

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION

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3	AF HOLDINGS, LLC,	)	Docket Number
4		)	2:12-CV-262-WCO
5		)	
6	v.	)	Rome, Georgia
7		)	July 2, 2013
8	RAJESH PATEL	)	
9		)	

TRANSCRIPT OF MOTIONS FOR SANCTIONS  
BEFORE THE HONORABLE WILLIAM C. O'KELLEY  
UNITED STATES DISTRICT JUDGE

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P R O C E E D I N G S

[in Gainesville, Hall County, Georgia; July 2, 2013;  
10:00 a.m.; in open court.]

THE CLERK: Calling for motion hearing on sanctions. Civil  
Action 2:12-CV-262. AF Holdings, LLC vs. Rajesh Patel.

Will counsel please state their name for the record.

MR. NAZAIRE: Jacques Nazaire, Your Honor, for AF Holdings.

MR. CHINTELLA: Blair Chintella, Your Honor, for Mr. Patel.

THE COURT: You're Blair Chintella?

MR. CHINTELLA: What's that, Your Honor?

THE COURT: You're Blair Chintella?

MR. CHINTELLA: Yes, sir.

THE COURT: Okay. All right. Counsel, this matter has gotten  
extensively protracted even though there's, really, few motions  
filed.

As I always do, I'll read you what the computer prints out as  
pending motions in this case. That is, a motion that is Docket Item  
Number 16, a Motion for Sanctions filed by the defendant in this  
case; Docket Item Number 21, a Motion for Sanctions filed by the  
plaintiff in this case; and Docket Item Number 30, another Motion for  
Sanctions filed by the defendant in this case.

Does that represent all of the pending motions for matters  
that are pending in this case?

MR. CHINTELLA: Docket Item Number 30, Your Honor, also  
includes a --

1 THE COURT: Beg your pardon?

2 MR. CHINTELLA: Docket Item Number 30, Your Honor, also  
3 includes a Motion to Strike in the same motion.

4 THE COURT: Is that contained in the same motion?

5 MR. CHINTELLA: Yes, Your Honor.

6 THE COURT: All right. So there's not another motion -- a  
7 separate motion other than Number 30?

8 MR. CHINTELLA: There's no separate filing, Your Honor.

9 THE COURT: All right. Mr. Nazaire.

10 MR. NAZAIRE: Yes, Your Honor, that is correct. That is  
11 correct.

12 THE COURT: All right. Okay. Defendant was the initial  
13 movant and the multiple movant so you may proceed with your  
14 presentation.

15 MR. CHINTELLA: Your Honor, this is my second time in front of  
16 you, so I'm glad to be back. And what we have here --

17 THE COURT: When was the first?

18 MR. CHINTELLA: Sorry, Your Honor?

19 THE COURT: When was the first?

20 MR. CHINTELLA: It was an in-chambers meeting about a year and  
21 a half ago, it was regarding these cases as well, and you had some  
22 poignant questions about wireless routers and how they can be hacked  
23 and their range and password protection.

24 What we're dealing with here today is the same type of case.  
25 Generally speaking, these cases involve -- they start off with a

1 large John Doe lawsuit and there are multiple John Does. I've been  
2 handling these cases for approximately two years, a little over two  
3 years, and they almost invariably start with a large John Doe case.  
4 They're never initially filed against individuals.

5 Part of the reason for that is because the plaintiff in these  
6 cases are only able to detect an IP address. I brought with me today  
7 an expert named Andrew Norton who if -- throughout this hearing, if  
8 there's any technical questions, I can attempt to qualify him as an  
9 expert on IP addresses or any other technical things that we're  
10 discussing today. Mr. Norton is sitting right there in the tie  
11 there.

12 Essentially the cases start off that way and they're almost,  
13 invariably, in a foreign or a distant jurisdiction, a state far away  
14 from most of the John Does. Back in 2010 these cases began being  
15 filed in D.C. As Your Honor can probably imagine, the primary reason  
16 is forum shopping. So plaintiffs will select a forum that is distant  
17 and cost prohibitive for anyone to challenge any of the subpoenas  
18 that are sent out.

19 What happens is that subpoenas are issued prior to the Rule 26  
20 conference. The requests for the subpoenas are relied upon technical  
21 reports. In preparing for this hearing I determined -- or I found  
22 out the case that preceded this one where my client was named in the  
23 case, as designated by his IP address, in the District of Columbia.  
24 And once -- in the District of Columbia, at any rate, the request for  
25 discovery almost invariably granted. I'm not aware of a single case

1 where they have not been granted.

2 So once the information is obtained -- depending on the law  
3 firm, they employ different strategies. But, overall, law firms will  
4 attempt to contact the people once they have their information and  
5 basically attempt to negotiate, pressure, or however you want to put  
6 it regarding settlement and demand letters are sent out. In most  
7 cases, phone calls are made sometimes.

8 The scope of the information that is obtained is more than  
9 what is required to just determine jurisdiction alone. So a person's  
10 name, address, phone number, email, all that information is obtained  
11 and they're contacted on multiple avenues and then attempted --  
12 pressured -- I like to say pressured, because I've spoken with a lot  
13 of clients about these cases and they feel pressured, basically, into  
14 settling. And the settlement demands typically range anywhere from  
15 2500 to 4,000 to 4500 or even higher.

16 The demand letters are very misleading. It's very high  
17 pressure. They assert that if you resist settlement, then you could  
18 end up facing \$150,000 in damages or copyright damages. They omit  
19 that it could have been somebody else in the household or it could  
20 have been an unsecured network and they say you may be liable. Those  
21 are the types of things that occur at that stage.

22 Now, with this particular law firm handling other cases.  
23 Prenda is the current law firm, but Prenda has a long history and  
24 it's, really, an amalgamation of multiple entities and multiple  
25 people and it's truly a nationwide, sort of, operation. I would

1 argue that it's more of a partnership or an enterprise among all the  
2 people involved rather than each having its separate role and  
3 following its separate corporate structure.

4 It began in 2010. I referenced this in the first motion,  
5 Docket Item Number 16. It basically begins with a story about how  
6 this particular firm got started. It started with Steele Hansmeier,  
7 which is a PLLC formed in Minnesota. It was formed by Paul Hansmeier  
8 and the two principals were John Steele and Paul Hansmeier who met in  
9 law school.

10 THE COURT: Well, now, let's back up a minute. You're getting  
11 off into a lot of things that -- you've been talking for quite a  
12 while --

13 MR. CHINTELLA: I apologize.

14 THE COURT: -- and you've yet to even say what your motion is.  
15 You're talking about a Prenda Law Firm and I'm looking at the  
16 complaint and I don't see a Prenda Law Firm listed anywhere. This  
17 complaint is signed by Mr. Nazaire. It doesn't say Prenda Law Firm  
18 anywhere on it. Neither does it say that on the docket sheet.

19 MR. CHINTELLA: Well, that's one of the issues we have in this  
20 case and it's one of the reasons that we feel sanctions are justified  
21 is that the plaintiff has failed to file a corporate disclosure  
22 statement. The form required in Georgia, Northern District at least,  
23 is more stringent than just the federal rule standard, so it requires  
24 disclosure of anyone with an interest in the litigation, not just  
25 someone --

1 THE COURT: Well, I understand that. You're doing exactly  
2 what I said you had not done already. I've given you a chance to  
3 present your case first. You've yet to tell me anything about a  
4 motion. I identified that you have two motions pending and you've  
5 yet to describe them, describe what they allege or what you're  
6 seeking. You just started into a historical narrative of what,  
7 quote, these people are doing. Well, I shouldn't put quotes around  
8 it, but what these people are doing.

9 MR. CHINTELLA: Yes, Your Honor.

10 THE COURT: Which includes the Prenda Law Firm and somebody  
11 else. Now, I'll have to say from the pleadings, the other side is  
12 worse about that than you.

13 MR. CHINTELLA: Thank you, Your Honor.

14 THE COURT: I think you ought to -- addressing this matter  
15 legally, you ought to start off by setting forth what your motion is,  
16 what it's predicated on and come from that rather than trying to give  
17 a political historical narrative.

18 MR. CHINTELLA: Thank you, Your Honor.

19 Our first motion, Docket Item Number 16, is essentially  
20 alleging -- or arguing that attorneys' fees are appropriate in this  
21 case as of the filing of the case, because it was filed in bad faith  
22 under the exception to the America Rule for Attorneys' Fees.

23 Motion Number 1 -- or, excuse me, 21 is by the plaintiff and  
24 it's basically a retaliatory sanctions motion claiming that we have  
25 no basis for a sanctions motion.

1           Number 30 is just reiterating a lot of the stuff. Also  
2           objecting to a lot of the stuff in their motion that we've already  
3           filed objections to as irrelevant. I could go into that. I didn't  
4           know what order the Court wanted to proceed as far as ruling on those  
5           objections. I'm prepared to discuss the very personal attacks in  
6           some of that and defend myself or discuss the relevance of those.

7           THE COURT: This is part of the reason I'm trying to get you  
8           to direct your arguments to a motion and what you're asking for. You  
9           might, as I've tried to do -- but you might try to distinguish  
10          between matters that address themselves to the lawsuit and matters  
11          that address themselves to personalities of the lawyers or personal  
12          data -- personal matters concerning the lawyers, I should say. All  
13          right.

14          MR. CHINTELLA: So, basically, the case was filed in bad  
15          faith. The reason for that is because of Prenda's long, long history  
16          of filing these cases across the country. Prior practices of Prenda,  
17          we believe, are relevant, not only of Prenda, but of the people that  
18          worked with Prenda over that historical period to show how the  
19          current case fits in with that scheme, because it truly is a national  
20          scheme.

21          Of the over 200 cases filed by the plaintiff across the  
22          country not a single one, that I'm aware of, has ever gone past  
23          discovery. Essentially, there have been several misrepresentations  
24          in this case. The technical reports that are relied on have never  
25          been tested. They are filed by Paul Hansmeier, his brother named



1 Peter Hansmeier.

2 There's question -- there's a question over whether the  
3 plaintiff actually owns the copyright. There's a forged signature --  
4 we would argue there's a forged signature on the copyright assignment  
5 agreement from the original owner to the plaintiff.

6 We would also object to the authenticity of the assignor's  
7 signature on there as well because of Prenda's long history of using  
8 shell companies, which there's more than ample evidence of,  
9 appropriating peoples' personalities. I can give multiple examples  
10 of that.

11 We would just -- we don't believe that the copyright  
12 assignment is authentic. Especially the recent statements by the  
13 members of Prenda in other cases where there are -- and opposing  
14 counsel has said that John Steele has ownership in AF Holdings and  
15 Livewire Holdings owns -- supposedly, owns the plaintiff. But then  
16 we have contradictory statements saying that a trust based in Saint  
17 Kitts and Nevis owns the plaintiff. No corporate disclosure  
18 statement has been filed here. So we would argue that all that goes  
19 to a bad faith filing where there's no way they could prove the  
20 copyright ownership in this case. So they don't have standing to  
21 bring the case.

22 Essentially, my client was dismissed voluntarily because he  
23 was about to put up a fight, which is what Prenda does over this long  
24 history of all these cases across the country, whenever they meet  
25 resistance or somebody who doesn't want to settle or is willing to

1 put up a fight. That's the essential basis of our argument and it  
2 relies a lot -- or much on the history of Prenda and the principals.

3 The connection between Prenda and this current counsel is  
4 that -- first of all, in the complaint itself, it lists a Prenda  
5 email address on the complaint. So at the very bottom Brett Gibbs --  
6 it says BLGibbs@wefightpiracy.com. Wefightpiracy.com is the website  
7 for Prenda, it was the website for Steele Hansmeier, the predecessor  
8 to Prenda, and it is the website for Anti-Piracy Law Group, the  
9 successor to Prenda. We have evidence here that will show that John  
10 Steele is the accountholder for that website and he's one of the  
11 characters that are mentioned in our filings.

12 Not only that, those records will show that Alan Cooper, whose  
13 signature was forged on the copyright assignment, his email address  
14 was used on the records for that website. So essentially John Steele  
15 is using Alan Cooper's email address and information. There are  
16 other instances of entities across the country where Alan Cooper is  
17 used by John Steele.

18 Plaintiff is based in Nevis. Paul Hansmeier recently did a  
19 deposition in California and he testified that Nevis -- or plaintiff  
20 has never paid any taxes in the United States or Nevis or Saint  
21 Kitts. It does not realize revenue. The only revenue that,  
22 Hansmeier says, that it realizes is the increase in the value of its  
23 assets, which are these copyrights.

24 We'll also show that it was filed in bad faith because the  
25 movie itself is being marketed right now, and Hansmeier says in his

1 deposition that it's not being marketed and that the plaintiff's only  
2 source of income is just from the increase in the value, but it  
3 hasn't realized it yet because of the piracy that's still ongoing.  
4 That's the basis of our argument, Your Honor.

5 THE COURT: Have you taken any depositions or any form of  
6 discovery in regard to these motions?

7 MR. CHINTELLA: We have not had the opportunity, Your Honor.  
8 The only thing we're relying on is we've had to pull a lot of  
9 information from other cases because this case was dismissed against  
10 our -- you know, at the plaintiff's prerogative.

11 Initially, when this case was filed, I had a conversation with  
12 opposing counsel and he initially said that he was not going to  
13 oppose setting aside the entry of default. I communicated my  
14 client's willingness to basically fight this case and plaintiff's  
15 counsel wanted us to agree to a dismissal with each side paying their  
16 own attorneys' fees, and I want to leave that door open to my client.  
17 That's where the negotiations broke down. So they did a voluntarily  
18 dismissal and we filed the Motion for Attorneys' Fees under -- at the  
19 time was the only avenue I thought was available.

20 Since researching this case I have found this other case in  
21 D.C., and we are considering filing a motion to open the time period  
22 to file another Motion for Attorneys' Fees because this will be the  
23 second dismissal of a case. Not only that, it's a dismissal with  
24 prejudice. So we believe there are --

25 THE COURT: Wait. You say it's the second dismissal of the

1 case. Of this case?

2 MR. CHINTELLA: I'm sorry. Under the -- I believe it's Rule  
3 42, it's the same subject matter of a case involving the same subject  
4 matter, then if that's dismissed, then a second one that is dismissed  
5 operates as an adjudication on the merits, that would be our  
6 argument. And it's not the same party --

7 THE COURT: Has there been another suit filed by this  
8 plaintiff against this defendant somewhere else?

9 MR. CHINTELLA: The rule doesn't state it has to be the same  
10 defendant. It just says the same cause of action based on the same  
11 facts. And so the first John Doe case in D.C. was dismissed and then  
12 this one was dismissed as well, we would argue that's a second  
13 dismissal. But moreover, that this dismissal was with prejudice.  
14 So, really, there are two grounds to conclude that we are prevailing  
15 party status under that rule.

16 So, you know, that is one option that I was not able to do at  
17 the time, so we filed this motion until I found the other case.  
18 There are 200 cases across the country, and these cases list these IP  
19 addresses, these attachments, and so I had to go out and try to find  
20 all these hundreds of cases where my client's IP address could  
21 possibly have been. So that was the process for that.

22 We would, you know, ask the Court -- or make another motion,  
23 an oral motion to extend the time to file that Motion for Attorneys'  
24 Fees, if the Court feels there's any question as to bad faith in this  
25 case, so that the same fact of law, the same factors are considered

1 under that motion.

2 THE COURT: Well, you presently have a motion pending --

3 MR. CHINTELLA: Yes, Your Honor.

4 THE COURT: -- for Sanctions which includes attorneys' fees,  
5 does it not?

6 MR. CHINTELLA: It does, Your Honor. We would posit that the  
7 bad faith standard's harder to meet than the copyright attorneys'  
8 fees statute. That's why we would suggest that.

9 We're prepared to bring forth evidence of the overview --  
10 supporting the overview that I just gave in any fashion that the  
11 Court finds useful, whether it be on the computer or I brought some  
12 paper copies. There's voluminous evidence in cases spread across the  
13 country and I've really paired it down.

14 THE COURT: You need to bring in evidence here, not refer to  
15 evidence in other courts. This Court's not going to operate on the  
16 fact that there's evidence been introduced in the District of  
17 Columbia or in California or elsewhere. You've got to present  
18 evidence here to support whatever it is you claim.

19 Now, what's your second motion?

20 MR. CHINTELLA: The second motion -- may I step behind and  
21 pull it up for Your Honor so I can make sure?

22 THE COURT: All right. If you're just pulling it up for me to  
23 read, I've got it here for that purpose. I was inviting your  
24 argument in regard to it.

25 MR. CHINTELLA: Our second motion, Your Honor, is -- the

1 second motion, the gist of that motion is the argument that sanctions  
2 are justified because the plaintiff has filed pleadings in violation  
3 of the local rules. Specifically, Local Rule 7.1, which only permits  
4 a motion, response and reply.

5 A reply -- a response and reply were filed, but there was a  
6 mistake and, basically, to justify that mistake they just filed  
7 another document and they rehashed all the same arguments and they  
8 included more inflammatory stuff in there, which we would argue is  
9 sufficient basis by itself to impose sanctions when stuff like the  
10 stuff that is included in there -- for example, mentioning --  
11 referring to plaintiff's counsel -- or defense counsel as associated  
12 with a terrorist organization.

13 THE COURT: Defendant what?

14 MR. CHINTELLA: Defendant's counsel, myself, as being  
15 associated with an organization that shares terrorist goals, with an  
16 organization like WikiLeaks, but not giving any examples of what  
17 these terrorist goals are.

18 Mentioning, of course, a criminal record, which Your Honor is  
19 obviously aware of as far as reading the memorandums. I mean, I can  
20 speak personally on those things, but professionally, after thinking  
21 about it, my approach was to try to just object to the relevance of  
22 it instead of respond to that stuff in the filings. But we would  
23 argue that that constitutes bad faith -- as further evidence of the  
24 bad faith in these types of cases.

25 I can go through the evidence on the first motion, if Your

1 Honor would like.

2 THE COURT: Whatever you want to do in the way of  
3 presentation.

4 MR. CHINTELLA: All right. May I approach Your Honor or hand  
5 a document to you?

6 THE COURT: Just hand them to the clerk.

7 MR. CHINTELLA: What you're looking at is a filing in this  
8 case, it's a single page of ECF Entry Number 20. What has been  
9 highlighted is a statement or an argument made by plaintiff's counsel  
10 wherein he states: "Brett Gibbs is a fairly new attorney. The  
11 undersigned would not assign Brett Gibbs to negotiate a left turn  
12 with his vehicle, let alone a settlement on behalf of a client,  
13 regardless of whether the case was venued in Georgia, California or  
14 Afghanistan. While Gibbs may be a pleasant young man, to assert that  
15 plaintiff's attorney takes orders from Brett Gibbs is absurd and  
16 laughable."

17 THE REPORTER: I'm sorry. Could you slow down?

18 MR. CHINTELLA: I'm sorry.

19 THE REPORTER: It's okay.

20 MR. CHINTELLA: I would just like to -- what I'm holding in my  
21 hand, Your Honor, here are emails from July 18th of 2012 wherein I am  
22 negotiating a settlement with opposing counsel and Mr. Gibbs, the  
23 same attorney who opposing counsel claims would not -- he would not  
24 let him negotiate a left turn, I believe.

25 This type of behavior is typical in these cases, and I have

1 multiple examples of -- I imagine the Court's not interested in all  
2 of them, but there are multiple examples where there's deception  
3 involved and lying about people's roles and authorities and,  
4 essentially, throwing other attorneys under the bus like Mr. Gibbs  
5 eventually was by Prenda. I'd like to hand these to the Court here  
6 to look at, if that's alright.

7           What I'm holding here is an email exchange that I obtained  
8 permission from my client to disclose. What this signifies here is  
9 that -- if you look on the top portion, the second or the largest  
10 paragraph opposing counsel states: "I'd like to subpoena him," which  
11 is Alan Cooper whose signature was alledgedly forged, "and have him  
12 state under oath that he has never received a dime from John Steele  
13 who has interest in AF."

14           So here we have opposing counsel saying that John Steele has  
15 an interest in AF, but they have yet to file a corporate disclosure  
16 statement. Not only that, it conflicts with multiple other accounts:  
17 Hansmeier's deposition in California where he states that it's owned  
18 by this mysterious trust in Nevis; other filings, which I have with  
19 me today, saying it's owned by a company called Livewire Holdings  
20 which has an office or an address in the District of Columbia, but  
21 it's a post office box and that's the only information we know about  
22 it. I'm not aware of where it's formed or anything else about it,  
23 essentially.

24           The bottom portion of the email, it says here by opposing  
25 counsel that they are not agreeing to set aside the default, and I



1 have an audio recording of opposing counsel -- that I can let the  
2 Court listen to -- saying that they would agree to set aside the  
3 default. It was only after we, basically, would not agree to eat our  
4 own attorneys' fees, from my client's perspective, that they were not  
5 willing to do that. Just further evidence of, we believe, bad faith  
6 in this case.

7 Now, as far as the first portion of the email where Steele has  
8 interest in the plaintiff, defense counsel -- or plaintiff's counsel  
9 did an affidavit in one of these California cases, the main one,  
10 where sanctions were imposed on Prenda and all the companies. I'll  
11 submit this to the Court, but I'd like to read really quickly a few  
12 of the lines of this affidavit.

13 Paragraph 5 says: "The only person at AF Holdings I've spoken  
14 to is Mark Lutz," who's another person that we mentioned in our  
15 filings, "who I understand is the CEO of AF Holdings. I've spoken  
16 infrequently to Mr. John Steele over the years. He has never  
17 indicated that he has an ownership interest in any of the clients  
18 that I have represented in Georgia, including AF Holdings," which  
19 obviously contradicts the email that I received.

20 Then Paragraph 7: "I have no reason to believe that Mr. John  
21 Steele has any ownership interest in clients I have ever  
22 represented."

23 Number 8: "Any statement I may have previously made about  
24 John Steele having an interest in AF Holdings was not based on my  
25 personal knowledge." And, of course, we have many, many examples of

1 this type of change in position, some you cannot reconcile, in my  
2 opinion, and some that are very, very hard to reconcile. I can give  
3 example after example of Prenda coming up with new excuses, like the  
4 metadata in, you know, filings where computers were sold and examples  
5 like that. I'll submit this to the Court and I'll put the affidavit  
6 on the top, Your Honor.

7 Another document we'd like to submit is a printout from  
8 Prenda's website listing our client's case here in Georgia, so  
9 there's a connection there, in addition to the email listed on the  
10 complaint. In addition to -- I believe the complaint says -- under  
11 plaintiff's counsel's name, it says, "Of counsel to Prenda law." So  
12 that's the structure of this huge organization is that they retain  
13 local attorneys and they tell them they're of counsel and they have  
14 all the information. They tell these local attorneys what to do.  
15 That's more detailed than I'm looking for right now.

16 This page here is a printout from their website and this is  
17 just another example of their, sort of, high-pressure extortionate  
18 tactics. It says here: "Prior to actually naming and serving  
19 individuals accused of various civil and criminal acts against our  
20 clients, we attempt to reach out and resolve the issue with the  
21 infringer/hacker directly." So people are publicly shamed on  
22 Prenda's website before any sort of resolution of the case. I'd just  
23 like to give you a copy of that, Your Honor.

24 This document, Your Honor, is a document from the Ninth --  
25 filed in the Ninth Circuit Court of Appeals by Paul Duffy, and this

1 document goes to the point more of they never had any intention of  
2 litigating this case. This document is, basically, an affidavit from  
3 Duffy, who is the principal of record, I will say, of Prenda, which  
4 is an Illinois -- it's an Illinois company, this law firm that's  
5 supposedly orchestrating everything. Duffy -- I can let the Court  
6 read it. Essentially -- and I have multiple copies. So I'll just  
7 hand the Court here.

8 Here it says on Paragraph 3: "Prenda is currently winding  
9 down its operations and is in the process of dismissing its cases  
10 pursuant to the instructions of its clients. In some instances the  
11 requests for dismissals are being opposed resulting in delays and  
12 ongoing law and motion proceedings that have precluded Preventa,"  
13 excuse me, "Prenda Law from completely ceasing operations. Prenda  
14 law has a negative cash flow that precludes it from collateralizing a  
15 second bond." So there is a sanctions order issued in California.

16 So here Prenda's essentially saying that it has no money. The  
17 operations have moved to this new company called the Anti-Piracy Law  
18 Group and there is a pattern over this time period of constantly  
19 changing entities and there's no record of the money that's held or  
20 anything like that.

21 So even if a sanctions motion were granted -- you know, there  
22 have been a few across the country that have been granted. We're not  
23 even sure that they can recover. This is part of Prenda's business  
24 model, essentially. I don't know how you would recover against a  
25 company based in Saint Kitts or Nevis.

1 We're not aware of how much money Prenda -- or plaintiff has.  
2 Paul Hansmeier, in the deposition, states that the money is held in  
3 these trust accounts for these attorneys across the country, but he  
4 doesn't have a figure. When he talks about -- when asked about, you  
5 know, the books of Prenda, the only thing he says is that he looked  
6 at a few Excel spreadsheets provided by Mark Lutz, who also happens  
7 to be a paralegal at Prenda, who also is the registered agent for  
8 Prenda, the agent serves the process of Florida. And the same for  
9 Steele Hansmeier, its predecessor. He's also shown up in court as a  
10 corporate representative for other clients of Prenda.

11 So when going through this case and spending a lot of time on  
12 it, it reminded -- this is off topic a little bit, but it reminded me  
13 of Bernie Madoff and it reminded me of the Enron and all the shell  
14 entities and all the feeder funds and the goal and -- the offshore  
15 entities and there's no accountability on the money, plaintiff has  
16 not paid taxes or at least that's what they state. It's unclear who  
17 owns plaintiff. It's this trust, supposedly, formed in Nevis. It's  
18 just further bolstered by the fact that plaintiff is not even willing  
19 to file a corporate disclosure statement in accordance with the local  
20 rules.

21 The affidavit filed by Lutz in this case, Mark Lutz, is  
22 insufficient and doesn't include a date. There are other examples of  
23 that I can give, Your Honor. In Florida, one did not list the  
24 county. So there was a minor defect in the affidavit which probably  
25 renders -- I don't know if it renders it -- it would negate any

1 charge of false swearing, probably. So maybe that's the purpose, we  
2 don't know. Mark Lutz has never testified, never been brought to  
3 court. All these cases are dismissed before they get to that stage,  
4 if a settlement isn't reached.

5 The rub of these cases are that defendants are -- invariably,  
6 if they want to fight, forced to pay equal or greater amount in  
7 attorneys' fees than it would cost to settle. And we argue that  
8 that, along with Prenda's history as far as never going past  
9 discovery, never, you know, investigating, amounts to bad faith.

10 Also the Duffy affidavit here, we would argue that if -- Duffy  
11 says they're winding down operations now. If this case had gone  
12 forward normally, it probably still would not be over. So in a  
13 sense, Duffy is saying here that by this point in time we were  
14 planning on winding down Prenda and dismissing our cases. So,  
15 really, they never had any intention of litigating it.

16 By this time they're moving over to the Anti-Piracy Law Group,  
17 which was formed in November of last year, six days after this case  
18 was filed. They were already planning at that point in time to move  
19 over to that new entity, just like all the -- you know, Steele  
20 Hansmeier gave way to Prenda and Prenda's giving way to the  
21 Anti-Piracy Law Group. Duffy is the principal of Prenda, he's also  
22 the principal of Anti-Piracy Law Group. Steele has connections with  
23 all of those, Your Honor.

24 So that's sort of a quick overview. If there's any specific  
25 point in there where the Court would like more examples of evidence,

1 then we would be more than happy to provide it. We would argue that  
2 for --

3 THE COURT: It is alleged, is it not, that Heartbreaker  
4 Digital, LLC was the holder of the copyright?

5 MR. CHINTELLA: Yes. They're listed on the copyright  
6 registration with the Copyright Office right now, Your Honor.

7 THE COURT: Have you obtained any evidence or tried to obtain  
8 any evidence as to who the principals of that corporation are?

9 MR. CHINTELLA: I can pull it up on my computer, Your Honor,  
10 if you'd like. I believe it is the person whose signature --  
11 purported signature appears on the copyright assignment, which his  
12 name escapes me right off the top of my head. I can pull it up.

13 THE COURT: All right. All right. That was an assignment to  
14 Raymond Rogers?

15 MR. CHINTELLA: That is correct, Your Honor.

16 THE COURT: And that is an assignment to --

17 MR. CHINTELLA: The assignee is plaintiff and Alan Cooper is  
18 signing on behalf of the assignee, that signature is clearly forged.  
19 When asked about the forgery -- or to give evidence on the forgery,  
20 John Steele in California pled the Fifth Amendment.

21 THE COURT: Well, you keep talking about in California and  
22 elsewhere. What have you got in the way of evidence in this court?  
23 Have you brought an affidavit in or any sort of evidence? Do you  
24 have an affidavit from a couple that you filed in this court?

25 MR. CHINTELLA: Yes, Your Honor. We submitted -- requested

1 judicial notice of the hearings in California where Alan Cooper  
2 himself testifies that his signature is forged. But we're unable --  
3 we would request we could -- we would be happy to request discovery  
4 in this case to get that evidence. But the reason we don't have it  
5 is because plaintiff will dismiss these cases, invariably, whenever  
6 they run that risk of that evidence being disclosed. So we're unable  
7 to get it, but we would be more than happy to -- I'd be more than  
8 happy to write a motion to request discovery, depositions,  
9 interrogatories to a limited extent or whatnot to get the  
10 information.

11 But we're unable to get it, basically, because the plaintiff  
12 dismisses these cases in this fashion. I'm not aware of any other  
13 discovery advice -- or, excuse me, device other than the Open Records  
14 Act.

15 THE COURT: What are you seeking in the way of damages?

16 MR. CHINTELLA: Attorney's fees, Your Honor. I've spent  
17 hundreds of hours on this case, but I would only ask for attorney's  
18 fees in the amount that I charge my client -- and expenses.

19 Personally, I'd like to be done with the case so I'm not going  
20 to sit here and try to gain 10s of thousands of dollars in attorney's  
21 fees, and I don't think that would be likely anyhow. Basically I  
22 would like to recoup the money for my client and any expenses that he  
23 has incurred, including any expenses the expert witness has incurred  
24 as well.

25 THE COURT: Well, I'll let you come back and respond later.

1 Let me hear from the other side.

2 MR. CHINTELLA: Thank you, Your Honor.

3 MR. NAZAIRE: May I step up, Your Honor?

4 THE COURT: Yes.

5 MR. NAZAIRE: Good morning, Your Honor.

6 I'd like to address the three motions that we discussed. ECF  
7 Filing Number 16 was the motion by the defendant, Your Honor, for  
8 alleging a vexatious litigation.

9 Your Honor, as far as this case goes, the definition of --  
10 which I'm sure you know -- of vexatious litigation basically is when  
11 you file a lawsuit with the knowledge that it has no legal basis by  
12 the purpose of bother, annoy or harass somebody.

13 It is my client's position, Your Honor, AF Holdings, that when  
14 we filed this complaint there was no intention, Your Honor, of  
15 harassing Mr. Patel. AF Holdings, from what I understand -- I don't  
16 have the extensive knowledge of the million other cases that are  
17 related as Mr. Chintella does. But from my understanding, Your  
18 Honor, when I am handling the case with a client, it was not my  
19 intention to harass Mr. Patel. It was not my client's intention to  
20 harass Mr. Patel. Therefore, Your Honor, there is no vexatious  
21 litigation involved here.

22 Therefore, I filed -- and that was Number 16, Your Honor.  
23 Therefore, I filed Motion Number 20 which I filed a cross motion,  
24 both in order to answer to Motion Number 16 and in order to ask for  
25 sanctions, nothing major, against the defendant -- the defense, for



1 bringing a vexation lawsuit without any real purpose.

2 Because from what I understand -- I spoke to other attorneys,  
3 I've read up on it. For example, in a vexatious lawsuit, you have to  
4 meet a pretty high standard. Basically, for the defendant just to  
5 say "I didn't do it," doesn't mean that the plaintiff has initiated  
6 vexatious litigation or commencing an action in vexation, Your Honor,  
7 and that's why I filed Cross Motion Number 21.

8 As far as the other motion, which is Motion Number 30, I  
9 believe. Basically, Your Honor, it's pretty much what you've been  
10 discussing, I guess, with defendant. He filed a motion regarding a  
11 California case and, basically, all my motion said, Your Honor, was  
12 that -- I opposed him filing the motion because I thought it was just  
13 creating more billing, Your Honor, to file this document in the  
14 California case and we're in a Georgia case. And, second, it was  
15 trying to tell the Court -- and I use the word mending, maybe it  
16 wasn't mending, but it was trying to tell the Court, listen,  
17 California has assessed \$81,000 against -- it's another case, Your  
18 Honor. I forgot the name.

19 MR. CHINTELLA: Ingenuity13. It's a consolidated case.

20 MR. NAZAIRE: Ingenuity13, Your Honor, versus another  
21 defendant. And, therefore, my argument was Rajesh Patel is the  
22 defendant who supposedly we've annoyed or harassed, and I didn't see  
23 any reason why they had filed that paper, and that's why I made the  
24 motion, Your Honor.

25 If there's any questions, I will answer it, Your Honor.

1 THE COURT: Well, yes, I have a lot of questions.

2 MR. NAZAIRE: Yes, Your Honor.

3 THE COURT: First, he alleges, in effect, if you read into it,  
4 that your lawsuit is essentially a fraudulent lawsuit. What did you  
5 do to determine the validity of that lawsuit?

6 MR. NAZAIRE: Basically, Your Honor, at the beginning of the  
7 lawsuit what I did was I -- I didn't have any evidence on me.  
8 Basically what I do is I call -- I believe I spoke with Mr. Mark Lutz  
9 and Brett Gibbs. What I do is I call them and basically --

10 THE COURT: Lutz and who?

11 MR. NAZAIRE: Mark Lutz and -- Brett Gibbs is an attorney.  
12 He's, from what they said, the lead attorney for Prenda Law.  
13 Basically Prenda Law is a national law firm. They were the ones who  
14 referred this case to me -- this case to me, and he would be the  
15 contact person to ask about getting documentations.

16 Basically what I did was I called them, I asked whether it was  
17 true, whether they had witnesses that could testify. Basically what  
18 I was told is that -- what I was told is that the defendant who used  
19 IP address 75.89.36.80, that was the -- that they had a forensic firm  
20 that determined that that IP address had downloaded BitTorrent files  
21 and that when they traced that IP address they found out that it was  
22 a Windstream, which is the company that issued that address. I'm not  
23 sure exactly how they were able to force Windstream to give them the  
24 name, whether it was some other case. But basically, from what I  
25 understand, Windstream told them that was Mr. Rajesh Patel.

1 Your Honor, there was no discovery -- basically, Your Honor,  
2 the way it works is I confer with the client. I asked him if the  
3 case is true. I look up the law to see if there's a basis for suing  
4 him -- suing any client, him or her, and I begin the lawsuit. No,  
5 Your Honor, I did not have a handful of -- you know, a closetful of  
6 evidence.

7 And basically, Your Honor, when we sue somebody -- basically  
8 when I sue somebody, I make the allegation, they come back -- they  
9 normally come back and then we have discovery, and that's how we find  
10 out -- for example, Mr. Patel, after the fact, he said that he had a  
11 gas station and he had two computers and that he had different  
12 employees that worked there and that anybody could have used his  
13 computers.

14 Had Mr. Patel answered, Your Honor, which he defaulted on --  
15 had he answered, we could have had discovery, we could have found out  
16 who the employees that worked for him, and we could have had them  
17 say, listen, it was either us who did it or it was either somebody  
18 else. But the reason --

19 I believe the defense here says that, well, there hasn't been  
20 any discovery. Well, I don't believe there should be discovery at  
21 this point, Your Honor. The defendant defaulted. He admitted -- he  
22 submitted an affidavit, Your Honor, where he admitted that he got the  
23 paper from his mother, his mother handed him the summons, the  
24 complaint, and he just put it aside and then he waited until after  
25 the fact to answer. Had he answered, Your Honor, we could have had

1 discovery, they could have told us it was not Mr. Patel, and this  
2 case could have ended without us having to dismiss it with --

3 THE COURT: You never tried to take his deposition, even  
4 though he was in default, to find out the source of what he said?

5 MR. NAZAIRE: No, no, Your Honor. We never took a deposition  
6 because he was in default, Your Honor. Maybe that's a wise thing to  
7 do in the future, if there's such a case. But normally, no, if I get  
8 a default against somebody, Your Honor, there's no -- normally if  
9 they haven't answered --

10 THE COURT: Have you ever asked anybody that you were dealing  
11 with how many times that particular web -- what is it -- whatever you  
12 call it, a website, whatever -- that site, that number had downloaded  
13 anything from this?

14 MR. NAZAIRE: No, Your Honor. In retrospect, I should have,  
15 if the allegations are correct. Normally, no, I did not -- I did not  
16 ask them, Your Honor. It's presumed by me that that would be the one  
17 time.

18 THE COURT: Did you ever ask them if they had any information  
19 that that website was in any way distributing or further using  
20 anything from the alleged copyrighted product?

21 MR. NAZAIRE: I'm sorry, Your Honor. Can you repeat that? I  
22 apologize.

23 THE COURT: Did you ask them if they had any evidence of its  
24 having been used in any way?

25 MR. NAZAIRE: Yes, I did. And they said they did have

1 evidence, Your Honor.

2 THE COURT: They did have it. Well, did you ask what the  
3 evidence was?

4 MR. NAZAIRE: Well, basically, a company they use -- I believe  
5 I wrote it down -- 6881 Forensics and basically -- yeah, basically  
6 they keep -- they keep all the information and when we need it they  
7 send it to us.

8 THE COURT: Well, what did they send you?

9 MR. NAZAIRE: No, they did not send me anything, Your Honor.

10 THE COURT: You didn't ask them for anything?

11 MR. NAZAIRE: Yes, I did, Your Honor, and they said they would  
12 send it.

13 THE COURT: Was this before you filed the lawsuit?

14 MR. NAZAIRE: Yes, it is, Your Honor.

15 THE COURT: And you went ahead and filed the lawsuit even  
16 though you'd requested something they hadn't sent to you?

17 MR. NAZAIRE: Yes, Your Honor. If you will excuse me, Your  
18 Honor, I don't mean to cut you off. Do you have another question  
19 because I can explain?

20 THE COURT: Beg your pardon?

21 MR. NAZAIRE: I can explain, Your Honor.

22 Basically this is akin to -- I guess, Your Honor, let's say  
23 somebody's suing somebody for a credit card case. Normally in these  
24 cases, you know, the credit card company would send the billing  
25 statement and the assignment and everything else, they would send it

1 afterwards.

2 Same thing with, say, a personal injury suit, Your Honor.  
3 Maybe you'd get a doctor's report at first, but then the diagnostic  
4 test, everything else would come afterwards. Your Honor, it's not in  
5 every lawsuit where somebody has all of the evidence before they file  
6 the lawsuit, Your Honor. It's just it was reasonably expected that  
7 they would have the evidence and -- it was reasonably expected, Your  
8 Honor. No, I did not have that evidence.

9 THE COURT: How many lawsuits have you filed in behalf of this  
10 or these plaintiffs?

11 MR. NAZAIRE: In AF Holdings it's -- Your Honor, I believe  
12 it's approximately ten. I'm sorry, I left the book. I had a book  
13 with the amounts.

14 THE COURT: Did you ever have discovery in any of them?

15 MR. NAZAIRE: No, Your Honor, they never got to that point.

16 THE COURT: Were they all dismissed without answers being  
17 filed?

18 MR. NAZAIRE: No, Your Honor. There were answers filed in  
19 some of them.

20 THE COURT: At what point after answer was filed were they  
21 dismissed?

22 MR. NAZAIRE: I apologize, Your Honor. I'd have to find it.  
23 But there were some.

24 THE COURT: If there were ten, how many were filed before this  
25 one? Was this the last one?

1 MR. NAZAIRE: I believe this -- yeah, this one, I believe, I  
2 wrote -- this one was filed in either November and December. This  
3 was one of the last ones we filed, Your Honor.

4 THE COURT: So there would have been eight or nine ahead of  
5 it?

6 MR. NAZAIRE. Yes. They were all -- I'm just trying -- I'm  
7 sorry, Your Honor. We did settle a few, I'm just trying to remember  
8 if they were settled before the answer was filed or if they weren't.  
9 But I do know -- I do -- from what I understand, I might have settled  
10 one or two, but they all have been dismissed.

11 THE COURT: Other than this case, did any of the others ever  
12 have an attorney involved in them?

13 MR. NAZAIRE: I'm sorry, Your Honor.

14 Did we have an AF Holdings case together?

15 MR. CHINTELLA: I'm sorry?

16 MR. NAZAIRE: Did we have an AF Holdings case together?

17 MR. CHINTELLA: Do you mean ever before this time?

18 MR. NAZAIRE: You and me.

19 MR. CHINTELLA: We have had one in State court, yeah.

20 MR. NAZAIRE: Okay. Your Honor, there has been at least one  
21 where Mr. Chintella was on, Your Honor.

22 THE COURT: That was in State court, according to what I heard  
23 him --

24 MR. NAZAIRE: Yes, Your Honor.

25 MR. CHINTELLA: And that one settled, Your Honor.

1 MR. NAZAIRE: That one settled, Your Honor, if you heard him.

2 THE COURT: But all of the others settled before the  
3 defendants hired an attorney?

4 MR. NAZAIRE: Most of them, Your Honor, were dismissed without  
5 being settled.

6 THE COURT: And is that -- and why was that?

7 MR. NAZAIRE: Okay, Your Honor, let me explain.

8 I was asked to review the complaint, to draft the summons  
9 myself, and to -- if you could bear with me, Your Honor -- and to  
10 file these lawsuits. I did that. I reviewed the complaint, I went  
11 over it with either Mr. Gibbs or Mr. Lutz, and I filed a lot of these  
12 cases. They were all filed pretty much around the same time.

13 And then one day, Your Honor, I get a call from -- not a call.  
14 Somebody from Prenda Law, I believe it was Ms. Dugas, she asked me if  
15 I had served the defendants in this case, and I told her, no, I did  
16 not serve it. I said it is the job -- it's your job to pay for the  
17 process server. I don't want to pay for a process server.

18 And then approximately -- after that, Your Honor, they asked  
19 me -- yeah, I believe the AF Holdings cases -- yeah, I spoke with  
20 either Mr. Gibbs or Mr. Lutz and I was asked to dismiss those cases,  
21 Your Honor. I presumed the reason I was asked to dismiss it was  
22 because they had felt -- I thought I probably did something wrong.  
23 But I thought it was because they had failed to serve them. From  
24 what I understand, a lot of those lawsuits were not even served. So  
25 I thought that it was, maybe, something wrong I did on my part and



1 they were upset and they probably didn't want to work with me  
2 anymore. So that's why a lot of those cases were dismissed, Your  
3 Honor.

4 THE COURT: How many settlements did you receive?

5 MR. NAZAIRE: From AF Holdings cases?

6 And one thing I want to apologize, Your Honor, for not  
7 bringing my book. I did have a black book that has exactly the  
8 settlements and how much they were. I would say no more than five,  
9 Your Honor.

10 THE COURT: Did you have a -- did you in any way communicate,  
11 write a letter to the defendants or how did -- you didn't have a  
12 process server, I gather?

13 MR. NAZAIRE: No, Your Honor.

14 THE COURT: Did you mail the people a copy of the complaint  
15 and ask them to respond?

16 MR. NAZAIRE: No, Your Honor. I have never -- I make it a  
17 habit, Your Honor, never to write letters to defendants because --

18 Just as a background, I used to do FDCPA work and I've seen  
19 defendants complain that people write them letters that they're not  
20 supposed to. So my practice, Your Honor, is never to write any  
21 letters to any defendants. I just keep things mainly in litigation.  
22 I do write letters to defense attorneys or to, perhaps, an insurance  
23 company, but I never write any letters to any individual defendants,  
24 Your Honor.

25 THE COURT: Well, if you didn't have attorneys in the cases

1 and you settled with some of these defendants, how did you deal with  
2 settling with them or making a demand on them if you weren't writing  
3 them a letter? Did you make a phone call?

4 MR. NAZAIRE: Your Honor, basically, from what I remember,  
5 there were one or two who were served with the complaint, with the  
6 summons, and they would call -- and they would call and ask to settle  
7 and then there were others who -- that were involved with what's  
8 called John Doe cases where basically their company, let's say -- not  
9 Windstream, I don't think Windstream ever called defendants. But  
10 let's say Comcast, Your Honor. What Comcast does is if it gets a  
11 subpoena it will call the defendant and say "Listen, we have a  
12 subpoena that says that you own this IP address" -- that they're  
13 looking for IP address, you know, 00 whatever. "We want to let you  
14 know that we have to comply with the subpoena and we have to give  
15 your name."

16 So what the defendants would do in those cases is they would  
17 call -- they would call - they would call and -- yeah, they would  
18 call either -- they would call me and/or either somebody from Prenda  
19 Law and they would say "We want to settle," basically that's how the  
20 settlements were, Your Honor, without the attorneys, if that answers  
21 your question. But, once again, Your Honor, it wasn't that many  
22 cases.

23 THE COURT: Did you have all of the dealings with the  
24 defendants or did someone else have dealings with them?

25 MR. NAZAIRE: Your Honor, I had -- with some defendants I had

1 the dealings and with other defendants I believe it was Mr. Lutz,  
2 Your Honor.

3 THE COURT: And he was with Prenda?

4 MR. NAZAIRE: Well, it's alleged, Your Honor -- once again, I  
5 don't want to make any statements that seem untrue. It's alleged  
6 that he's a paralegal for Prenda also. I'm not sure if that's true.  
7 But he works in an office -- I'm not sure exactly where he works, but  
8 basically he's the representative for AF Holdings. So as a  
9 representative for them, he's settled a few cases, I believe.

10 THE COURT: Well, how did he get involved -- how did anybody  
11 know to contact him if you had not told them to contact him?

12 MR. NAZAIRE: They searched down -- on some of the pleadings,  
13 Your Honor -- just to get back on that old email address. In the  
14 beginning I was told that it's safer to put the We Fight Piracy  
15 website. Once again, it's not letters. I did not send any letters,  
16 just to make that clear. Anything that a defendant has regarding me  
17 would be my summons. In the beginning I had put down a We Fight  
18 Piracy email and that's how they were -- from what I understand, they  
19 contacted Prenda Law is through that email. But it was not through  
20 any letters I sent, Your Honor.

21 THE COURT: The complaint itself, then, had some email address  
22 and the defendants were notified in it that they could make contact  
23 through that email address?

24 MR. NAZAIRE: In this one, yes, Your Honor. Yes.

25 THE COURT: Was that true in this case?

1 MR. NAZAIRE: Well, it's on the pleading. It was -- it's  
2 presumed, yes, if it's on the pleading, that they can contact that  
3 email address, Your Honor. I don't have the complaint in front of  
4 me, but I believe when Mr. Chintella was talking --

5 Do you know if this one has a regular email on the form?

6 Because, Your Honor, what happened is after awhile I started  
7 taking that email address off and I started putting my email address,  
8 which is Nazaire.Jacques@gmail. So I don't have the complaint in  
9 this one in front of me, but this one might have been one that had  
10 the email address of We Fight Piracy. Yes, Your Honor.

11 THE COURT: All right. You're just showing me a signature  
12 element. What is that from? This is addressed to Mr. Chintella.  
13 You're the one operating the computer.

14 MR. CHINTELLA: Yes, sir. That is the end -- oh, I didn't  
15 know you were really looking at it. I've never used this.

16 That is the last page of the complaint.

17 THE COURT: Not in this case.

18 MR. CHINTELLA: Yes, it is, Your Honor. It's Page --

19 THE COURT: Oh, okay. I had missed that, alright. I  
20 apologize. I was looking at the signature element on the next page.

21 MR. CHINTELLA: Yes, sir. All these complaints are cookie  
22 cutter, Your Honor, they're almost verbatim except for the -- sorry.

23 THE COURT: All right. What else do you want to say in  
24 regard to --

25 MR. NAZAIRE: Your Honor, yeah, as far as the email address --

1 basically, as I was explaining to you, I was told in the beginning  
2 not to put my email address on because there are certain  
3 organizations -- and I'm not sure if this is relevant, but just to  
4 answer your question, and I'll be quick.

5       There are certain organizations like diecopyrighttroll.com,  
6 dietrolldie.com, techzer.com. What they do is they harass attorneys  
7 who represent copyright plaintiffs and they -- and I was told that I  
8 was going to be harassed if I put my email address there, that's why  
9 in the beginning I put that address there and then I figure -- and  
10 then I believe Mr. Chintella had made a complaint to me saying "Well,  
11 you have Gibbs' address on it."

12       So then afterwards, I said, "Okay, fine." I put my own email  
13 address on it. And I have gotten an email being bothered from that,  
14 but I suppose it's not that big of a deal. So that's why anything I  
15 have, I just now keep my personal email address on it, Your Honor.  
16 That's basically it, Your Honor.

17       THE COURT: That is your address in Kennesaw?

18       MR. NAZAIRE: Yes, it is, Your Honor. 125 Town Park.

19       THE COURT: And that's your phone number?

20       MR. NAZAIRE: On this one, no, Your Honor, that's the phone  
21 number to Prenda. And like I said, it was probably a mistake keeping  
22 it there, but from then on I just -- all the other pleadings you see,  
23 Your Honor, has my phone number. I apologize, Your Honor.

24       THE COURT: Does the local rule require a phone number on the  
25 complaint, Mr. Stanhope?

1 THE CLERK: I'm sorry, Judge?

2 THE COURT: Does the local rule require -- have you got a copy  
3 of the local rule?

4 THE CLERK: Let me look it up.

5 THE COURT: You never filed a statement of interested parties  
6 in this case; is that correct?

7 MR. NAZAIRE: Your Honor, I did file -- from what I  
8 remember -- the thing is I have to go back on Pacer. From what I  
9 remember, I did file a corporate disclosure statement, Your Honor.

10 THE COURT: You did?

11 MR. NAZAIRE: Yes, I did, from what I recollect. I don't want  
12 to lie to the Court, but from what I recollect. I believe what  
13 Mr. Chintella had told me was that he wasn't satisfied with the one I  
14 did file.

15 Is that your recollection?

16 THE COURT: It's Docket Item Number 4 is a corporate  
17 disclosure.

18 MR. NAZAIRE: Yes, yes. There you go, Your Honor. Thank you.

19 By the way, Your Honor -- can I just say one more thing?

20 THE COURT: While the clerk's -- yes, go ahead.

21 MR. NAZAIRE: From what I remember from the local rules, they  
22 do say you have to have your phone number, your fax, and your email.  
23 But basically from what I interpreted is that as long as the phone  
24 number where I can be reached -- where somebody can get in contact  
25 with me, as long as I have a phone number there, that will be fine,

1 Your Honor. It doesn't have to be my personal cellphone or directly  
2 linked to my office, which you may disagree, Your Honor, but that was  
3 my interpretation.

4 THE COURT: I have some disagreement as to whether or not --  
5 Prenda is another group of lawyers, you're not a member of Prenda?

6 MR. NAZAIRE: Absolutely not, Your Honor. They referred cases  
7 for me to file, but I am not a member of Prenda.

8 THE COURT: I have some concern as to whether they can appear  
9 in this Court and whether or not their appearance, if they made it --  
10 the question is you made it, probably. If they made it, by our rules  
11 that constitutes a contempt of Court.

12 MR. NAZAIRE: If they made what, Your Honor?

13 THE COURT: If they made an appearance without being admitted  
14 to practice in this Court.

15 MR. NAZAIRE: From what I understand, they have not made an  
16 appearance, Your Honor.

17 THE COURT: Their name's on that complaint. Prenda Law,  
18 whatever that is, sounds like a -- is there a Mr. Prenda?

19 MR. NAZAIRE: Your Honor, from the documents I've seen, Paul  
20 Duffy, Your Honor, is the sole owner of Prenda Law. There is no Mr.  
21 Prenda that I know of, Your Honor.

22 THE COURT: Well, we don't practice through corporations.

23 MR. NAZAIRE: I understand, Your Honor. But to answer your  
24 question, Paul Duffy's the --

25 THE COURT: Well, there's a lot of things in this case that

1 bother me. It seems that -- and I've been waiting and coming to it  
2 the last. I've been wanting you to address the merits as they relate  
3 to the complaint and the motion first and then we're going to get  
4 into the personal matters.

5 MR. NAZAIRE: Yes, Your Honor.

6 THE COURT: Because what I've seen and read in this case is  
7 absolutely despicable and no lawyer should do some of the things that  
8 have been done.

9 I can't read it that far away.

10 THE CLERK: Judge, Local Rule 11.1 in regards to counsel  
11 identification states -- the rule states "Counsel's name, complete  
12 address, including post office box or drawer number, and street  
13 address, telephone number, facsimile number, and Georgia Bar number  
14 shall appear on every pleading and other paper presented for filing."

15 THE COURT: What does it say about -- does it say anything  
16 about email address?

17 THE CLERK: It does not.

18 THE COURT: That's not required. But it does say phone  
19 number?

20 THE CLERK: Yes, sir.

21 THE COURT: Well, those are things that just -- you know, one  
22 of them might be excused, but there's so many items that skirt the  
23 rules or run in the face of the rules that it bothers me.

24 Now, the next item in which I was just addressing -- and I've  
25 tried to keep the two separate. I've tried to get my law clerks --



1 because we've got, what, a foot -- we've got two notebooks full of  
2 documents, nearly a foot of documents, printouts in this thing. But  
3 I've tried to get them just to separate as to both of you, the claims  
4 that go to the lawsuit itself -- that is, the complaint and/or the  
5 motions -- as opposed to the accusations and allegations that are  
6 personal. This sounds like a petty, personal fight between lawyers  
7 in a -- well, in an arena where they have different philosophical  
8 views, apparently.

9           What relevance does alleging that a person has a DUI or some  
10 other criminal conduct have to do with these motions?

11           MR. NAZAIRE: Your Honor, in retrospect, it has very little  
12 relevance but the reason --

13           THE COURT: Very little. Tell me what the "little" is.

14           MR. NAZAIRE: Your Honor, when I read the motion, Your Honor,  
15 Number 16, I noticed that there's a John Steele -- that Mr. John  
16 Steele was mentioned in a lot of the pages and that it was -- that it  
17 was just creating a lot of confusion.

18           So I did speak with Mr. John Steele and I asked him -- you  
19 know, if he knew Mr. Chintella, if he had any -- why would he mention  
20 him in this case and confuse all these things and basically what he  
21 told me was -- he told me that he has dealt with Mr. Chintella  
22 before. And I believe Mr. Chintella had filed an affidavit in a  
23 different case, which I know we're not here, stating that he did know  
24 Mr. Steele. Mr. Steele alleged to me -- and I'm not sure if it's  
25 true -- it's because Mr. Chintella thought that he had -- that he had

1 put his name out into a website alleging that he has DUIs, and that's  
2 what Mr. Steele told me.

3 So I just want to relay that to the Court so they could  
4 understand that there was something personal by the defense as to  
5 this case, and that's why I put that, Your Honor. In retrospect, it  
6 was wrong to do it and I apologize, Your Honor. But that's the  
7 reason.

8 THE COURT: Well, I'm not sure about these allegations a  
9 moment ago and which side they were coming from where it's alleged  
10 that he's a terrorist.

11 MR. NAZAIRE: No, Your Honor, I have never alleged that --

12 THE COURT: What was it?

13 MR. NAZAIRE: Excuse me?

14 THE COURT: What was alleged?

15 MR. NAZAIRE: Your Honor, I had said that the Electronic  
16 Frontier Foundation, they have some of the same beliefs that other  
17 groups that -- for example, Senator McCain has said in the news that  
18 WikiLeaks should be put on terrorist group, that it's a terrorist  
19 organization and basically companies -- what I was trying to say,  
20 Your Honor, is companies like WikiLeaks, they have the same beliefs  
21 that people should go into peoples' computers, hack them, enter  
22 people's email. For example, that guy in the news, Snowden, does.

23 I believe that if people hack into other people's computers  
24 that that's some sort of terrorism, but in no way did I ever say that  
25 the defense attorney -- the defense attorney in this case, Your

1 Honor, is a terrorist. I was talking about the Electronic Frontier  
2 Foundation, that they have some of the same goals. Not that they  
3 have terroristic goals, but their goal is to not have anybody who's a  
4 hacker prosecuted. And these terrorist organizations have those  
5 goals as well, but there's different reasons they have it. I believe  
6 that some of these organizations --

7 THE COURT: You're confirming to me that there's some  
8 philosophical views in this arena that are different as to the two of  
9 you.

10 MR. NAZAIRE: Yes, Your Honor.

11 THE COURT: Maybe he thinks you're a terrorist.

12 MR. NAZAIRE: I don't believe he thinks that. Nor do I  
13 believe he's a terrorist, Your Honor.

14 THE COURT: All right. There's another one that was very  
15 disturbing to me. You made some -- you had some very inappropriate  
16 and unprofessional things to say about California and California  
17 courts.

18 MR. NAZAIRE: Your Honor, I start out the thing, Your Honor,  
19 by saying that I respect the decision and basically -- Your Honor,  
20 it's -- Your Honor, I understand what you're saying, Your Honor.

21 I went -- I Googled my name and everything says "Nazaire says  
22 that California has gay marriage; therefore, Georgia should rule  
23 against" -- "should rule in his favor," which is not what I said,  
24 Your Honor.

25 What I said was that going back to Motion Number -- I believe

1 it was Motion Number 30, my defense of that is that that order is not  
2 a mandate and I was just -- those are hot-button issues, Your Honor.  
3 I was just making a comparison. I said, "Listen, if California has  
4 gay marriage, is Georgia all of a sudden going to have gay marriage?  
5 If California has some immigration law, is Georgia going to have  
6 one?" What I was arguing was that there's a different standard that  
7 applies to California that doesn't apply to Georgia, Your Honor.

8 Your Honor, I don't believe I ever said anything horrible  
9 about California. I don't hate California. It's my opinion I have  
10 never said anything. I was just making a comparison. I never said--

11 THE COURT: You can have whatever views you want about  
12 California. I'm not affecting your views. If you don't like  
13 California, that's your business. There are probably a lot of people  
14 who don't. But it's the manner of expressing them in these pleadings  
15 against this lawyer and the things you had to say that were very  
16 inappropriate in this lawsuit.

17 MR. NAZAIRE: Your Honor, if it was inappropriate, I  
18 apologize, but I did not mean to say anything bad against any --  
19 California or any suit. Your Honor, I made it clear that I respected  
20 that judgment, that decision.

21 THE COURT: My law clerk calls to my attention that Rule 11  
22 covers the issue we were addressing a moment ago about the phone  
23 number on the pleadings. She also points out that the current  
24 rule --

25 Local rule, you mean? The current Rule 11?

1 LAW CLERK: Uh-huh.

2 THE COURT: Current Rule 11 also requires the email and it's  
3 misleading to give someone else's and we don't even know who -- we  
4 don't know who that is. You tell us it's somebody at Prenda or  
5 somebody at some other cause-motivated group. You repeated the name  
6 a while ago and I don't remember what it was. All right.

7 MR. NAZAIRE: Your Honor, can I say one more thing?

8 THE COURT: Yes.

9 MR. NAZAIRE: Your Honor, there was a copy of a motion that  
10 was filed in this case that was filed by California lawyers in a  
11 California court and was a very horrible -- it said very horrible  
12 things, and I just want to make sure the Court doesn't confuse that  
13 with what I filed. I was not the one that filed -- it was regarding  
14 a Motion to Recuse, I'm not the one who filed that. It was inserted  
15 into the pleadings -- into the docket by the defendants and I just  
16 want to make sure --

17 THE COURT: Well, that was equally as inappropriate.

18 MR. NAZAIRE: Okay. Well, I just want to make sure the Court  
19 realizes I was not the one that did that, Your Honor, and that's all  
20 I have to say, Your Honor, for now.

21 THE COURT: Now, what is relief in your motion? Tell me again  
22 what it actually is that you're seeking -- your motion asked for and  
23 what you're seeking.

24 MR. NAZAIRE: Your Honor, basically the motion said that --  
25 there were a lot of documents as the defendant started that had

1 nothing to do with this case, that were related to other cases. It  
2 was a lot of documents that I had to read, a lot of unnecessary  
3 documents, and what I had asked for was \$200 per document. But, Your  
4 Honor, in my motion, the truth is -- in my cross motion, basically  
5 all I'm asking for is \$1 just to teach the defendants a lesson that  
6 they're not supposed to allege a vexatious lawsuit when this was not.  
7 This was done in good faith.

8 I have nothing, once again, personal against Mr. Patel and AF  
9 Holdings does not either, Your Honor; therefore, my cross motion was  
10 to punish them for filing that motion which is -- which that one was  
11 not filed in good faith and that one was based on, perhaps,  
12 philosophy as well, their philosophy. It's \$1 I'm asking in that  
13 cross motion, Your Honor.

14 Your Honor, can I make one more statement?

15 THE COURT: Yes, sir.

16 MR. NAZAIRE: Your Honor, I believe -- and maybe the Court may  
17 disagree. I believe it is unprofessional for anyone -- if I send an  
18 email, for somebody to file that email, which I did not expect them  
19 to. An email is not an affidavit, it's not a court document. I see  
20 that there have been emails about what I -- you know, things that I  
21 say off-the-cuff. They're not made to be testimony, these emails.

22 For example, the email that was presented earlier, which is  
23 Tuesday, March 5th, I would just ask that the Court make a statement  
24 regarding that email, whether that's professional for the defense to  
25 file an email where I had no -- where I did not know that they would

1 be filing it at the time that it was originally filed.

2 Also, Your Honor, I believe that attorneys -- when attorneys  
3 speak with each other over a telephone, that the other attorney  
4 should tell the attorney he's speaking with, or anybody he's speaking  
5 with, that "Hey, this phone call may be recorded." In most companies  
6 you call, Your Honor, there's normally a prompt that says "These  
7 phone calls may be recorded."

8 I did not know that Mr. Chintella was recording me at the time  
9 that he states he was recording me. I would point that sometimes I  
10 travel to New York, Your Honor, and from what I remember the law  
11 is -- I may be wrong -- that it is illegal for attorneys to  
12 tape-record interstate phone calls.

13 Therefore, I would just -- I would just, kind of, make a  
14 statement that in the future that, just to let the defense know as a  
15 warning, that I may be traveling and if they record my telephone  
16 calls without permission, that it may be a violation of the law. And  
17 that's all I have to say, Your Honor. I don't know what's your  
18 opinion as to attorneys tape-recording other attorneys secretly.

19 THE COURT: Are you seeking something here in that regard?

20 MR. NAZAIRE: No. I just want to give warning to the  
21 defendants not to do that in the future. I am seeking nothing else,  
22 Your Honor. I was just trying to get out of this case.

23 This case, from my perspective, has gone long enough and it  
24 deals, really, with other cases and it doesn't deal -- you know, a  
25 lot of the things that were mentioned mention a lot of other cases.

1 Some of the pleadings mention an ethics violation that was alleged  
2 from two people who have nothing to do with this -- who have either  
3 nothing or little to do with this case. For example, Graham Seifert  
4 was an attorney in Florida who made an ethical complaint, and Graham  
5 Seifert is not mentioned in this case, not by me at all.

6 THE COURT: All right. I'm going to go back now, getting away  
7 from the personal attacks and going back to the basic complaint. As  
8 I say, these are two separate areas.

9 MR. NAZAIRE: Yes, Your Honor.

10 THE COURT: And I have great problems with both areas.

11 You purported to represent AF Holdings and you filed, I  
12 believe you said, at least ten cases for them and according to -- a  
13 lot of those may have been in courts other than the Northern District  
14 of Georgia. You indicated there was at least one in a State court  
15 apparently.

16 MR. NAZAIRE: Yes. And a few in the Middle. I believe there  
17 were a few in the Middle.

18 THE COURT: Some in the Middle District?

19 MR. NAZAIRE: Yes, Your Honor.

20 THE COURT: There were at least four in this district and  
21 three of those -- two or three of those were mine in this division.

22 MR. NAZAIRE: Yes, Your Honor.

23 THE COURT: I want to ask again. Who, as an officer or  
24 employee of AF Holdings, LLC, did you have contact with?

25 MR. NAZAIRE: Mark Lutz, Your Honor.



1 THE COURT: Who?

2 MR. NAZAIRE: Mark Lutz. It's L-U-T-Z, Your Honor.

3 THE COURT: I thought you said he was with Prenda Law.

4 MR. NAZAIRE: He has not really explained this to me. But  
5 what I've heard is that he's a paralegal for Prenda Law. But as far  
6 as my contacts with him, he says that he is the representative of AF  
7 Holdings, Your Honor.

8 THE COURT: Well, "representative," what does that mean?

9 MR. NAZAIRE: He's the agent that represents them, that makes  
10 decisions for them, Your Honor.

11 THE COURT: You never knew who a corporate officer was?

12 MR. NAZAIRE: Your Honor, he states that he's the CEO, but I  
13 have not seen any -- to answer your question --

14 THE COURT: He said he was the CEO?

15 MR. NAZAIRE: I have not seen any documents that --

16 THE COURT: But he told you that?

17 MR. NAZAIRE: Yes, Your Honor. But I have not spoken to  
18 anybody else from AF Holdings, Your Honor.

19 THE COURT: So are you stating that when you were relying upon  
20 whatever you relied upon, you're relying upon what Mr. Lutz told you?

21 MR. NAZAIRE: That is correct, Your Honor.

22 THE COURT: Now, did he ever tell you that Mr. Cooper was an  
23 employee, officer or director of AF Holdings?

24 MR. NAZAIRE: No, Your Honor. He told me that Mr. Cooper was  
25 a representative of AF Holdings. He didn't say -- he did not tell me

1 he was an officer of AF Holdings.

2 THE COURT: He told you he was what?

3 MR. NAZAIRE: From what I understand, he told me he was a  
4 representative of AF Holdings. He didn't give me the exact title.

5 THE COURT: What actually was Mr. Cooper's position, do you  
6 know?

7 MR. NAZAIRE: Your Honor, as I stand here, no, I do not know,  
8 Your Honor.

9 THE COURT: It's alleged in some of these pleadings that he  
10 was a yardman for somebody; is that correct?

11 MR. NAZAIRE: I saw some papers from another -- from other  
12 cases, one specifically in California where -- actually, there was a  
13 -- there was a case called Harrison, Arizona that says that he used  
14 to take care of the property -- that John Steele owned two properties  
15 and that Mr. Cooper took care of one of the properties for him,  
16 that's what I remember. But I cannot verify that, Your Honor.

17 THE COURT: When the Motion for Sanctions in this case was  
18 filed by the defendant, did you notify AF Holdings in any way of that  
19 motion?

20 MR. NAZAIRE: Yes, I did, Your Honor.

21 THE COURT: Did they indicate they wanted to appear or contest  
22 it?

23 MR. NAZAIRE: That -- well, yes. They said that they want to  
24 contest it, Your Honor. But from what I told them, this was not an  
25 evidentiary hearing and so I did not ask them to appear, Your Honor.

1 THE COURT: Who did you have contact with in that regard?

2 MR. NAZAIRE: Your Honor, I spoke with Mr. Mark Lutz, Your  
3 Honor.

4 THE COURT: Mr. Lutz?

5 MR. NAZAIRE: Yes, Your Honor, absolutely.

6 THE COURT: You said it wasn't an evidentiary hearing. I was  
7 anticipating that you would have evidence, one or the other or both  
8 of you.

9 All right. Did you ever have any contact with or know anybody  
10 connected with or affiliated with Heartbreaker Digital, LLC?

11 MR. NAZAIRE: No, Your Honor.

12 THE COURT: Who was Raymond Rogers?

13 MR. NAZAIRE: Your Honor, from what Mr. Lutz explained to me,  
14 he's a representative from Heartbreaker, LLC, Your Honor.

15 THE COURT: Representative of what?

16 MR. NAZAIRE: From what I remember, from Heartbreaker, LLC. I  
17 don't know his title, Your Honor.

18 MR. CHINTELLA: Your Honor, if I could provide any  
19 documentation.

20 THE COURT: You'll get your chance.

21 [off-the-record discussion]

22 MR. NAZAIRE: Your Honor, can I just say one more thing while  
23 he's pulling up --

24 Your Honor, I apologize for the way this appears, but my  
25 history -- before I worked for this, I used to work -- I used to do

1 work up in New York for credit card companies and basically the way I  
2 did it was -- for example, we had clients such as Citibank, American  
3 Express, Chase. I never dealt with the president of Citibank. I  
4 never dealt with shareholders of American Express.

5 THE COURT: But we all know who those companies are and what  
6 they are.

7 MR. NAZAIRE: I understand your argument, but I just want to  
8 let you know it's --

9 THE COURT: You're not suggesting that Heartbreaker is a  
10 Citibank or anything comparable to Citibank, are you?

11 MR. NAZAIRE: Absolutely not, Your Honor.

12 THE COURT: Now, in your corporate disclosure statements you  
13 state that AF Holdings does not have a parent corporation that owns  
14 10 percent or more of its stock?

15 MR. NAZAIRE: Yes, Your Honor.

16 THE COURT: What's the significance of the 10 percent?

17 MR. NAZAIRE: Your Honor, from what I looked at the statute,  
18 that's what the statute requires is to say whether or not -- that's  
19 what the law requires is whether or not there were other corporations  
20 that owe 10 percent or more, from what I remember while I was filing.  
21 But from what I understand, Your Honor, there's not another -- they  
22 don't have a parent corporation, from what I understand.

23 THE COURT: How do you know that?

24 MR. NAZAIRE: I don't know that, Your Honor. It's just I'm  
25 stating what I -- what I should say is there's nothing that indicates

1 at all that -- there's no -- I don't have any paperwork or anybody's  
2 ever told me that there's another corporation that owns them or that  
3 they have a corporate -- that they have a parent corporation.

4 THE COURT: All right. Anything further you wish to add?

5 MR. NAZAIRE: Not at the moment, Your Honor, unless the Court  
6 has -- no, Your Honor, I have nothing further to say, Your Honor. I  
7 just want to remind the Court that I am not a member of Prenda Law.

8 Is that it, Your Honor?

9 THE COURT: You're not a member of Prenda Law?

10 MR. NAZAIRE: Yes, Your Honor.

11 THE COURT: Then why did you put their name down as counsel in  
12 this case? You're a member of the Georgia Bar, are you not?

13 MR. NAZAIRE: Yes, Your Honor.

14 THE COURT: Are they a member of the Georgia Bar?

15 MR. NAZAIRE: No, Your Honor.

16 THE COURT: Were they admitted by *pro hac vice*?

17 MR. NAZAIRE: No, Your Honor.

18 THE COURT: All right. We'll take a -- I'll hear in rebuttal  
19 from Mr. Chintella, but we're going to take a recess first. We'll  
20 take a ten-minute recess.

21 [a recess was taken from 11:35 a.m. until 11:45 a.m.]

22 MR. CHINTELLA: I gave opposing counsel a CD with the  
23 documents in electronic format for convenience and I was wondering if  
24 the clerk or Your Honor would want a copy for convenience.

25 THE COURT: You can give it to my clerk.

1 MR. CHINTELLA: I'd like to go through a few more pieces of  
2 evidence, Your Honor, they're on the computer. But I'd like to first  
3 address some of the things that were said, if that's alright.

4 First, to the extent the allegations -- or the mention of  
5 Steele and my relationship, I've only spoken to John Steele once,  
6 that I can recall, ever in my life. Essentially that has come -- to  
7 me, legally it appeared as a smokescreen, essentially, something that  
8 was made up. I'm willing to state under oath I've only talked to  
9 Steele, as I can recall, once.

10 As far as illegal interstate phone calls, federal law is  
11 one-party consent and Georgia is one-party consent and New York is  
12 also one-party consent. The other times I was aware that Nazaire was  
13 in Georgia. I only recorded a few phone calls for importance there.

14 I'd also like to give the Court this sheet here. Your Honor,  
15 mention was made of -- or questions were asked regarding who  
16 Mr. Nazaire talked with in regards to this case. He specifically  
17 said that he did not talk to Steele as far as fighting the sanctions  
18 motion, but apparently he had talked to him about some bad blood  
19 between me and John Steele. So essentially what Steele's role is in  
20 the Prenda organization is he is the primary contact with the client,  
21 and the client is Mark Lutz, essentially, and himself, John Steele.

22 Mark Lutz is a paralegal at Prenda Law. He's also appeared in  
23 courts across the country as a corporate representative. In the  
24 materials I've submitted -- the Florida case, the *Sunlust* case, Judge  
25 Scriven down there questioned what in the world is a corporate

1 representative and dismissed Lutz and invited a sanctions motion  
2 because of his misrepresentation about his role in the company.

3 Steele, incidentally, was sitting in on that hearing and he  
4 said that he had no role in the case and didn't know anything about  
5 as his current -- or Prenda's paralegal sat up there, essentially.

6 But what I've handed you is, sort of, a timeline. In 2011, in  
7 August, Steele changes his address to Florida, and the document is  
8 there. It's a Court filing.

9 In January of 2012, four months later, Steele says that Prenda  
10 Law consists of Joseph Perea and Mark Lutz, which escapes me how a  
11 non-attorney can be part of a law firm; namely, Mark Lutz.

12 Three days later -- three days after he mentioned that he  
13 lists his name as a contact for Prenda in a court filing in Arizona.  
14 Two days after that Joseph Perea, who's also subject to an  
15 unauthorized practice of law in Florida, states that Steele has no  
16 role with Prenda, and Steele is actually a client of Prenda and owns  
17 an interest in several of Prenda's larger clients. But other than  
18 that, he has no role.

19 These are set forth in chronological order, Your Honor.  
20 There's a constant deception about the roles of John Steele and Paul  
21 Hansmeier, as the evidence we filed will show.

22 I'd like to, if I could, go to the table here and pull up some  
23 more exhibits for Your Honor.

24 THE COURT: Okay.

25 MR. CHINTELLA: The first one is a filing with the Florida

1 Secretary of State and it is filed -- can you hear me, Your Honor?

2 THE COURT: No, not when you're sitting down like that.

3 MR. CHINTELLA: Can you hear me now, Your Honor?

4 The first filing is a filing with the Florida --

5 THE COURT: If you're going to use your thing, you should have  
6 had it installed where you could use it at the bench. Don't you  
7 have the --

8 MR. CHINTELLA: Is it alright if I have my assistant help me  
9 with the computer?

10 THE COURT: Well, if he can.

11 MR. CHINTELLA: Okay. Can you shift between the documents?

12 THE COURT: Let me ask you this. I thought I had made it  
13 clear in your beginning argument that I thought you were -- I didn't  
14 use these words, but you were firing with a thunder burst, you were  
15 trying to deal with things all over the country rather than focusing  
16 on this case.

17 You're asking the Court to take judicial notice of all sorts  
18 of court documents from all over the country. I think if you're  
19 going to ask the Court to take judicial notice or you're going to  
20 tender them into evidence as an exception to the hearsay rule as  
21 being official records --

22 MR. CHINTELLA: Yes, Your Honor.

23 THE COURT: -- that you need some sort of authentication of  
24 them. We don't just take a bunch of pieces of paper with printing on  
25 them --



1 MR. CHINTELLA: Yes, Your Honor.

2 THE COURT: -- and say this is something you take judicial  
3 notice of. I have no problem with records of this Court, we can take  
4 judicial notice of those because we can draw them up.

5 MR. CHINTELLA: Yes, Your Honor.

6 THE COURT: And we maybe can draw records from other courts  
7 up, some of whom are on computerized records.

8 MR. CHINTELLA: Yes, Your Honor.

9 THE COURT: I don't think all of the courts in the country are  
10 yet, but some are. To some extent, we maybe can, you know, ourselves  
11 draw those up, you know, bring them up. But I think they need some  
12 certification by the clerk that they are records filed in their  
13 court.

14 Now, that doesn't mean that they're -- that they prove the  
15 truth of what's alleged in them. It just means that they were filed.  
16 I don't know whether you're needing all of that or not. We're more  
17 concerned -- if you need to show that something was filed that  
18 alleged something differently than what's been alleged here, then  
19 that may be relevant. But if you're trying to offer it for the proof  
20 of what was stated there, you may have more difficulty. But I'm  
21 concerned with the manner in which the evidence's been presented.

22 Now, you've got an expert here. I don't know whether you were  
23 planning to put him on or not.

24 MR. CHINTELLA: Yes, we were, Your Honor. Mention was made of  
25 the forensics company of Prenda and that was on the list here to at

1 that point bring him up.

2 THE COURT: Well, I'll certainly allow you to present him and  
3 then -- we've got to separate this somehow and focus on it and deal  
4 with it in an organized fashion and I don't feel that it's -- that  
5 we're receiving it in that organized fashion from either side. I'm  
6 not critical of just one, but both of you.

7 MR. CHINTELLA: I'm more than happy to authenticate most of  
8 the documents myself because I obtained them myself through Pacer.

9 THE COURT: How do you authenticate a court record?

10 MR. CHINTELLA: I'm sorry, Your Honor?

11 THE COURT: How are you going to authenticate them?

12 MR. CHINTELLA: I pulled them from the federal system.

13 THE COURT: Where did you go to law school?

14 MR. CHINTELLA: Georgia State University, Your Honor.

15 THE COURT: Unless they're teaching efforts different than I  
16 learned it -- if you could do that, all we'd need to do is call an  
17 FBI agent in here in most criminal cases and let him authenticate  
18 everything he's gone out and picked up. He can go to the telephone  
19 company and bring bills in here and say "I got these from the  
20 telephone company and they're authentic records of theirs," and I  
21 wouldn't have to sit here and listen to the custodian of those  
22 records bringing them in. I may be a little old fashioned but, to  
23 me, the law is old fashioned.

24 MR. CHINTELLA: Absolutely.

25 THE COURT: And when we get away from the *stare decisis*

1 precedence of the law we're ceasing to have a nation of laws. We're  
2 beginning to have a nation of individuals, not laws. I don't think I  
3 -- hopefully we'll never get to a point where a lawyer comes in and  
4 says "This is my investigative file," and I'll swear these are the  
5 records. If that's what you're offering to do, you're wasting your  
6 time. You'd have to show me some mighty good law -- some strong law,  
7 I won't say "good," I question that it would be good -- that would  
8 permit such.

9 I realize I may not have much experience in this regard; I've  
10 only been practicing law and on the bench for just a little over 60  
11 years. So maybe I need a little more experience in that regard.

12 MR. CHINTELLA: I'll take that to heart.

13 As far as the judicial -- or the records on dockets, my plan  
14 was to authenticate them -- you know, provide copies, which is what  
15 the rule requires in order to take judicial notice.

16 THE COURT: Well, in most lawsuits documentation doesn't have  
17 to be authenticated because it's presented at a pretrial conference  
18 and the parties agree to it and unless they object to it, then you  
19 don't have to call witnesses authenticating it.

20 If you've got agreements that these documents are authentic,  
21 that's fine. But in absence of that, you're going to have to have  
22 some legitimate evidence to authenticate that this is a document  
23 that's on file wherever it's on file. If it's a court record, that  
24 it was on file in whatever clerk's office that it is and it's  
25 documents filed on such and such a date, whatever.

1 MR. CHINTELLA: I actually tried to reach out to Mr. Nazaire  
2 to expedite this so we could stipulate to the authentication process,  
3 but I did not get a response. I did that probably three or four days  
4 ago.

5 THE COURT: Well, let me ask you this -- I maybe should have  
6 asked him. Well, I guess you. You need to think that just as much  
7 I'm not going to be influenced by this inflammatory stuff that you  
8 send in just the same as I'm not going to be influenced by this  
9 inflammatory material that he sends in. Hopefully that's what  
10 separates our judicial system from other forms of government.

11 But you've alleged, among other things, that from California  
12 and somewhere else -- I know there are things going on in Texas and  
13 Florida and Arizona and I remember those, at least those three places  
14 -- that there was a request for a criminal investigation.

15 MR. CHINTELLA: That's correct, Your Honor.

16 THE COURT: Has a criminal case been instigated in regard to  
17 any of this?

18 MR. CHINTELLA: Not to my knowledge. Judge Wright, in his  
19 sanctions order against Prenda and Steele and Duffy and Lutz and  
20 everyone, said that he was going to report -- essentially report the  
21 situation to criminal investigators in that same building, as well as  
22 the IRS.

23 THE COURT: I think he was going to report it to the US  
24 Attorney, which is the appropriate place for the judge to send it.

25 MR. CHINTELLA: Yes, Your Honor.

1 THE COURT: The US Attorney would then take whatever action  
2 with the FBI or whatever investigative agency would be the proper one  
3 to investigate such a thing.

4 MR. CHINTELLA: Absolutely, Your Honor.

5 THE COURT: I believe he also said he was initiating bar  
6 proceedings. Now, those may not be public information. It depends  
7 on each individual state, I guess, but none of those lawyers were  
8 California lawyers anyway. The only California lawyer withdrew, did  
9 he not?

10 MR. CHINTELLA: Yes, Your Honor. Mr. Brett Gibbs was their  
11 California man, essentially, and he eventually withdrew, yes, Your  
12 Honor.

13 THE COURT: And all the rest were from either Illinois or  
14 somewhere else?

15 MR. CHINTELLA: They have attorneys in, I would venture to  
16 say, at least 12 to 15 states, Your Honor.

17 THE COURT: I'm talking about the ones in California that the  
18 judge out there was talking about. Well, go ahead because we're  
19 going to deal with this matter.

20 MR. CHINTELLA: Okay.

21 THE COURT: And tell me what else -- how much more time you  
22 need to present what you're going to present today.

23 MR. CHINTELLA: Your Honor, the expert testimony would  
24 probably take 15 to 20 minutes, and I can run through several of  
25 these documents, authenticate them, hopefully, in under less than

1 ten -- five minutes.

2 THE COURT: You're optimistic.

3 MR. CHINTELLA: We would be okay with, you know, having more  
4 discovery and being able to get more direct --

5 THE COURT: You say "more discovery." You haven't had any,  
6 have you?

7 MR. CHINTELLA: Well, I misspoke. I meant some discovery  
8 about this case and uncovering the bad faith.

9 We've had to rely on the stuff from other courts because they  
10 dismiss these lawsuits routinely whenever somebody puts up a fight.  
11 That is their business model. It's an economies of scale business  
12 model. They sue the large John Doe grouping, they get as many  
13 settlements as possible, they try to make examples out of people who  
14 resist, they put them on their website and then they dismiss them.

15 With that in mind, I was going to mention this first document  
16 here. This is a document that I guess I'll attempt to authenticate  
17 it, Your Honor. It's a document -- I went to a Secretary of State's  
18 website and I pulled from their records and I downloaded it and it's  
19 been in my custody ever since and it hasn't changed, to my knowledge.

20 Can you scroll down, Andrew. Stop right there.

21 This is Prenda Law's registration as a foreign entity in  
22 Florida, and you'll see Paul Duffy and you'll see the Lincoln Road  
23 address right below him.

24 Scroll down a little bit, Andrew, please. Again stop.

25 You'll see the Chicago address, which is on their demand

1 letters that they send out to people, 161 North Clark Street and  
2 legal services is the -- that's irrelevant. It's obvious.

3 Would you scroll down, please. Keep going.

4 The officers are Paul Duffy. This is despite the statement in  
5 Florida that Joseph Perea and Mark Lutz consist of the law firm.

6 Scroll down, please.

7 THE COURT: All right. Now, that appears -- there is a  
8 certificate. Where's the original and the seal and everything that  
9 goes on that?

10 MR. CHINTELLA: The original -- obviously, I did not get a  
11 copy of the original, Your Honor.

12 THE COURT: You mean they print out -- all of this is printed  
13 out?

14 MR. CHINTELLA: Yes, Your Honor. It's available on the  
15 State-owned website and the secretary of the office there provides  
16 these documents to the public for free.

17 THE COURT: All right. Go ahead.

18 MR. CHINTELLA: Can you go to the next one.

19 THE COURT: All right.

20 [off-the-record discussion]

21 MR. CHINTELLA: May I proceed, Your Honor?

22 THE COURT: Go ahead.

23 MR. CHINTELLA: This next document I downloaded from the same  
24 website. It's been in my possession, hasn't changed, has not been  
25 altered, and it's a foreign registration for Steele Hansmeier, which

1 is the predecessor to Prenda that was created by Paul Hansmeier.  
2 It's a Minnesota company. The principals are John Steele and Paul  
3 Hansmeier, law school classmates.

4 If you'll scroll down, please.

5 You'll notice the same Lincoln Road address there in the  
6 center.

7 Scroll down, please.

8 Paul Hansmeier's name is listed there as the principal.

9 Stop, please.

10 You'll see Mark Lutz's name right there. He's listed as the  
11 registered agent and he's also listed as the registered agent at that  
12 same address in Florida. This is Mark Lutz, who's also the paralegal  
13 of Steele Hansmeier and Prenda and who's also, according to  
14 Mr. Nazaire, the CEO of AF Holdings, the client of Prenda. He's also  
15 the figure who appeared in Florida claiming to be a corporate  
16 representative of *Sunlust* in the *Sunlust* case that we reference in  
17 our materials.

18 Scroll down, please. Next one.

19 Media Copyright Group, this is a Minnesota company.

20 THE COURT: That last one --

21 MR. CHINTELLA: Yes, sir.

22 THE COURT: -- what was the entity that he was listed as?

23 MR. CHINTELLA: Prenda Law. So he was the registered agent  
24 for Prenda in Florida -- or he still is, actually. That is still  
25 current.



1 THE COURT: The registered agent for Prenda?

2 MR. CHINTELLA: Yes, it is, Your Honor. It's still current.

3 THE COURT: That, supposedly, is a law firm?

4 MR. CHINTELLA: It's a law firm that Paul Duffy is listed as  
5 the principal of. So when we refer to "of counsel of Prenda Law," it  
6 is that same company --

7 THE COURT: Okay.

8 MR. CHINTELLA: -- from Illinois.

9 THE COURT: All right.

10 MR. CHINTELLA: This next company is MCGIP, LLC. It was  
11 originally -- well, let me just say that I pulled this document from  
12 the Minnesota website run by the Secretary of State and it hasn't  
13 changed possession and it hasn't been altered at all. This is a  
14 company -- if you'll notice, the manager is Alan Mooney and the  
15 address here is 80 South 8th Street, Suite 900 in Minneapolis,  
16 Minnesota.

17 And I'll pull up another -- excuse me. I'll pull up another  
18 record, Your Honor. That is the same address as Paul Hansmeier's law  
19 firm in Florida. And MCGIP, I can pull up many examples of where  
20 Steele Hansmeier, the company, and Prenda filed lawsuits on behalf of  
21 MCGIP.

22 So what we have is a company formed a law firm, the two  
23 principals of which are John Steele and Paul Hansmeier, they form a  
24 company called MCGIP and they file lawsuits on behalf of it. And  
25 there is a company called Media Copyright Group, which it's not hard

1 to see the similarities, "MCG," instead of "IP," which we think  
2 stands for intellectual property.

3 So there's a company called Media Copyright Group, which I'll  
4 also show you, that Peter Hansmeier, Paul Hansmeier's brother,  
5 submits these technical reports through. Now, he has since moved on  
6 from that period in time to work for 6881, but that was the initial  
7 start of these very incestuous, closely related companies.

8 Can you go to the next one. Oh, I'm sorry. Stop, Andrew.

9 You'll see right there where it says "Principal Executive  
10 Office," it actually says "In care of Alpha Law Firm," on the left  
11 side of the sheet there.

12 Next one.

13 You can -- well, this is the -- this is not -- this is  
14 something that I brought up when you were questioning opposing  
15 counsel. This is the Secretary of State information for Heartbreaker  
16 Digital and so it does, in fact, list Raymond Rogers. I pulled this  
17 from their website and it's been in my possession, has not been  
18 altered at all. So it does list Raymond Rogers which appears to be  
19 that same signature on the assignment agreement.

20 You can close that one out, please.

21 Here is that company Media Copyright Group. This is a  
22 Minnesota company. I pulled this document from the same website,  
23 Minnesota Secretary of State. It has not been altered at all.  
24 You'll see the manager on the right column there is Peter Hansmeier,  
25 that's Paul Hansmeier brother, and it lists the same Alpha Law

1 address.

2 Close that out, please.

3 Here we have a company -- there are many of these companies,  
4 Your Honor. I just tried to pick out the ones that are the most  
5 enlightening, as far as the relationships between the relevant people  
6 here.

7 This is one that was recently filed. I pulled it from the  
8 Florida Secretary of State's website. It has not been altered at  
9 all. What it is -- it was filed on April 24th. So this is well  
10 after Judge Wright's sanctions order, well after opposing counsel,  
11 myself, had been talking about these issues.

12 This is a company called Bessemer Films, LLC. And you'll  
13 notice in Article 2 there it lists the same address, the Lincoln Road  
14 address, both for Steele Hansmeier and Prenda Law Firms where Mark  
15 Lutz is also the registered agent and he lists that same address in  
16 Florida. So that Lincoln Road address is, essentially, their base of  
17 operations in Florida. This is the reason why a UPL complaint was  
18 filed against them in Florida. John Steele was sending out letters  
19 from that address down there.

20 THE COURT: What kind of complaint?

21 MR. CHINTELLA: An unauthorized practice of law.

22 THE COURT: Oh, okay.

23 MR. CHINTELLA: And some of the evidence in our filings have  
24 those responses, and I checked the admissibility rules on that. The  
25 person who filed the complaint can disclose it, but anyone else

1 cannot. But once it's disclosed it is disclosed. So Graham Syfert,  
2 this attorney, he's the one that filed it and he disclosed it and  
3 then from that point forward it's, sort of, a -- it's already  
4 disclosed in the public record.

5 So I'd like to point out with Bessemer -- I looked up on  
6 Dictionary.com yesterday. The Bessemer process is defined as, and I  
7 begin quote, "A process of producing steel in which impurities are  
8 removed by forcing a blast of air through molten iron." So it's a  
9 reference to, we think, John Steele.

10 This is another company -- if you'll scroll down, Andrew,  
11 please.

12 Mark Lutz, Article 4 there. You see Mark Lutz's name also at  
13 the Lincoln Road address. Same Mark Lutz that is the purported CEO  
14 of the plaintiff, the same one who's the paralegal for Prenda, the  
15 same one who, as we'll show, has an interest in this mysterious trust  
16 based in Saint Kitts and Nevis. It's an undefined beneficiary trust,  
17 according to Paul Hansmeier in his deposition, but Mark Lutz's unborn  
18 children are the beneficiaries. We can bring up that deposition.

19 Can you close that out, please. Scroll down. Actually, close  
20 that one out.

21 Here, Your Honor, is a document I pulled from the Illinois  
22 Secretary of State's website, it has not been altered and is the  
23 Anti-Piracy Law Group and it was formed -- if you look on the left,  
24 second to most left column, four boxes down, it was formed on  
25 November 8th, 2012.

1 Scroll down, please.

2 And the address on the far right column, you'll see, is that  
3 same address, 161 North Clark Street, Suite 3200, which is the  
4 address for Prenda, which was also the address for Steele Hansmeier  
5 in Illinois and principal -- the principal is Paul Duffy.

6 Can you scroll down, Andrew, please. Click on the other  
7 document in that folder.

8 This is also a document that I pulled from the same Illinois  
9 Secretary of State website. You can see there it lists Paul Duffy,  
10 who is, essentially, the figurehead of this company. So he's the  
11 figurehead of Prenda and now Anti-Piracy Law Group.

12 Go to the Company folder, please. VPR, Inc., second file  
13 down.

14 Here is a record that I pulled from the Nevada Secretary of  
15 State's website, their official website. It has not been altered and  
16 hasn't left my possession on my personal computer. What it is is  
17 it's a summary of VPR, Inc., another company.

18 If you'll scroll down, Andrew.

19 Under the Officer's category there, you'll see Alan Cooper,  
20 which is the same Alan Cooper's signature that we allege is forged,  
21 for AF Holdings as the assignee for the copyright in this case. It's  
22 also the assignee or the representative for Ingenuity13, which is  
23 another company that was involved in that consolidated case in  
24 California.

25 Scroll down, Andrew. You can close that out. Go to

1 Ingenuity13. Close that out. Go to companies in Peg Leg  
2 Productions. Second file down.

3 This is another -- a company called Peg Leg Productions, LLC,  
4 and I pulled this document from the official Secretary of State's  
5 website and it has not been altered. This was filed on May 28th, so  
6 relatively recently. May 28th of this year. If you'll scroll down,  
7 you'll see in Article 2 that the same address -- the Lincoln Road  
8 address -- as Prenda and all the other companies I mentioned. If you  
9 scroll down to Article 4, you will see Mark Lutz as the registered  
10 agent.

11 Scroll down, Andrew.

12 The electronic signature of Mark Lutz.

13 You can close that out. Go to Companies. I'm sorry. Go back  
14 to Peg Leg. Peg Leg's first file, please. Scroll down, Andrew.

15 Here's a lawsuit, it was filed in -- shoot -- Illinois and  
16 it's filed in State court in Illinois and here's the signature of  
17 Paul Duffy representing Peg Leg.

18 If you'll scroll down, Andrew.

19 And there's the signature of Mark Lutz verifying to, I guess,  
20 their Local Rule 1-109, that the facts and statement are accurate.

21 Scroll down, Andrew, a little bit. All right. That's good.  
22 You can close that out.

23 I was unable to find any information on Livewire Holdings. I  
24 filed a corporate disclosure statement listing it because a mention  
25 was made of it in the California case.

1 Andrew, can you go up a level to Companies and -- one more  
2 level. People. Mark Lutz. Sorry, go back to People. John Steele.  
3 Okay. Fourth from the bottom. That one.

4 So here, Your Honor, is a docket that I pulled from the  
5 federal Pacer system and these are John Steele's -- where he is an  
6 attorney of record. So you see there the Media Copyright Group,  
7 which is the same company we spoke about, and then there's MCGIP,  
8 LLC. So what happened is that when Steele Hansmeier, they shifted  
9 their business model into Prenda, all the people from -- all the  
10 clients and people from Steele Hansmeier went to Prenda. So you'll  
11 see lawsuits filed across the country the same companies by Prenda.  
12 They're of counsel attorneys.

13 You can close that out. Go to People. Brett Gibbs, fourth  
14 from the bottom.

15 Here's a case I pulled from Pacer, it has not been altered at  
16 all. This is the same plaintiff as in this case. You'll notice in  
17 the second box down you'll see Prenda Law, Inc. listed as the law  
18 firm.

19 Scroll down, Andrew. Sorry. Go up just a smidge. There you  
20 go.

21 The signature on the bottom there, that's the signature of  
22 Brett Gibbs.

23 It's a little unclear so if, Andrew, you'll scroll down to the  
24 bottom where the signatures are.

25 There's an electronic signature of Brett Gibbs. This is the

1 same Brett Gibbs -- you'll see the same email address, rather, below  
2 his signature.

3 THE COURT: What court is that in?

4 MR. CHINTELLA: This is in California, Your Honor, I believe.

5 Can you scroll up to the very top, Andrew.

6 He's only licensed in California, so I assume that, but I'll  
7 make sure.

8 Scroll down, Andrew, a little bit so you can see the top of  
9 the complaint. A little bit more. Apparently there was a mistake in  
10 the filing on Pacer. So Page 2, go up, Andrew.

11 Apparently the style of the case, it looks like, was omitted  
12 when it was filed.

13 Scroll down, Andrew. More. To the signatures again.

14 Okay. This was filed in November of 2011. So that's around  
15 the time -- Gibbs actually started filing in March of 2011, that's  
16 the earliest cases I could find and that was in California. I can  
17 bring that case up. Is it alright if I show this case, Your Honor?

18 THE COURT: You don't need to go into the cases.

19 MR. CHINTELLA: Okay. Close it out, Andrew.

20 And so the sheet I handed Your Honor, this is a sheet I  
21 created. What I did is that in Column 2 here, I put the docket  
22 number where this information came from, and so this has not been  
23 changed or altered. This is something that I create that is,  
24 essentially, work product that I created for the Court's convenience.

25 So you can go to the second column here and go to the



1 different court case listed there and the pieces of evidence I've  
2 already submitted and to the right is a summary, and if it's in  
3 quotations, then it's verbatim. We can see John Steele's constantly  
4 changing his information.

5         You know, like, for example, on April 20th, 2012, he lists  
6 himself as "of counsel" and then he lists his office address as the  
7 same as Prenda's. This is only -- three months prior, in a UPL  
8 complaint in Florida, states that he has no role with Prenda. And  
9 then two days before that response was filed Steele lists himself as  
10 contact for Prenda, along with Paul Hansmeier and Paul Duffy in  
11 Arizona. And that's Arizona AF Holdings vs. DOES 1 through 20, Case  
12 3:11-00491. It has the Wefightpiracy.com email address for John  
13 Steele, Paul Hansmeier, and Paul Duffy.

14         So it's a nationwide, sort of, enterprise. And for no  
15 corporate disclosure statement, no parties with interest submitted in  
16 this case, it seems pretty blatantly offensive to the rules.

17         Mark Lutz's involvement, he clearly has an interest. One  
18 thing was mentioned about 6881, if we could stipulate that is the  
19 company that Peter Hansmeier currently files these technical reports  
20 for. What I'd like to do is call Andrew up and he can testify a  
21 little bit about what 6881 does and they --

22         Essentially, what the evidence submitted recently in the  
23 Florida case, and that I requested judicial notice of -- I believe on  
24 July 1st, is that 6881 appears to be monitoring these downloadings  
25 and encouraging them. So 6881 is a Nevis-based company as well that

1 Peter Hansmeier works for. So a technical expert in Florida did this  
2 soak is what's it's called, a soak -- and Andrew can explain it  
3 better than I can.

4 But it's a soak basically monitoring, without exchanging  
5 information, as far as the file itself but the handshakes and the  
6 initiating process for the file sharing. Basically there are four  
7 very unique -- call them peers -- that are encouraging at an abnormal  
8 rate the downloading of the same works that Prenda is suing for --  
9 or, rather, AF Holdings.

10 So with the Court's permission, I'd like to bring up Andrew  
11 and he can answer any questions about that technical aspect. I have  
12 a resumé or a *curriculum vitae* for Andrew and I could ask him some  
13 basic questions to certify him as an expert depending how the Court  
14 would like to proceed.

15 THE COURT: You said he would take 15 or 20 minutes, I think.

16 MR. CHINTELLA: Yes, Your Honor.

17 THE COURT: And you'd said this other stuff you just finished  
18 would take 10 minutes and we've been on it for 30 minutes. So your  
19 estimate there, it would take us until somewhere between 1:00 and  
20 2:00 o'clock. I think we'll recess and come back after lunch and do  
21 this and you can get anything else you need to present.

22 MR. CHINTELLA: Thank you, Your Honor. Is there anything in  
23 particular that the Court would like me to focus on other than the  
24 obvious --

25 THE COURT: What do you mean "focus on"? I'd like for you to

1 focus on what you've asked other than so much other stuff. You're  
2 running your case.

3 Let's recess. We'll recess until 2:00 o'clock, how about  
4 that?

5 MR. CHINTELLA: Thank you, Your Honor.

6 THE COURT: All right.

7 [a recess was taken from 12:35 p.m. until 2:00 p.m.]

8 THE COURT: All right. Ready to go forward for the defendant?

9 MR. CHINTELLA: Yes, Your Honor.

10 MR. NAZAIRE: Your Honor, I object. Your Honor, I object.

11 THE COURT: Beg your pardon?

12 MR. NAZAIRE: I object, Your Honor.

13 THE COURT: You object?

14 MR. NAZAIRE: Yes. To his witness.

15 THE COURT: Okay. State your grounds.

16 MR. NAZAIRE: I wasn't given notice of expert witness. This  
17 is -- I'm just finding out that he has an expert witness that's come  
18 here to testify today. He should have given notice. I'm sure he had  
19 lined him up previously and could have notified the Court or myself  
20 that this witness would be here.

21 MR. CHINTELLA: We just obtained -- just obtained this expert,  
22 Your Honor. When I tried to reach out to discuss some things with  
23 Mr. Nazaire, I never got a response.

24 THE COURT: What are you going into with the expert now?

25 MR. CHINTELLA: Well, we're planning on going into the

1 argument regarding metadata that we mentioned in our filings and then  
2 something we recently requested judicial notice about, which is a  
3 filing in the *Sunlust* case in Florida regarding an affidavit by -- or  
4 some evidence that 6881, the forensics company, has a hand at  
5 actually distributing these copyrighted works.

6 THE COURT: I'm not sure I understood you. I don't know what  
7 something going on in another court has to do with this, particularly  
8 you said recently.

9 See, this is your problem, as I've repeated numerous times,  
10 the two of you are trying to litigate issues that are -- you're both  
11 wed to dealing with, apparently, the industry that you apparently  
12 have different views on and that's not what we're dealing with here.  
13 We're dealing with Motions for Sanctions growing out of the filing of  
14 this lawsuit in this Court. Not some lawsuit in another court before  
15 or after unless --

16 And as I gather, what you're saying is this is something  
17 recently filed, isn't it?

18 MR. CHINTELLA: Yes, Your Honor. It was filed, I believe,  
19 about a week ago in that case.

20 There are cases across the country and that's, again, one of  
21 the issues is that pieces of evidence keep coming forward. Despite,  
22 I guess, the cases being dismissed, they're coming forward very  
23 sporadically, I guess, is the way I think of it. We would -- that's  
24 why at the beginning I mentioned possibly getting limited discovery  
25 in this particular case, if the Court so chose.

1 MR. NAZAIRE: Your Honor, the problem here is that you have  
2 cases happening in different parts of the country and every time  
3 somebody wants to have revenge against Prenda Law or sue for a  
4 copyright case, new evidence comes up. The defense in this case  
5 wants to use any evidence it finds without doing its own work.  
6 That's very convenient for it to go to Arkansas or Nebraska and get  
7 evidence, but had it done its own work, perhaps it would have gotten  
8 evidence.

9 Also, there was an affidavit that was filed yesterday evening  
10 on the eleventh hour and that affidavit was dated June 3rd, and I'm  
11 not sure it was filed on July 1st. I'm not sure if it was a  
12 surprise, but there's a lot of surprises in this case. There's a lot  
13 of documents that come from other states that I, perhaps, would have  
14 to travel to Hawaii or Alaska, wherever it's coming from, to verify  
15 that they're authentic documents. We've gotten away from the fact  
16 that Rajesh Patel is the one who's being accused of the copyright  
17 infringement, Your Honor. So as to relevancy and surprise, this is  
18 objectionable.

19 MR. CHINTELLA: I guess that's why, from our perspective, we  
20 attempted to show a connection between all the people and entities  
21 over this period of time is to try and show that they're all, really,  
22 one actor working together as basically a partnership. And I wish --

23 THE COURT: Well, that's unimportant except to show -- unless  
24 it goes to show that there's fraud upon the Court, and that does  
25 cause me some concern.

1 I am concerned whether this -- from some of the accusations  
2 made, whether this is a legitimate copyright possessed by whoever it  
3 is that received it -- the plaintiff in this case, AF Holdings, that  
4 could be sued upon, and I'm concerned as to whether the plaintiff  
5 knew that and whether the plaintiff's lawyer knew that. I'm very  
6 concerned about -- the thing has broadened based on what I heard this  
7 morning a great deal about who's actually the lawyers in this case.  
8 Now, that's, sort of, one of the side issues. The main issue, to me,  
9 is determining whether or not this case is a fraud being perpetrated  
10 on these defendants and on the public in general.

11 You've asked about discovery and I'm inclined to allow each of  
12 you to have some discovery, if you wish, but not much. There's not  
13 much time. You can have all the discovery you want but within a  
14 short period of time.

15 This matter needs to be disposed of. Unfortunately, I'm going  
16 to be on trial -- well, we couldn't have another hearing in that  
17 period of time anyway, but I'm going to be on trial and then I'll be  
18 sitting with the appellate court and it'll be -- therefore, it'll be  
19 after that time before we can have some further hearing in regard to  
20 this.

21 I think I'll wait and let you try to focus on what it is  
22 you're trying to prove and show. But I get frustrated trying to  
23 focus on something dealing with this case when all I hear about is  
24 California and Arizona and Florida and wherever else, Illinois and  
25 the District of Columbia and other places, Texas.

1 Now, I'm not interested in litigating any cases from there.  
2 We've got enough of them here. Now, there weren't that many AF  
3 Holdings, Inc. cases in this district, but there are a lot of other  
4 cases that appeared to be very similar --

5 MR. CHINTELLA: Yes, Your Honor.

6 THE COURT: -- in other names where they were filed and  
7 dismissed before there was ever an answer, which is a very unusual  
8 procedure. Have a seat, gentlemen.

9 MR. CHINTELLA: Thank you.

10 THE COURT: Stand when you're speaking. You don't have to  
11 stand there the whole time. When you're addressing the Court, I  
12 can't hear you if you don't stand.

13 I will go through and try to indicate what documents we'll  
14 take judicial notice of. As I said this morning, anything involving  
15 this Court I have no problem with and it may be -- and I think I  
16 expressed this, that under our Pacer system that we maybe can take  
17 judicial notice of other federal filings. But you must keep in mind  
18 that there's a limit to you take judicial notice as to what they can  
19 be used for. I question that and take judicial notice of some  
20 affidavit filed in another case and that becomes substantive evidence  
21 in this case.

22 Now, taking judicial notice of a docket in another case, if it  
23 indicates who the attorneys are and the parties are in that case, if  
24 that's relevant, would certainly be something that could be used.  
25 But you don't just try a lawsuit by running around and asking the

1 Court to take judicial notice of every document that's been filed  
2 somewhere, that you can pull up and certify yourself that you got it  
3 out of the records.

4 Now, there's one or two of the State court documents you've  
5 tendered that we can either take judicial notice of or they're  
6 admissible as an exception to the hearsay rule, whichever way you  
7 approach it is relatively unimportant, as long as you can use them.

8 Like the one you had from Florida, it's still got to be  
9 relevant and material to the issue before the Court. The mere fact I  
10 say I'll allow you to use it by taking judicial notice of it doesn't  
11 mean the Court's going to consider it as far as some substantive  
12 matter contained in it that may be subject to dispute otherwise. You  
13 just get in --

14 But nevertheless, I'm going to allow you a limited period of  
15 discovery in this case for each of you. I don't know whether the  
16 plaintiff wants to do any discovery or not, but each of you certainly  
17 have the opportunity to do so and each of you have Motions for  
18 Sanctions pending. Neither of you have yet given me much in the way  
19 of direction of what your sanctions you're requesting are. You've  
20 given me some general statements. I can deal with that, I guess, to  
21 some extent, but it's not very explicit, and I'll allow you time to  
22 try to get that together.

23 How much time do you need for discovery? Do you need any  
24 discovery at all, Mr. Nazaire?

25 MR. NAZAIRE: It depends, Your Honor. I'd like to depose



1 Mr. Rajesh Patel.

2 THE COURT: Depose who?

3 MR. NAZAIRE: Mr. Patel.

4 THE COURT: Oh, Mr. Patel, okay.

5 MR. CHINTELLA: We would object to that, Your Honor. The case  
6 has been dismissed. So right now I guess we view discovery as more  
7 aimed at the pre-filing investigation and issues like that, which  
8 would involve, from our side, you know, technical experts, officials  
9 at Prenda Law, in that vicinity.

10 THE COURT: I can't hear you.

11 MR. CHINTELLA: I'm sorry, Your Honor. I'm sorry, Your Honor.

12 From our perspective, the case has been dismissed voluntarily  
13 and I guess that creates a problem because we don't believe it can be  
14 reopened.

15 THE COURT: If you want me to insist upon that, then we can  
16 just end these hearings today and all go home.

17 MR. CHINTELLA: Well, we'd rather have discovery and have a  
18 chance at getting my client's attorney's fees back than losing out on  
19 that. But what, I guess, our position is is that we would want  
20 discovery about the technical reports and the pre-filing  
21 investigation and the relationship between local counsel and Prenda.

22 THE COURT: I asked Mr. Nazaire, and he said, I gather, just  
23 the one witness that you would want to discover?

24 MR. NAZAIRE: You know, Your Honor, I take that back, Your  
25 Honor. I don't need to depose Mr. Patel because this case is a

1 dismissed case.

2 THE COURT: All right. Well, how many witnesses is it you  
3 anticipate you would want to have discovery on? Post-judgment  
4 discovery is not unusual. It's done quite often --

5 MR. NAZAIRE: Your Honor --

6 THE COURT: -- in an appropriate post-judgment matter.

7 MR. NAZAIRE: Your Honor, I believe I just would need  
8 interrogatories to be sent to Mr. Patel.

9 THE COURT: Beg your pardon?

10 MR. NAZAIRE: I would just like the opportunity to send  
11 requests for interrogatories to Mr. Patel and that should cover it.  
12 Instead of bringing him in and wasting his time.

13 THE COURT: Okay. As part of discovery you can do that.

14 MR. CHINTELLA: From us, Your Honor, we'd probably need  
15 interrogatories, as well as some requests for inspection, that sort  
16 of thing.

17 Unfortunately, our perspective of Prenda's business model is  
18 that they tend to use forged things and produce -- like the affidavit  
19 in this case, for example, that's not sufficient under Florida law.  
20 So we would ask for a little bit more expansive range of tools,  
21 including depositions, if necessary, subject to the Court's  
22 discretion of deponents.

23 THE COURT: How long do you think it would take you? That's  
24 what I'm trying to ask you.

25 MR. CHINTELLA: I would estimate -- if we could do an

1 expedited response time, if opposing counsel and myself could agree  
2 to that, one or two months. My estimating skills are not the best,  
3 but I would estimate one or two months, Your Honor.

4 MR. NAZAIRE: Your Honor, I just want to object to him -- I'm  
5 not sure what exactly he would need to inspect. I think probably  
6 closer -- I'm not sure. I would need time to send -- to notify  
7 Mr. Lutz. If he needs discovery, I probably need, maybe, 60 days to  
8 get it to him. I'm not sure exactly what he's going to ask for.  
9 Sixty days to either get it or to object to it.

10 THE COURT: All right. I'm going to authorize discovery and  
11 you better get started with it immediately and it better be immediate  
12 answers. If there are problems, then I'll address them with -- try  
13 to address them with dispatch even though we're inundated otherwise.  
14 I'll give you -- both of you've indicated the outside of two months.  
15 I'll give you two months for discovery in this matter.

16 MR. CHINTELLA: Can I ask a question, Your Honor?

17 THE COURT: Yes, sir.

18 MR. CHINTELLA: Are there any -- is there any limit on the  
19 discovery devices we can use or is it just...

20 THE COURT: Do you want to use interrogatories or do you want  
21 to take depositions or requests to produce or whatever? I mean, I'm  
22 giving you discovery for a period of two months. But if you don't  
23 start immediately, you won't be very effective in a two-month period  
24 of time.

25 All right. We will, in the meantime, try to give you some

1 indication as to which ones of these documents you've talked about  
2 which you can rely upon and utilize in evidence. I don't remember --  
3 how many of you requested the Court take judicial notice of? I know  
4 you've filed two or three in the last two or three days.

5 MR. CHINTELLA: I believe I filed one in the last day, maybe  
6 two in the last week. I think total number of documents -- I would  
7 say 15. My best estimate is 15.

8 THE COURT: So there's 15 documents we've got to -- all right.

9 That means, Mr. Nazaire, if we're not going forward with this  
10 deposition today, you have your chance. If he wants to use the  
11 witness at any subsequent hearing, he can do so. You're on notice.

12 MR. NAZAIRE: Yes, Your Honor, I'm on notice.

13 Your Honor, once again, I want to object to the relevance of  
14 some of these exhibits that he wants to use as -- that he wants  
15 judicial notice on.

16 THE COURT: Have you filed any objections thus far on any of  
17 them?

18 MR. NAZAIRE: The one objection I filed, Your Honor, was on  
19 the one from California and the defendant asks for Motions for  
20 Sanctions. So I'm, sort of, apprehensive about filing any more  
21 objections because -- yes, he did file for a Motion for Sanctions  
22 merely because I filed an objection. Yeah, it was his motion, which  
23 is ECF Number 30, is a Motion for Sanctions merely because I objected  
24 to one of the documents.

25 THE COURT: Which document did you object to?

1 MR. NAZAIRE: Well, it was the California decision, which I  
2 believe was not related to this case.

3 THE COURT: You mean that decision that Judge Wright wrote his  
4 opinion?

5 MR. NAZAIRE: Yes, Your Honor. I don't believe that was  
6 sanctionable. It was my opinion that it was not relevant.

7 THE COURT: All right. Okay. Is that the only one you had an  
8 objection to?

9 MR. NAZAIRE: Well, I also object to the -- I didn't make an  
10 objection, but for the time being, I have an objection to anything  
11 that happens in Florida, especially as far as a grievance between  
12 two -- between Mr. Syfert who's not part of this action.

13 THE COURT: Well, I'll deal with each --

14 MR. NAZAIRE: Yes, Your Honor.

15 THE COURT: -- of those and deal with whether we're going to  
16 consider them or not. We'll do that right away.

17 MR. CHINTELLA: I'm going to try to work with opposing  
18 counsel, Your Honor, to resolve some of those issues, hopefully, too.

19 THE COURT: Well, if you can do that right away, let us know.  
20 We'll be happy to hear from you before you go home.

21 MR. NAZAIRE: Your Honor, I'm sorry. Can I make one request,  
22 Your Honor?

23 THE COURT: What's that?

24 MR. NAZAIRE: I'm afraid of dealing with the defendant because  
25 every time -- on a phone call, I'm afraid that I'm getting

1 tape-recorded. I don't think that's fair to me, Your Honor, that I  
2 don't know whether or not I'm being tape-recorded.

3 As far as if somebody's in New York, New York is a two-party  
4 consent state, it's not a one-party consent state, and any national  
5 across state -- interstate call, whether it's to one-party consent  
6 states, it's illegal to tape-record somebody without that person's  
7 permission.

8 I would just ask that anytime I contact Mr. Chintella  
9 regarding discovery, if it's by phone, that it's not tape-recorded.  
10 I feel very strange -- I don't want whatever I say to be cut in  
11 pieces and then played back to make it seem that I said something  
12 horrible. And that's the only reason sometimes I don't return his  
13 call is because he calls me for the purpose of tape-recording me to  
14 create evidence, Your Honor.

15 As you said, you didn't go to the same law school as the  
16 defendant's attorney did, but I don't believe attorneys should --  
17 their whole case should be based upon a case that they've created  
18 based upon their own conversations and what that attorney has  
19 witnessed.

20 I just want the Court's guidance as to whether or not we can  
21 tape-record each other. I, for one, don't have any reason to  
22 tape-record the defendant or his counsel.

23 MR. CHINTELLA: Your Honor, I'm okay with not doing that. But  
24 the reason I initially did it is because counsel said they would not  
25 object to setting aside the default and then they reversed that

1 position and essentially tried to get us to agree to a dismissal and  
2 pay our own attorneys' fees.

3 We resisted that -- or my client did, and I consult with my  
4 client on all these issues. They resisted that because they felt the  
5 lawsuit was unjust for all these reasons. You know, I never -- we  
6 had discussions generally, obviously, about these issues before this  
7 hearing today and I never got an answer on any of these issues.

8 I didn't just call to make a recording, as he mentions, but I  
9 sent emails that were not responded to, stuff like that as well. So  
10 I'm more than happy to do it if we can keep the lines of  
11 communication open. If it'll help that, then I'm fine with that.  
12 But I would point out that it is not illegal.

13 THE COURT: Well, there's no recording, as far as I know, in  
14 this courtroom. You can have your conversations when we recess.

15 MR. NAZAIRE: Yes, Your Honor.

16 THE COURT: You can begin those.

17 And we'll get something out very quickly as to -- so you know  
18 what the Court will allow in the way of what's been tendered.

19 We'll set a date for a hearing after I see what's going on and  
20 we get further down the line, but that may be shortly after that 60  
21 days. Sixty days was July, August -- that would be into September.  
22 So we may try to hear it in September, October, one, depending upon  
23 what my jury trial schedule will be at that time.

24 I was able to put this in because we've got jury trials  
25 starting Monday and so we were able to get this in ahead of that and

1 we'll have to do the same thing.

2 I caution you, Counsel -- I mean, still going on is the  
3 accusations against each other. Just here in the last few minutes  
4 each of you are making accusations against the other.

5 MR. CHINTELLA: Your Honor, if I could -- if I could speak  
6 really quick on that.

7 I would -- if I said something that was offensive or  
8 unprofessional in my pleadings, it has not been drawn to my  
9 attention. I don't believe I've said anything on the scale of  
10 mentioning criminal records or terrorist associations or analogies  
11 that seem, to me, absurd. I don't believe I've said anything along  
12 those lines. If I have, I'll --

13 THE COURT: Well, both of you will take notice that your  
14 conduct, anything less than professionalism within the rules of --  
15 kinds of ethics, hurts you rather than helps you in this Court.

16 MR. NAZAIRE: I've taken notice, Your Honor, and I promise it  
17 will not happen again.

18 THE COURT: You've got a long way to dig yourself back out.

19 MR. NAZAIRE: I understand, Your Honor.

20 MR. CHINTELLA: I will do the same, Your Honor, attempt to  
21 always be professional. There's the motion --

22 THE COURT: Is there anything else either one of you wish to  
23 say before we --

24 MR. CHINTELLA: Real quick. The Motion to Strike is still  
25 pending. I didn't know if it was possible to strike those things



1 from the public record, if the Court wanted to look at that issue yet  
2 or not.

3 It was -- Mr. Nazaire is correct, there are a lot of people  
4 who follow these cases very closely, and as soon as that hit it was  
5 -- there was a big hoopla on the message boards and all that stuff,  
6 and that's what I think the purpose of it was. That's the reason I  
7 mentioned the strike in the motion as well.

8 THE COURT: You mean the accusations concerning a DUI?

9 MR. CHINTELLA: The DUI, the mention of the EFF terrorist and  
10 my association or shared goals with them. And you mentioned one  
11 other thing that wasn't directly at me, some analogies about  
12 California.

13 MR. NAZAIRE: Your Honor, I don't oppose any Motion to Strike  
14 those that he's mentioned.

15 THE COURT: Well, striking them just means they're stricken.  
16 They'll still be in the record. It's like the feathers out of a  
17 pillow, once you shake them out, they can't be undone. I mean,  
18 they're still typed in there and they will be there.

19 MR. CHINTELLA: And, Your Honor, the stuff about John Steele  
20 and I, if that -- we would also argue that that is inflammatory and  
21 should be stricken as well. I'm willing to explain any facts  
22 surrounding that, I have no idea. I've spoken to John Steele once.

23 THE COURT: Well, I'll deal with what's before me.

24 All right. My law clerk reminds me that I had said at  
25 lunchtime that I wanted to ask you, Mr. --

1 MR. CHINTELLA: Yes, Your Honor.

2 THE COURT: In regard to the disc you gave --

3 MR. CHINTELLA: Yes, Your Honor.

4 THE COURT: -- were you tendering that into evidence or what?

5 MR. CHINTELLA: After what you just said, I should probably  
6 take that back because if you wanted me to pick and choose which to  
7 authenticate, because there are a lot of documents on there -- so I  
8 think it would be confusing if you had to try and go through there  
9 and pull out the ones that are cited in papers or whatnot.

10 THE COURT: Well, it might be of help but if it's -- we're not  
11 going to use it if you're not tendering it into evidence.

12 MR. NAZAIRE: Your Honor, this is the first time I've seen it.  
13 I'm not sure what's on here, Your Honor.

14 THE COURT: Well, not totally. We saw some of it, I think  
15 this morning, but I don't know how much is on there that we didn't  
16 see.

17 MR. NAZAIRE: Yes, Your Honor.

18 MR. CHINTELLA: There's stuff in there that I did attempt to  
19 authenticate and there's stuff that we obviously didn't get to.  
20 There's a lot of information on there.

21 THE COURT: All right. Now, again, I'm reluctant to leave  
22 here without your knowing what you should be focusing on, because  
23 it's not my intention to unleash either of you and that probably -- I  
24 need to direct that more to the defendant than to the plaintiff  
25 because plaintiff doesn't indicate they're going to do much in the

1 way of discovery. And to attack nationwide on what's going on in  
2 this field.

3 I do think that you should focus primarily on the matters  
4 involving this lawsuit and whether it was an improper lawsuit where  
5 there were -- it wasn't brought under Rule 11. But I think there  
6 are, possibly, some serious Rule 11 violations there -- or there may  
7 be from what I've heard. You should focus on whether the filing,  
8 copyright filing and transfer. In other words, that's the sound --  
9 and anything relating to the alleged infringement to indicate whether  
10 or not it was fraudulent or frivolous or not.

11 MR. CHINTELLA: That would include, like, detection methods of  
12 whether -- the evidence they got before filing the suit?

13 THE COURT: Well, anything they had before filing suit -- I  
14 mean, anything that's after suit has no bearing on whether the suit  
15 was filed in good faith or bad faith. If you get information  
16 afterwards, that doesn't reflect on your intent or motives at the  
17 time the lawsuit's filed.

18 I am concerned about this whole matter. If we have anything  
19 else, I'll try to outline it to you in written form in some way. But  
20 you better get about taking care of that, both of you. We'll adjourn  
21 until further order then.

22 [proceedings concluded at 2:35 p.m.]  
23  
24  
25

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF GEORGIA

3 CERTIFICATE OF REPORTER

4  
5 I do hereby certify that the foregoing pages are a true and  
6 correct transcript of the proceedings taken down by me in the case  
7 aforesaid.

8 This the 19th day of August, 2013.

9  
10  
11 /S/ Alicia B. Bagley  
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