017-12-08 22:56:01
38.	Doe #38, name and address unknown	50.100.143.185	2017-12-05 02:37:09	2017-12-26 21:59:23
39.	Doe #39, name and address unknown	70.26.230.20	2017-12-11 10:14:24	2017-12-19 08:30:27
40.	Doe #40, name and address unknown	65.92.242.120	2017-12-10 10:35:07	2017-12-19 02:23:52
41.	Doe #41, name and address unknown	174.91.250.77	2017-12-13 01:14:38	2017-12-22 02:07:19
42.	Doe #42, name and address unknown	76.64.239.125	2017-12-12 22:24:35	2017-12-23 01:07:57
43.	Doe #43, name and address unknown	70.31.230.190	2017-12-13 06:05:28	2017-12-21 09:26:03
44.	Doe #44, name and address unknown	70.26.203.10	2017-12-13 05:52:54	2017-12-21 04:56:51
45.	Doe #45, name and address unknown	74.12.216.135	2017-12-13 05:47:10	2017-12-22 01:36:51
46.	Doe #46, name and address unknown	70.49.66.137	2017-12-13 05:46:33	2017-12-21 19:44:48
47.	Doe #47, name and address unknown	67.68.201.148	2017-12-13 05:02:09	2017-12-21 08:04:36
48.	Doe #48, name and address unknown	184.145.217.50	2017-12-13 02:10:19	2017-12-21 19:19:35
49.	Doe #49, name and address unknown	70.30.248.51	2017-12-13 00:41:32	2017-12-21 03:10:12
50.	Doe #50, name and address unknown	70.51.141.35	2017-12-13 11:00:17	2017-12-21 09:45:38

	Name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
51.	Doe #51, name and address unknown	65.92.23.220	2017-12-15 05:04:17	2017-12-25 01:13:54
52.	Doe #52, name and address unknown	70.49.77.208	2017-12-15 18:16:58	2017-12-24 03:42:10
53.	Doe #53 name and address unknown	184.148.213.254	2017-12-17 07:22:22	2017-12-26 04:41:57
54.	Doe #54, name and address unknown	70.53.216.231	2017-12-17 07:15:20	2018-01-12 00:00:01
55.	Doe #55, name and address unknown	76.69.176.159	2017-12-18 00:58:02	2017-12-26 04:53:20
56.	Doe #56, name and address unknown	174.92.168.219	2017-12-19 08:26:54	2018-01-03 12:56:12
57.	Doe #57, name and address unknown	50.100.131.28	2017-12-20 23:14:07	2017-12-29 15:04:57
58.	Doe #58 name and address unknown	70.30.252.247	2017-12-20 23:08:22	2017-12-31 02:49:11
59.	Doe #59, name and address unknown	70.55.52.99	2017-12-24 05:25:07	2018-01-01 22:58:59
60.	Doe #60, name and address unknown	76.68.216.130	2017-12-25 05:04:52	2018-01-04 07:00:02
61.	Doe #61, name and address unknown	70.31.231.239	2017-12-28 11:53:40	2018-01-05 01:22:19
62.	Doe #62, name and address unknown	174.95.184.185	2017-12-29 03:47:51	2018-01-13 03:39:00
63.	Doe #63, name and address unknown	184.144.235.232	2017-12-30 11:35:25	2018-01-07 06:08:07
64.	Doe #64, name and address unknown	76.69.134.82	2018-01-01 23:48:55	2018-01-15 05:11:09
65.	Doe #65, name and address unknown	76.71.168.102	2018-01-03 03:32:41	2018-01-18 02:42:22
66.	Doe #66, name and address unknown	174.95.132.108	2018-01-04 01:18:07	2018-01-18 22:35:41
67.	Doe #67, name and address unknown	69.156.112.15	2018-01-05 11:06:28	2018-01-23 15:47:35
68.	Doe #68, name and address unknown	67.70.207.242	2018-01-07 06:17:38	2018-01-15 04:51:47
69.	Doe #69, name and address unknown	74.14.196.10	2018-01-10 04:34:22	2018-01-18 03:33:40
70.	Doe #70, name and address unknown	67.68.60.66	2018-01-18 00:38:08	2018-01-27 02:07:11
71.	Doe #71 name and address unknown	99.250.77.228	2017-08-09 02:25:50	2017-09-19 23:39:18
72.	Doe #72 name and address unknown	99.254.226.230	2017-08-08 04:08:35	2017-10-07 04:50:47
73.	Doe #73 name and address unknown	174.119.133.153	2017-08-16 02:02:32	2017-09-09 00:55:40
74.	Doe #74 name and address unknown	99.242.225.141	2017-08-26 23:11:41	2017-09-29 16:38:41
75.	Doe #75 name and address unknown	99.243.54.76	2017-09-23 13:47:35	2017-10-01 19:52:51
76.	Doe #76 name and address unknown	174.115.223.47	2017-09-23 12:59:57	2017-10-01 05:25:36

	Name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
77.	Doe #77 name and address unknown	99.225.244.134	2017-09-23 01:32:44	2017-10-01 13:10:09
78.	Doe #78 name and address unknown	99.251.17.193	2017-09-22 20:08:09	2017-12-05 06:34:35
79.	Doe #79 name and address unknown	99.238.24.230	2017-09-21 20:40:34	2018-01-03 23:39:31
80.	Doe #80 name and address unknown	174.113.37.233	2017-09-23 10:20:25	2017-12-16 11:58:11
81.	Doe #81 name and address unknown	99.251.36.235	2017-09-23 21:20:25	2017-10-02 01:38:37
82.	Doe #82 name and address unknown	99.240.232.60	2017-09-23 18:23:11	2017-10-06 18:41:04
83.	Doe #83 name and address unknown	174.119.76.216	2017-09-23 17:50:23	2017-10-02 03:40:33
84.	Doe #84 name and address unknown	174.113.26.41	2017-09-23 14:39:49	2017-10-20 15:16:17
85.	Doe #85 name and address unknown	99.242.168.234	2017-09-24 04:39:22	2017-10-04 01:19:55
86.	Doe #86 name and address unknown	174.115.198.172	2017-09-24 15:23:27	2017-10-02 13:05:11
87.	Doe #87 name and address unknown	174.118.22.63	2017-09-25 00:58:28	2017-10-03 02:50:52
88.	Doe #88 name and address unknown	99.250.125.39	2017-09-25 00:39:34	2017-10-03 05:10:33
89.	Doe #89 name and address unknown	174.117.250.146	2017-09-25 08:21:03	2017-10-03 00:53:48
90.	Doe #90 name and address unknown	99.248.48.8	2017-09-25 08:00:36	2017-10-09 06:45:26
91.	Doe #91 name and address unknown	99.233.136.132	2017-09-25 02:25:26	2017-10-09 06:52:02
92.	Doe #92 name and address unknown	99.237.68.211	2017-09-24 12:42:10	2017-10-06 18:28:45
93.	Doe #93 name and address unknown	174.112.229.30	2017-09-27 13:39:43	2017-10-05 12:42:04
94.	Doe #94 name and address unknown	99.255.192.147	2017-09-27 21:39:25	2017-10-11 20:40:35
95.	Doe #95 name and address unknown	99.237.79.94	2017-10-01 03:20:36	2017-10-15 03:27:19
96.	Doe #96 name and address unknown	174.115.30.171	2017-10-01 13:20:23	2017-10-11 01:21:58
97.	Doe #97 name and address unknown	99.248.153.126	2017-10-02 23:25:56	2017-10-15 20:10:47
98.	Doe #98 name and address unknown	99.249.220.227	2017-10-04 02:52:08	2017-10-15 20:09:51
99.	Doe #99 name and address unknown	99.232.231.43	2017-10-05 21:33:07	2017-12-17 05:50:09
100.	Doe #100 name and address unknown	99.251.120.204	2017-10-14 00:42:35	2017-11-06 20:36:14
101.	Doe #101 name and address unknown	174.117.230.105	2017-10-24 00:49:47	2017-11-12 04:35:48
102.	Doe #102 name and address unknown	99.249.114.233	2017-10-28 01:13:01	2017-11-09 08:17:16

	Name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
103.	Doe #103 name and address unknown	99.239.4.175	2017-10-28 07:37:12	2017-11-08 02:30:02
104.	Doe #104 name and address unknown	99.246.146.0	2017-11-05 21:57:09	2017-11-17 02:05:40
105.	Doe #105 name and address unknown	99.230.78.111	2017-11-09 06:35:11	2017-11-26 00:35:21
106.	Doe #106 name and address unknown	99.246.169.135	2017-11-29 07:16:31	2017-12-07 03:20:41
107.	Doe #107 name and address unknown	99.237.251.93	2017-12-19 18:59:47	2018-01-06 08:18:28
108.	Doe #108 name and address unknown	99.243.10.135	2017-12-25 01:12:13	2018-01-02 00:00:26
109.	Doe #109 name and address unknown	99.224.179.37	2017-12-30 01:43:44	2018-01-10 05:17:44
110.	Doe #110 name and address unknown	99.242.155.58	2018-01-06 01:05:59	2018-01-19 22:46:58

Schedule 2

**SIMPLIFIED ACTION
FEDERAL COURT**

BETWEEN:

VOLTAGE HOLDINGS, LLC

Plaintiff

- and -

**DOE #1 et. al.
(see Schedule 1 for list of Defendants)**

Defendants

FEDERAL COURT
 COUR FÉDÉRALE
 Copy of Document
 Copie du document
 Received / Reçu
 OCT 30 2019
 Date _____
 Registrar _____
 Greffier _____

AMENDED STATEMENT OF CLAIM

[Amended pursuant to the Order of Case Management Judge Molgat dated October 24, 2019]

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules serve it on the plaintiff's solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court, **WITHIN 30 DAYS** after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the *Federal Court Rules* information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date: "MAR 16 2018"

Issued by: "Taina Wong"
(Registry Officer)

Address of Local Office 180 Queen Street West
Suite 200
Toronto, ON M5V 3L6

TO: THE ADMINISTRATOR
Federal Court

AND TO: Various Defendant Does as per Schedule 1 hereto

**THIS ACTION IS BEING BROUGHT AGAINST YOU UNDER THE
SIMPLIFIED PROCEDURE PURSUANT TO RULE 292 OF THE FEDERAL COURTS RULES**

CLAIM

1. The Plaintiff claims:
 - (a) a declaration that each Defendant has infringed the Plaintiff's copyright in the cinematographic work, *Revolt* (the "**Work**") contrary to ss. 27(1) and 27(2) of the *Copyright Act* as a result of the Unlawful Acts (as that term is defined below);
 - (b) a declaration that the Plaintiff owns the copyright in the Work;
 - (c) a declaration that copyright subsists in the Work;
 - (d) an interim, interlocutory and permanent injunction restraining each Defendant, and any and all persons acting on behalf of or in conjunction with such Defendant, and any and all persons with notice of such injunction from infringing the copyright in the Work, including by way of the Unlawful Acts;
 - (e) an Order granting a "wide injunction" pursuant to s. 39.1 of the *Copyright Act*, further enjoining each Defendant from infringing the copyright in any other work or subject matter in respect of which the Plaintiff is the owners of the copyright;
 - (f) damages for infringement of the Work in accordance with s. 35 of the *Copyright Act* and, in addition to those damages, such part of the profits that the Defendant has made from the infringement that were not taken into account in calculating the damages as this Honourable Court considers just;
 - (g) in the alternative to the damages for copyright infringement set out in 1(f), above, at the Plaintiff's election at any time before final judgment is rendered, statutory damages pursuant to s. 38.1(a) or 38.1(b) of the *Copyright Act*, as the case may be;
 - (h) pre-judgment and post-judgment interest in accordance with sections 36 and 37 of the *Federal Court Act*, R.S.C. 1985, c. F-7;
 - (i) costs of this action on a solicitor and client scale together with applicable taxes, or in the alternative, any other scale that is just;

- (j) relief in accordance with Rule 298(2) to permit motions to:
 - (i) identify the anonymous Defendants;
 - (ii) amend the Statement of Claim to add further Defendants or remove Defendants, as the case may be; and
 - (iii) case manage this action; and
- (k) such further relief as is requested by the Plaintiff and that this Honourable Court finds just.

THE PARTIES

The Plaintiff and the Copyright in the Work

2. The Plaintiff, Voltage Holdings, LLC POW Nevada, LLC (“**Plaintiff**”) is a movie production company that produces cinematographic works.
3. The Work is a 2017 science-fiction film.
4. By Assignment dated May 1, 2019 from POW Nevada, LLC, the former plaintiff in this action, to Voltage Holdings, LLC (“Plaintiff”), the Plaintiff is the owner of the copyright in the Work.

Each Defendant’s Wrongful Conduct

5. Each “Doe” Defendant (a “**Doe Defendant**”) is a person whose name and identity is currently unknown to the Plaintiff. Each Doe Defendant has unlawfully, and without the Plaintiff’s authorization or consent, utilized the BitTorrent peer-to-peer network to download and/or unlawfully offer to upload the Work thus infringing the Plaintiff’s copyright in the Work. Each other Defendant, as the case may be, was a “Doe” Defendant but has subsequently been identified.
6. Each Defendant has been identified by the internet protocol (“**IP**”) address used by the Defendant when performing the Unlawful Acts, as set out in Schedule 1 to this Claim.
7. Specifically, but without limitation, the Defendant engaged in the Unlawful Acts at least on the dates and times set out in Schedule 1 to this Claim.

8. In accordance with the provisions of s. 41.25 and s. 41.26 of the *Copyright Act* each Defendant was notified of his or her Unlawful Acts by Notice a first notice (the "**First Notice**"). The First Notice informed each Defendant that they had been detected by forensic software as offering for upload the Work, and indicated that if the Work was taken down that there would be no action taken as against such Defendant. Each Defendant failed to respond, or refused to respond, to the First Notice and continued his or her Unlawful Acts.
9. As a result of each Defendant's failure to respond to the First Notice and his or her continuation of the Unlawful Acts, a second notice (the "**Second Notice**") was sent to the Defendant by counsel for the Plaintiff after the forensic software detected that the same IP address was offering for upload the same Work. This Second Notice indicated that the work had not been removed and that legal action may be taken as against such Defendant. The Defendant failed or refused to respond to the Second Notice and has continued his or her Unlawful Acts.
10. In each case, the forensic software has downloaded a significant portion of the Work from each Defendant to confirm that the Work was in fact being offered for upload, and each Defendant has uploaded such portion of the Work without authorization from the Plaintiff.

THE UNLAWFUL OFFER TO UPLOAD THE WORK

11. Through custom-designed software designed to track copyright infringements, and the online identities of those who commit such infringements (by way of IP address and time of infringement), the Plaintiff has identified many thousand instances of its films (including the Work) being illegally offered for "download" from individuals using the internet.
12. Such users offering the Work for "download" are said to be "uploading" such Work. "Uploading" and "downloading" are terms of art in respect of computer file transfers on the internet. A user "uploads" a computer file to someone who requests the file from such user. A user "downloads" a computer file from someone who "uploads" that file to them. In other words, an "uploader" offers a Work for download and when requested, sends that file (or a portion of that file) to the downloader. A computer file can, for example, be a copy of a Work.

13. Offering a Work for download via the internet, including by way of the Unlawful Acts or similar acts, is, *inter alia*, a communication of such Work to the public by way of telecommunication, as set out in s. 3(f) of the *Copyright Act*, and an unlawful offer to upload is therefore a violation of the rights set out in s. 3 of the *Copyright Act* that are reserved to the owner of copyright in the Work alone. The Plaintiff further pleads and relies on s. 2.4(1.1) of the *Copyright Act*.
14. The offer to upload and the uploading of the Work by the Defendant is a clear infringement of the Plaintiff's copyright for which there is no available defence, including any defence related to fair dealing, whether pursuant to the *Copyright Act* or otherwise.

THE BitTORRENT PROTOCOL FOR "SHARING" COMPUTER FILES

15. Each Defendant has infringed the Plaintiff's copyright in the Work through the use of various types of computer software using the "BitTorrent" protocol. BitTorrent is a popular peer-to-peer ("**P2P**") "file sharing" protocol which enables the distribution of computer files over the internet between individual internet users.
16. A user who wishes to upload or download a computer file, which could include a motion picture, music, computer software or other forms of computer files, can run a program that implements the BitTorrent protocol. There are many forms of programs that run the BitTorrent protocol, each of which works in a similar fashion.
17. A user who wishes to "share" a computer file (e.g. the Work) with other users of the BitTorrent software places that computer file in a computer location (a "folder") that is known to the specific software that is running the BitTorrent protocol. The BitTorrent software then offers that file for download to anyone who is using compatible BitTorrent software and who requests that particular file.
18. A user then starts downloading a file by requesting it from the uploader who has offered that file for download. When a file is "uploaded" by the uploader to the requesting user using this protocol, the uploader is "seeding" that file. Other users of the BitTorrent software (called "peers") are able to connect directly to the user(s) seeding the file and can begin downloading it. In an automated collaborative process, each "peer" or "seed" who has a copy of the same specific file in question (or a portion thereof) can then share that file (or portions of it) with others. In normal operation, many users will provide portions

of a file to the person requesting the file. It would be unusual for a single uploader to transmit the entire file to the requesting user.

19. Typically, BitTorrent software breaks a file into numerous small portions (“data packets”), each of which is identifiable by a unique “hash” number created using a mathematical algorithm. Once the file is broken down into these smaller packets, peers can download different segments of the same file from different users by reference to this hash. The file itself has its own hash identifier that uniquely identifies it across the BitTorrent network.
20. As peers download the various packets which, when taken together constitute the entire file, those same individuals then typically become seeders for other users who wish to download the same material.
21. Eventually, the entire computer file is obtained by downloading from one or many persons all of the required packets, and the BitTorrent software assembles the completed computer file on the downloader’s computer. Any particular uploader may have only provided a small portion of the entire file that was downloaded, or it may have provided a large portion of the entire file, or the entire file. The downloader (peer) then eventually becomes a “seeder” and can thereafter distribute the computer file to other users connected to the BitTorrent network.
22. A user does not typically copy an entire file from one user, but from multiple “peers” that have previously downloaded the file and have it available through their BitTorrent software.
23. In normal operation, every user who is copying or who has copied a file is simultaneously distributing portions of that same file to every other downloader of that file that is connected to the BitTorrent network. This distributes the work of copying the file over many computers and internet connections and tends to minimize data transfers from any one individual.
24. The BitTorrent network is an international network that takes place over the internet. It is not typically limited to any one jurisdiction or nationality. In this Action, each Defendant has been identified by an IP address that is believed to be located in Canada.
25. For the purposes of this proceeding, the following shall be referred to as the Unlawful Acts of each Defendant:

- (a) making the Work available for download by means of the BitTorrent network by offering the file for uploading, in the manner as set out above;
- (b) advertising by way of the BitTorrent protocol that the Work was available for download; and
- (c) failing to take reasonable, or any, steps to ensure that a person downloading the Work was authorized to do so by law.

IP ADDRESSES

- 26. An IP address is a unique, numerical label which is assigned to every device, such as a computer, router or switch, connected to the internet. An IP address allows the location of these devices to be determined by other devices using the internet, and for data to be sent to such device, and differentiated from other devices. One of the core functions of an IP address is to allow data sent over the internet to be received by the intended recipient device.
- 27. An internet service provider (or ISP) allocates an IP address to devices connected to its network. ISP's are assigned blocks or ranges of IP addresses. The range assigned to any ISP can be found in publicly available databases on the internet. It is therefore possible to determine which ISP has allocated a particular IP address at a particular date and time.
- 28. ISP's track the IP addresses assigned to their customers at any given time and retain "user logs" of that information. Only the ISP can correlate an IP address to the identity of its customer.
- 29. The "customer" may be the infringer of copyright, in particular if the assigned IP address is only used by a single device.
- 30. In many cases, the ISP's customer may be the owner of a "router", a device that shares the internet connection (and the specifically allocated IP address) with other devices connected to it. In that case, the customer should have, and ought to have, the knowledge of who was using the customer's internet account at the specifically identified date and time.

31. Each Defendant was allocated and/or used a specific IP address at a specific date and time when engaging in the Unlawful Acts as set out in Schedule 1 to this Claim. The identity of each anonymous Doe Defendant may be determined by tracing the customer of the ISP and perhaps by further examination of the customer.

THE PLAINTIFF OWNS THE COPYRIGHT

32. The Plaintiff pleads that the Work is an original cinematographic, artistic and dramatic work in which copyright subsists, in accordance with ss. 2 and 5 of the *Copyright Act*. The Plaintiff further pleads that the Work is original and originates from its author's and maker's skill and judgment.
33. The Plaintiff pleads and relies upon the statutory presumptions of the *Copyright Act*, including s. 34.1 and in particular ss. 34.1(1)(a), 34.1(1)(b) and 34.1(2)(c).
34. The "credits" of the Work list the Plaintiff as owning the copyright in the Work.

THE INFRINGEMENT

35. The Plaintiff employs forensic software (the "**Forensic Software**") to scan BitTorrent networks for the presence of copyrighted motion pictures, including the Work.
36. The Forensic Software searches BitTorrent networks for computer files corresponding to the Work and it has identified the IP address of each person who was offering any of these files for transfer or distribution. This information is available to anyone that is connected to the BitTorrent network.
37. The Plaintiff, or agents thereof, have downloaded copies of the Work available for download on the BitTorrent networks to verify that what appears to be the Work are, in fact, the Work.
38. The Plaintiff has further scanned the internet for Canadian uploaders of the Work. In respect of each person located offering to upload the Work, or in other words, offering the Work for download, the Plaintiff recorded the following identifying information:
- (a) the IP address assigned to the uploader by his or her ISP at the time of the scan;

- (b) the date and time at which the Work was available for distribution by the uploader in the form of a computer file; and
 - (c) data about the file (*i.e.* the file's metadata) which includes the name of the computer file containing the Work and the size of the file, as well as the BitTorrent "hash" identifying the particular version of the Work.
39. Using this method, the Plaintiff identified each Defendant as being a person unlawfully offering to upload the Work by engaging in the Unlawful Acts.
40. Section 3 of the *Copyright Act* sets out the rights reserved to the owner of copyright and their licensees in respect of an original work.
41. Pursuant to s. 3(1)(f) of the *Copyright Act*, "copyright" in relation to a work means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatever, and includes the sole right to, in the case of any literary, dramatic, musical or artistic work, to communicate the work to the public by telecommunication.
42. Pursuant to s. 27(1) of the *Copyright Act*, it is an infringement of copyright for any person to do, without the consent of the owner of the copyright, anything that by the *Copyright Act* only the owner of copyright has the right to do.
43. Pursuant to ss. 27(2)(b), (c), (d) and (e) of the *Copyright Act*, it is an infringement of copyright for any person to engage in certain prohibited acts of "secondary infringement" in respect of a copy of a work that the person knows or should have known infringes copyright or would infringe copyright if it had been made in Canada by the person who made it by:
- (a) distributing the work to such an extent as to affect prejudicially the owner of the copyright;
 - (b) by way of trade distribute, expose or offer for sale or rental, or exhibit in public a work; or
 - (c) possess a work for the purposes of (a) or (b), above.
44. Each Defendant is offering and has offered to upload the Work using the BitTorrent protocol. The Plaintiff pleads that such offering to upload is, *inter alia*, a communication to

the public via telecommunication within the meaning of the *Copyright Act*, and as a result violates s. 27(1). Further the Unlawful Acts are an unauthorized reproduction of the Work, and therefore, each Defendant has unlawfully reproduced the Work and infringed the copyright in the Work in accordance with s. 27(1) of the *Copyright Act*.

45. The act of offering to upload the Work to any person who seeks to download such Work further:
- (a) distributes such Work to such an extent as to affect prejudicially the Plaintiff;
 - (b) by way of trade distributes and exposes such Work; and
 - (c) possesses such Work for the purposes of doing the acts set out in paragraphs (a) and (b), above.
46. The Defendant knew or should have known that the making of a copy of such Work would infringe the copyright in such Work if it had been made in Canada by the person who made it. As such, the Defendant has infringed copyright contrary to ss. 27(2)(b), (c), (d) and (e) of the *Copyright Act*.

ALTERNATIVE GROUNDS IF DEFENDANT IS NOT DIRECT INFRINGER

47. Alternatively, some of the Defendants may not be the direct infringer, but through negligence or wilful blindness has authorized others to do the foregoing acts, including the Unlawful Acts. In this regard, the Plaintiff pleads that each Defendant possessed sufficient control over the use of his or her internet account and associated computers and internet devices such that he or she authorized, sanctioned, approved or countenanced the infringements as particularized herein, including by engaging in the Unlawful Acts.
48. Each Defendant was provided with prior notice (the First Notice) that such Defendant's internet account was being used in a way that infringed the Plaintiff's copyright, and yet such Defendant did nothing to prevent or cease the infringement. Each Defendant therefore knew or should have known that their internet account was being used contrary to s. 27(1) and s. 27(2) of the *Copyright Act*.
49. The Plaintiff further pleads that to the extent that a Defendant is the direct customer of an ISP, and therefore is the internet account owner in respect of the internet account

associated with a particular IP address identified to be associated with an infringement of a Work, they are liable for the copyright infringements particularized herein for the reasons set out above.

NO CONSENT OF PLAINTIFF

50. All of the aforementioned acts by each Defendant has been without the authorization or consent of the Plaintiff.
51. The Plaintiff pleads that none of the defences contained in the *Copyright Act*, including those contained in sections 29, 29.1, 29.2, 29.21, 29.22, 29.23, 29.24, 29.4, 29.5, 29.6, 29.7 and 32.2 therein, or at common law, to the extent such defences exist, apply or could apply in the circumstances set out herein. In particular, the Plaintiff pleads that each Defendant has no possible legal or factual basis sufficient to support a defence to his or her infringement as a result of their engaging in the Unlawful Acts.

THE SIGNIFICANT DAMAGES CAUSED BY THE INFRINGEMENT

52. The Plaintiff has suffered, and continues to suffer, significant damages from the unlawful actions of each Defendant, including his or her illegal offering to upload of, and infringement of the copyright in, the Work. The Plaintiff and its distributors have expended significant resources in producing and distributing the Work which each Defendant has blatantly and unlawfully offered to distribute, and in fact has distributed, over the internet without providing any compensation to the Plaintiff.
53. The Plaintiff generates its revenue through the lawful distribution and sales of its motion pictures, including the Work. The sole purpose and effect of the Unlawful Acts is to permit consumers to receive and view the Work without payment to the Plaintiff, or any other authorized person, or to incur any other charge. The activities of each Defendant are carried out intentionally, with full knowledge that what he or she is doing infringes copyright and is without the Plaintiff's consent. As a direct, foreseeable and proximate result of the Unlawful Acts, each Defendant has avoided costs and therefore has made unlawful profits. Each Defendant has caused damage to the Plaintiff and has made unlawful profits at the Plaintiff's expense.

54. Unless enjoined by this Honourable Court, each Defendant will continue to engage in the Unlawful Acts, and will continue to cause significant and irreparable damage to the Plaintiff.
55. The Plaintiff pleads and relies upon Rules 292 - 299 of the *Federal Courts Rules*, as the monetary relief sought herein will not exceed \$50,000.00.
56. Such further and other grounds as this Honourable Court may permit.
57. The Plaintiff proposes that this action be tried at Toronto.



Date: ~~March 15, 2018~~

Amended: September 17, 2019

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Counsel for the Plaintiff

**SCHEDULE 1 – LIST OF DEFENDANTS AND SPECIFIC INFORMATION REGARDING
INFRINGEMENTS OF SUCH DEFENDANTS**

	name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
1.	Doe #1 name and address unknown	156.34.2.57	2017-09-23 12:14:22	2017-10-03 15:41:47
2.	Doe #2 name and address unknown	156.34.180.12	2017-09-23 14:26:32	2017-10-01 03:36:54
3.	Doe #3 name and address unknown	142.162.128.245	2017-09-23 14:13:46	2017-10-01 10:05:58
4.	Doe #4 name and address unknown	47.54.165.90	2017-09-22 21:55:01	2017-10-02 23:33:27
5.	Doe #5 name and address unknown	156.57.220.81	2017-09-24 14:49:05	2017-11-03 00:35:45
6.	Doe #6 name and address unknown	108.175.82.55	2017-09-24 23:55:18	2017-10-03 21:25:32
7.	Doe #7 name and address unknown	47.55.135.155	2017-09-28 12:02:47	2017-10-06 16:46:00
8.	Doe #8 name and address unknown	99.192.57.154	2017-10-03 15:46:37	2017-10-15 17:37:56
9.	Doe #9 name and address unknown	99.192.98.62	2017-10-21 01:18:19	2017-10-29 01:16:02
10.	Doe #10 name and address unknown	156.34.231.116	2017-10-23 21:20:10	2017-11-08 04:56:55
11.	Doe #11 name and address unknown	99.192.98.54	2017-10-31 15:58:55	2017-11-08 02:13:16
12.	Doe #12 name and address unknown	142.166.216.146	2017-11-02 00:08:42	2017-11-10 04:39:17
13.	Doe #13 name and address unknown	142.177.66.92	2017-11-22 12:29:40	2017-11-30 00:30:50
14.	Doe #14 name and address unknown	47.55.141.234	2017-12-06 05:04:51	2017-12-17 10:23:54
15.	Doe #15 name and address unknown	142.167.107.117	2018-01-08 02:54:10	2018-01-16 07:38:54
16.	Doe #16 name and address unknown	142.162.97.180	2018-01-08 22:17:39	2018-01-22 04:03:57
17.	Doe #17 name and address unknown	70.26.9.128	2017-09-04 15:47:34	2017-09-22 20:40:39
18.	Doe #18 name and address unknown	67.68.98.171	2017-09-09 17:37:40	2017-09-24 19:40:14
19.	Doe #19 name and address unknown	67.68.221.129	2017-09-21 18:07:52	2017-09-30 15:19:05
20.	Doe #20 name and address unknown	76.68.210.170	2017-09-23 04:08:35	2017-10-07 23:12:04
21.	Doe #21 name and address unknown	64.228.79.220	2017-09-23 02:44:57	2017-10-01 00:14:25
22.	Doe #22 name and address unknown	70.51.181.6	2017-09-21 23:51:26	2017-10-20 13:09:37
23.	Doe #23 name and address unknown	65.93.22.84	2017-09-23 14:20:10	2017-11-01 01:52:09

	name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
24.	Doe #24 name and address unknown	65.93.37.104	2017-09-22 20:29:47	2017-10-01 02:13:30
25.	Doe #25 name and address unknown	70.52.111.190	2017-09-24 23:22:52	2017-10-06 01:28:51
26.	Doe #26 name and address unknown	174.95.209.150	2017-09-28 20:57:47	2017-10-10 00:16:33
27.	Doe #27 name and address unknown	174.91.58.211	2017-10-01 19:28:16	2017-10-12 07:30:15
28.	Doe #27 name and address unknown	69.158.120.153	2017-10-02 02:10:25	2017-10-15 18:12:41
29.	Doe #29 name and address unknown	69.157.112.66	2017-10-08 17:07:02	2017-10-26 09:23:29
30.	Doe #30 name and address unknown	70.54.41.122	2017-10-09 23:43:14	2017-10-19 08:17:40
31.	Doe #31 name and address unknown	76.68.166.197	2017-10-18 14:47:27	2017-10-28 15:44:59
32.	Doe #32 name and address unknown	174.94.24.88	2017-10-25 04:34:03	2017-11-12 04:05:48
33.	Doe #33 name and address unknown	76.68.165.22	2017-10-28 17:13:06	2017-11-19 05:22:22
34.	Doe #34 name and address unknown	70.55.183.190	2017-11-02 18:51:24	2017-11-11 03:31:49
35.	Doe #35 name and address unknown	70.53.243.234	2017-11-05 15:17:04	2017-12-01 23:56:50
36.	Doe #36 name and address unknown	67.70.141.111	2017-11-22 21:18:01	2017-12-01 16:44:10
37.	Doe #37 name and address unknown	174.89.225.185	2017-11-23 04:26:11	2017-12-08 22:56:01
38.	Doe #38 name and address unknown	50.100.143.185	2017-12-05 02:37:09	2017-12-26 21:59:23
39.	Doe #39 name and address unknown	70.26.230.20	2017-12-11 10:14:24	2017-12-19 08:30:27
40.	Doe #40 name and address unknown	65.92.242.120	2017-12-10 10:35:07	2017-12-19 02:23:52
41.	Doe #41 name and address unknown	174.91.250.77	2017-12-13 01:14:38	2017-12-22 02:07:19
42.	Doe #42 name and address unknown	76.64.239.125	2017-12-12 22:24:35	2017-12-23 01:07:57
43.	Doe #43 name and address unknown	70.31.230.190	2017-12-13 06:05:28	2017-12-21 09:26:03
44.	Doe #44 name and address unknown	70.26.203.10	2017-12-13 05:52:54	2017-12-21 04:56:51
45.	Doe #45 name and address unknown	74.12.216.135	2017-12-13 05:47:10	2017-12-22 01:36:51
46.	Doe #46 name and address unknown	70.49.66.137	2017-12-13 05:46:33	2017-12-21 19:44:48
47.	Doe #47 name and address unknown	67.68.201.148	2017-12-13 05:02:09	2017-12-21 08:04:36
48.	Doe #48 name and address unknown	184.145.217.50	2017-12-13 02:10:19	2017-12-21 19:19:35

	name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
49.	Doe #49 name and address unknown	70.30.248.51	2017-12-13 00:41:32	2017-12-21 03:10:12
50.	Doe #50 name and address unknown	70.51.141.35	2017-12-13 11:00:17	2017-12-21 09:45:38
51.	Doe #51 name and address unknown	65.92.23.220	2017-12-15 05:04:17	2017-12-25 01:13:54
52.	Doe #52 name and address unknown	70.49.77.208	2017-12-15 18:16:58	2017-12-24 03:42:10
53.	Doe #53 name and address unknown	184.148.213.254	2017-12-17 07:22:22	2017-12-26 04:41:57
54.	Doe #54 name and address unknown	70.53.216.231	2017-12-17 07:15:20	2018-01-12 00:00:01
55.	Doe #55 name and address unknown	76.69.176.159	2017-12-18 00:58:02	2017-12-26 04:53:20
56.	Doe #56 name and address unknown	174.92.168.219	2017-12-19 08:26:54	2018-01-03 12:56:12
57.	Doe #57 name and address unknown	50.100.131.28	2017-12-20 23:14:07	2017-12-29 15:04:57
58.	Doe #58 name and address unknown	70.30.252.247	2017-12-20 23:08:22	2017-12-31 02:49:11
59.	Doe #59 name and address unknown	70.55.52.99	2017-12-24 05:25:07	2018-01-01 22:58:59
60.	Doe #60 name and address unknown	76.68.216.130	2017-12-25 05:04:52	2018-01-04 07:00:02
61.	Doe #61 name and address unknown	70.31.231.239	2017-12-28 11:53:40	2018-01-05 01:22:19
62.	Doe #62 name and address unknown	174.95.184.185	2017-12-29 03:47:51	2018-01-13 03:39:00
63.	Doe #63 name and address unknown	184.144.235.232	2017-12-30 11:35:25	2018-01-07 06:08:07
64.	Doe #64 name and address unknown	76.69.134.82	2018-01-01 23:48:55	2018-01-15 05:11:09
65.	Doe #65 name and address unknown	76.71.168.102	2018-01-03 03:32:41	2018-01-18 02:42:22
66.	Doe #66 name and address unknown	174.95.132.108	2018-01-04 01:18:07	2018-01-18 22:35:41
67.	Doe #67 name and address unknown	69.156.112.15	2018-01-05 11:06:28	2018-01-23 15:47:35
68.	Doe #68 name and address unknown	67.70.207.242	2018-01-07 06:17:38	2018-01-15 04:51:47
69.	Doe #69 name and address unknown	74.14.196.10	2018-01-10 04:34:22	2018-01-18 03:33:40
70.	Doe #70 name and address unknown	67.68.60.66	2018-01-18 00:38:08	2018-01-27 02:07:11
71.	Doe #71 name and address unknown	99.250.77.228	2017-08-09 02:25:50	2017-09-19 23:39:18
72.	Doe #72 name and address unknown	99.254.226.230	2017-08-08 04:08:35	2017-10-07 04:50:47
73.	Doe #73 name and address unknown	174.119.133.153	2017-08-16 02:02:32	2017-09-09 00:55:40

	name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
74.	Doe #74 name and address unknown	99.242.225.141	2017-08-26 23:11:41	2017-09-29 16:38:41
75.	Doe #75 name and address unknown	99.243.54.76	2017-09-23 13:47:35	2017-10-01 19:52:51
76.	Doe #76 name and address unknown	174.115.223.47	2017-09-23 12:59:57	2017-10-01 05:25:36
77.	Doe #77 name and address unknown	99.225.244.134	2017-09-23 01:32:44	2017-10-01 13:10:09
78.	Doe #78 name and address unknown	99.251.17.193	2017-09-22 20:08:09	2017-12-05 06:34:35
79.	Doe #79 name and address unknown	99.238.24.230	2017-09-21 20:40:34	2018-01-03 23:39:31
80.	Doe #80 name and address unknown	174.113.37.233	2017-09-23 10:20:25	2017-12-16 11:58:11
81.	Doe #81 name and address unknown	99.251.36.235	2017-09-23 21:20:25	2017-10-02 01:38:37
82.	Doe #82 name and address unknown	99.240.232.60	2017-09-23 18:23:11	2017-10-06 18:41:04
83.	Doe #83 name and address unknown	174.119.76.216	2017-09-23 17:50:23	2017-10-02 03:40:33
84.	Doe #84 name and address unknown	174.113.26.41	2017-09-23 14:39:49	2017-10-20 15:16:17
85.	Doe #85 name and address unknown	99.242.168.234	2017-09-24 04:39:22	2017-10-04 01:19:55
86.	Doe #86 name and address unknown	174.115.198.172	2017-09-24 15:23:27	2017-10-02 13:05:11
87.	Doe #87 name and address unknown	174.118.22.63	2017-09-25 00:58:28	2017-10-03 02:50:52
88.	Doe #88 name and address unknown	99.250.125.39	2017-09-25 00:39:34	2017-10-03 05:10:33
89.	Doe #89 name and address unknown	174.117.250.146	2017-09-25 08:21:03	2017-10-03 00:53:48
90.	Doe #90 name and address unknown	99.248.48.8	2017-09-25 08:00:36	2017-10-09 06:45:26
91.	Doe #91 name and address unknown	99.233.136.132	2017-09-25 02:25:26	2017-10-09 06:52:02
92.	Doe #92 name and address unknown	99.237.68.211	2017-09-24 12:42:10	2017-10-06 18:28:45
93.	Doe #93 name and address unknown	174.112.229.30	2017-09-27 13:39:43	2017-10-05 12:42:04
94.	Doe #94 name and address unknown	99.255.192.147	2017-09-27 21:39:25	2017-10-11 20:40:35
95.	Doe #95 name and address unknown	99.237.79.94	2017-10-01 03:20:36	2017-10-15 03:27:19
96.	Doe #96 name and address unknown	174.115.30.171	2017-10-01 13:20:23	2017-10-11 01:21:58
97.	Doe #97 name and address unknown	99.248.153.126	2017-10-02 23:25:56	2017-10-15 20:10:47
98.	Doe #98 name and address unknown	99.249.220.227	2017-10-04 02:52:08	2017-10-15 20:09:51

	name & Address	IP Address	1 st Notice Date & Time (UTC) of Infringement	2 nd Notice Date & Time (UTC) of Infringement
99.	Doe #99 name and address unknown	99.232.231.43	2017-10-05 21:33:07	2017-12-17 05:50:09
100.	Doe #100 name and address unknown	99.251.120.204	2017-10-14 00:42:35	2017-11-06 20:36:14
101.	Doe #101 name and address unknown	174.117.230.105	2017-10-24 00:49:47	2017-11-12 04:35:48
102.	Doe #102 name and address unknown	99.249.114.233	2017-10-28 01:13:01	2017-11-09 08:17:16
103.	Doe #103 name and address unknown	99.239.4.175	2017-10-28 07:37:12	2017-11-08 02:30:02
104.	Doe #104 name and address unknown	99.246.146.0	2017-11-05 21:57:09	2017-11-17 02:05:40
105.	Doe #105 name and address unknown	99.230.78.111	2017-11-09 06:35:11	2017-11-26 00:35:21
106.	Doe #106 name and address unknown	99.246.169.135	2017-11-29 07:16:31	2017-12-07 03:20:41
107.	Doe #107 name and address unknown	99.237.251.93	2017-12-19 18:59:47	2018-01-06 08:18:28
108.	Doe #108 name and address unknown	99.243.10.135	2017-12-25 01:12:13	2018-01-02 00:00:26
109.	Doe #109 name and address unknown	99.224.179.37	2017-12-30 01:43:44	2018-01-10 05:17:44
110.	Doe #110 name and address unknown	99.242.155.58	2018-01-06 01:05:59	2018-01-19 22:46:58

**SIMPLIFIED ACTION
FEDERAL COURT**

B E T W E E N:

VOLTAGE HOLDINGS, LLC

Plaintiff

- and -

**DOE # 1 et al.
(see Schedule 1 for list of Defendants)**

Defendants

AMENDED STATEMENT OF CLAIM

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Counsel for the Plaintiff

FEDERAL COURT OF APPEAL

BETWEEN:

VOLTAGE HOLDINGS, LLC

Appellant

- and -

DOE #1 et al.
(see Schedule 1 for list of
Defendants)

Respondents

- and -

SAMUELSON-GLUSHKO
CANADIAN INTERNET POLICY
& PUBLIC INTEREST CLINIC

Intervener

**VOLTAGE'S REPLY MEMORANDUM OF
FACT AND LAW**

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