

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

VOLTAGE HOLDINGS, LLC; VOLTAGE PICTURES, LLC; AFTER II MOVIE, LLC; VENICE PI, LLC; WONDER ONE, LLC; SCREEN MEDIA VENTURES, LLC; AMERICAN CINEMA INTERNATIONAL, INC.; AMERICAN CINEMA INSPIRES, INC.; and 42 VENTURES, LLC,

Plaintiffs,

v.

DOES 1-100 and VEEPN CORPORATION,

Defendants.

Civil Action No. 1:22-cv-741

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiffs VOLTAGE HOLDINGS, LLC; VOLTAGE PICTURES, LLC; AFTER II MOVIE, LLC; VENICE PI, LLC; WONDER ONE, LLC; SCREEN MEDIA VENTURES, LLC; AMERICAN CINEMA INTERNATIONAL, INC.; and AMERICAN CINEMA INSPIRES, INC. (“Copyright Plaintiffs”), and Plaintiff 42 VENTURES, LLC (“42”), by and through their counsel, bring this Complaint against DOES 1-100 and VEEPN CORPORATION (“VeePN”) (collectively: “Defendants”) and allege as follows:

**I. INTRODUCTORY STATEMENT**

1. Plaintiffs bring this action to stop massive piracy of their copyright protected motion pictures and registered trademarks brought on by subscribers of the data center DATACAMP LIMITED (“DataCamp”). DataCamp’s subscriber VeePN provides a Virtual Private Network (“VPN”) service that it blatantly promotes under 42’s registered trademarks without authorization for committing and concealing movie piracy. VeePN’s customers (“end users”) use

the VPN services exactly as encouraged – to pirate copyright protected content including Plaintiffs’. DataCamp’s other subscribers also stream, distribute and reproduce unlicensed copies of Copyright Plaintiffs’ motion pictures.

2. An individual that pirates copyright protected content in the United States from her home Internet service via peer-to-peer (P2P) networks such as BitTorrent Protocol puts herself in great legal peril because her Internet Protocol (“IP”) address is publicly exposed. A copyright owner can obtain her account identification information from the Internet Service Provider (“ISP”) that provided her with the IP address and seek statutory damages for copyright infringement that can be as high as \$150,000. This risk is known among prolific pirates and feared.

3. Against this background, some unscrupulous VPN providers have taken advantage of this widely known risk by promoting their VPN services as essential tools for piracy. These VPN providers emphasize in advertisements that they delete their end users’ log access records so their identities will never be disclosed to copyright owners or law enforcement.

4. Emboldened by these promises that their identities will never be disclosed, end users use the VPN services to engage in widespread movie piracy while openly boasting of their piracy and outrageous criminal conduct such as illegal hacking and theft. *See* Decl. of Daniel W. Byanski at ¶¶3-4 (VPN user at DataCamp IP address used VPN service to pirate movies and hack into Mr. Byanski’s email address to steal \$12,000)

5. In 2021, some of the Plaintiffs here brought legal action (*Millennium Funding, Inc. et al., v. John Doe, d/b/a Popcorntime.app, et al.*, 1:21-cv-282-RDA-TCB) in this district against a VPN service provider VPN.HT and the anonymous operators of the notorious piracy app Popcorn Time (John Doe d/b/a Popcorntime.App”) for distributing the piracy app Popcorn Time and promoting the VPN service for “safely” using Popcorn Time. After being notified of the lawsuit,

VPN.HT promptly ended its partnership with Popcorn Time operators and later agreed to a stipulated judgment ordering it to log its end users' activities. *See Millennium Funding, Inc. et al., v. John Doe, d/b/a PopcornTime.app, et al.*, Doc. #60.

6. On the other hand, the Popcorn Time operators promptly moved to a new domain and left a message for Plaintiffs on the Internet expressing their intention to continue engaging in piracy: "Beneath this 'app' there is an idea...And ideas are bulletproof." *Millennium Funding, Inc. et al., v. John Doe, d/b/a PopcornTime.app, et al.*, Doc. #64 at 11, FN 5 (Report and Recommendation).

7. Barely 3 months after VPN.HT terminated its involvement with Popcorn Time, VeePN begin promoting itself as "Popcorn Time VPN" and operating under a similar profitable scheme to take advantage of prolific pirates' fear of getting caught. VeePN takes it a step further and even promotes its VPN service on the notorious piracy website YTS as an essential tool to download copies of Plaintiffs' movies without "...get[ting] fined by legal action!"

## II. NATURE OF THE ACTION

8. Copyright Plaintiffs bring this action under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101, *et seq.* (the "Copyright Act"), and allege that Defendants VeePN and DOES 1-100 are liable for direct infringements in violation of 17 U.S.C. §§ 106 and 501 and violations of the integrity of copyright management information under the Digital Millennium Copyright Act ("DMCA violations") (17 U.S.C. § 1202). Copyright Plaintiffs further allege that VeePN is secondarily liable for direct copyright infringements in violation of 17 U.S.C. §§ 106 and 501 for its end users' DMCA violations.

9. Plaintiff 42 brings this action for infringement and contributory infringement of its federally registered trademarks in violation of Section 32(1) of the Lanham Act (15 U.S.C.

§ 1114(1)) and for unfair competition in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)), and alleges that VeePN is liable for trademark infringement, false descriptions and contributory trademark infringement.

### **III. JURISDICTION AND VENUE**

10. This Court has subject matter jurisdiction over this action pursuant to 17 U.S.C. §§ 101, *et seq.*, (the Copyright Act), 15 U.S.C. § 1121, 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338 (patents, copyrights, trademarks, and unfair competition), and 28 U.S.C. § 1367 (supplemental jurisdiction).

11. Defendants solicit, transact, or are doing business within this jurisdiction, and have committed unlawful and tortious acts both within and outside this jurisdiction with the full knowledge that their acts would cause injury in this jurisdiction.

12. Nonparty DataCamp operates at least thirty or more servers it leases to the public from at least one data center in Ashburn, Virginia and thus in this District.

13. Defendants VeePN and DOES 1-100 contracted with DataCamp for hosting and network service including IP addresses from servers in Ashburn, Virginia and thus in this District.

14. Defendants committed acts of direct and contributory infringement of Copyright Plaintiffs' Works on servers in Ashburn, Virginia and thus in this District. Particularly, Defendants distributed illicit copies of Plaintiffs' Works from these servers.

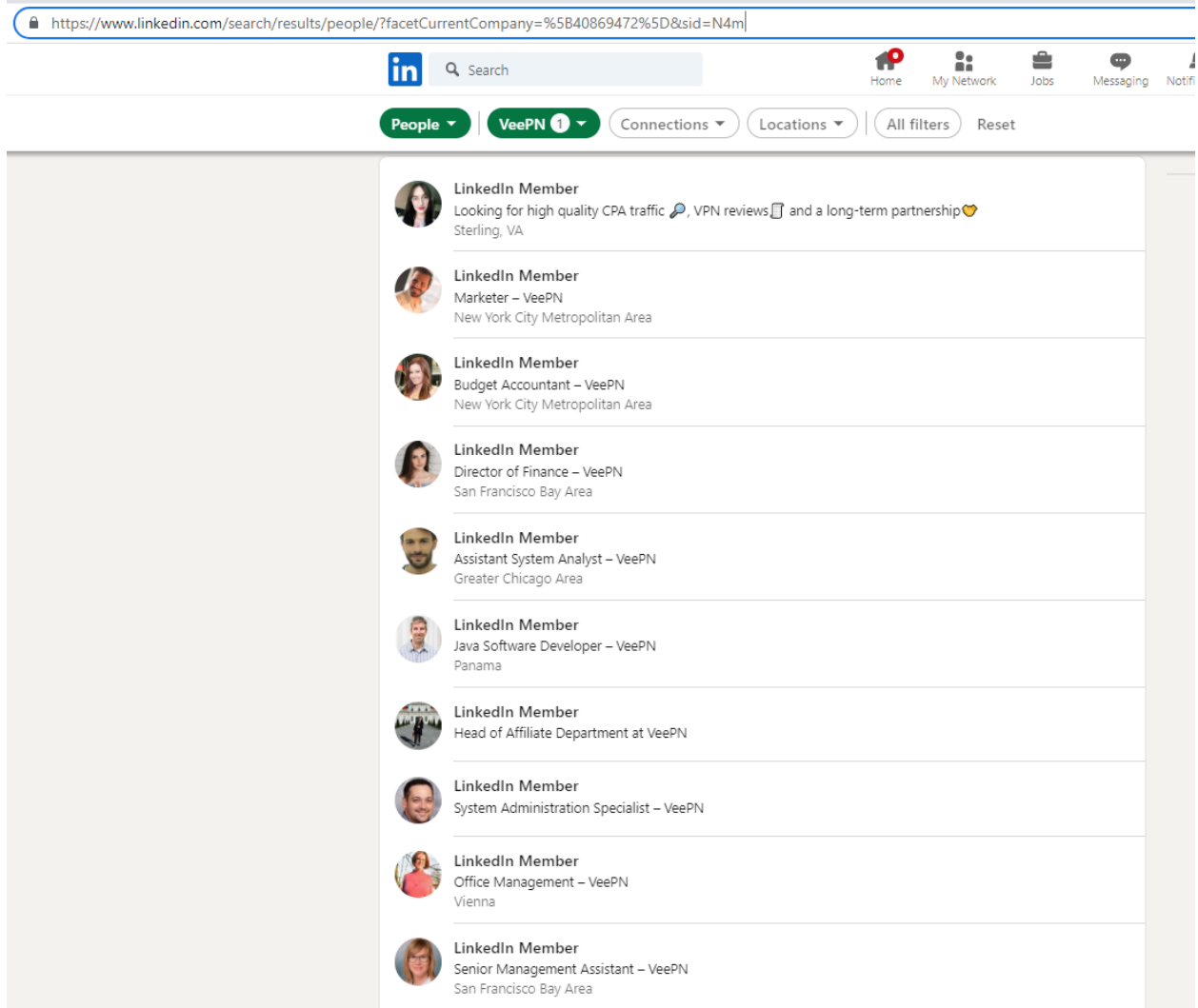
15. Defendants committed acts of contributory trademark infringement of Plaintiff 42's registered trademarks on servers in Ashburn, Virginia and thus in this District. Particularly, Defendants distributed illicit copies of Copyright Plaintiffs' Works with file names that included 42's registered trademarks without authorization from these servers in Virginia.

16. VeePN has registered the trademark “VeePN” on the supplemental register (No. 5823691) for the service that is the subject of Plaintiffs’ claims with the United States Patent and Trademark Office (“USPTO”) in Alexandria, Virginia and thus in this District.

17. VeePN operates a website VEEP.N.COM at which it intentionally induces copyright infringement and infringes 42’ trademarks that is registered through a registrar with the .com top level domain registry VeriSign, Inc. in Reston, Virginia and thus in this District.

18. VeePN operates a website VEEP.N.CO at which it intentionally induces copyright infringement and infringes 42’ trademarks that is registered through a registrar with the .co top level domain registry CO Internet S.A.S., in Bogota, Columbia, which is a subsidiary of Neustar, Inc., in Sterling, Virginia and thus in this District.

19. According to VeePN’s publicly available LINKEDIN profile as of June 20, 2022, it has at least one employee in Sterling, Virginia who is engaged in VPN reviews that are the subject of the Copyright Plaintiffs’ claims for intentional inducement.



20. In the alternative, the Court has jurisdiction over at least Defendant VeePN pursuant to Fed. R. Civ. P. 4(k)(2), the so-called federal long-arm statute, for at least the following reasons: (1) Plaintiffs' copyright and trademark claims arise under federal law; (2) VeePN purposely directs its electronic activity into the United States and targets and attracts a substantial number of users in the United States and, more particularly, this District; (3) Defendants do so with the manifest intent of engaging in business or other interactions with the United States; (4) Defendants are not subject to jurisdiction in any state's courts of general jurisdiction; and (5) exercising jurisdiction is consistent with the United States' Constitution and laws.

21. VeePN uses or has used many United States (“US”) based sources for operating their interactive websites and services.

22. VeePN uses the domain registrars Namecheap, Inc. (Arizona) and Dynadot LLC (California) for registering its domains VeePN.com and VeePN.co.

23. VeePN uses the company Amazon Technologies, Inc. (Washington) for hosting its website VeePN.com in Oregon and nameserver company Cloudflare, Inc. (California) for nameserver service for VeePN.com. Accordingly, Defendant VeePN physically stores copies of the websites on servers in California and Oregon that infringe 42’s trademarks and induce copyright infringement.

24. VeePN agreed to be subject to jurisdiction in the US and to a Court in the US (California) when agreeing to terms of services with Cloudflare for nameserver service.

25. VeePN agreed to be subject to jurisdiction in the US and to a Court in the US (Arizona) when agreeing to terms of services with Namecheap for domain hosting service.

26. VeePN contracted with the US company Cogent Communications, Inc. (DC) for hosting and network service including IP addresses at locations including data centers in New Jersey.

27. Besides Virginia and New Jersey, VeePN contracted with providers for hosting and network service including IP addresses at locations including data centers in Arizona, California, Colorado, Texas, Nevada, Illinois, New York, and Oregon.

28. VeePN uses a US payment provider such as Paypal to receive funds in US dollars from US residents and store said funds in the US.

29. VeePN has registered the trademark “VeePN” on the supplemental register (No. 5823691) for the service that is the subject of Plaintiffs’ claims with the USPTO in Virginia. To register its trademark in the USPTO, VeePN’s authorized agent Alexander Lazousk (an attorney

licensed to practice law in New York from an office in Lakewood Ranch, Florida), signed a declaration under the penalty of perjury on Jan. 29, 2019 affirming that VeePN used the mark in the US.

30. VeePN contracts with the Florida company IT Research LLC to receive payments from Paypal on its behalf from US residents in US dollars.

31. VeePN uses the US social media platform TWITTER via the handle “@veepn” to promote its services to US consumers.



32. VeePN uses the US social media platform REDDIT via the handle “Drew41305” to promote its services to US consumers for piracy.



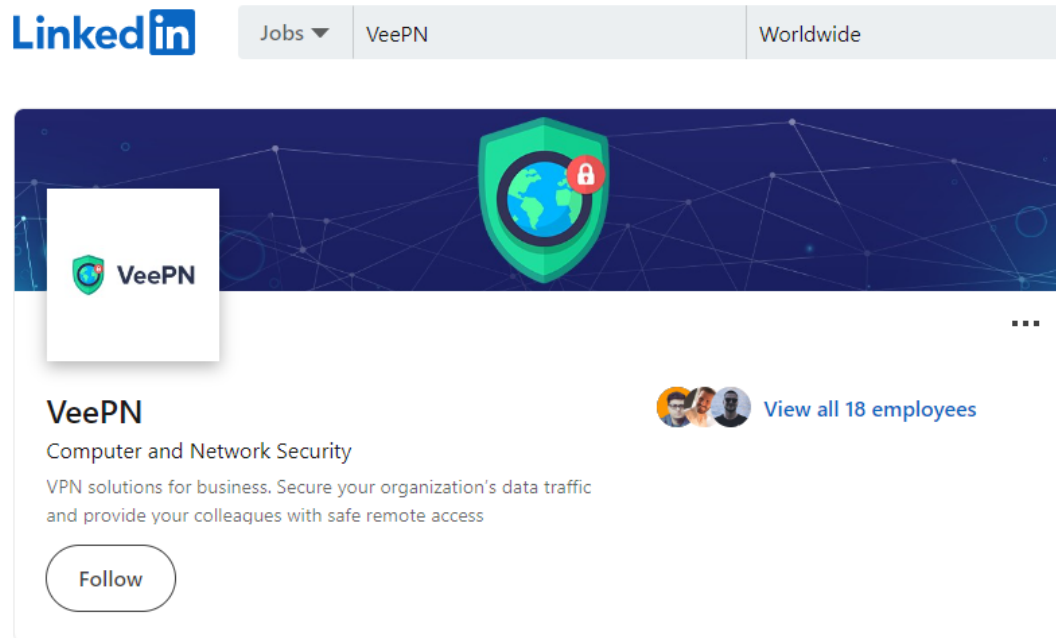


 **r/thepiratebay** · Posted by u/Drew41305 2 years ago

## Here is how to access The Pirate Bay

1. Go to [VeePN](#)
2. Click on the button "PRICE"
3. Purchase a plan that is affordable to you. Pricing on the monthly plan is higher than some at \$10.99, but that falls to a more reasonable \$5.83 on the annual plan, and just \$1.67 if you sign up for five years. With this promo OFF51 price will be more attractive!
4. After the purchase has been complete, download and install the application on your device.
5. As the application has been installed, run the app on your device.
6. Select "Hong Kong" as your location in the app.
7. Click on the connect button that looks like a power button. When connected, open your favorite browser.

33. VeePN uses the US social media platform LINKEDIN to promote its services to US consumers.



LinkedIn Jobs VeePN Worldwide

**VeePN**  
Computer and Network Security  
VPN solutions for business. Secure your organization's data traffic and provide your colleagues with safe remote access

Follow View all 18 employees

About us

34. According to VeePN's publicly available LINKEDIN profile, at least 6 of its 18 employees are in the US (Virginia, Illinois, California and New York).

35. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a) - (c) because: (a) all or a substantial part of the events or omissions giving rise to the claims occurred in this District; and/or (c) Defendants are subject to the court's personal jurisdiction with respect to the present action. Additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases), because the Defendants or Defendants' agents resides and/or can be found in this District.

#### **IV. PARTIES**

##### ***A. The Plaintiffs***

36. The Copyright Plaintiffs are owners/beneficial owners of copyrights for the motion pictures (hereafter: "Works") including but not limited to those in Exhibit "1".

37. Each of Plaintiffs VOLTAGE HOLDINGS, LLC and VOLTAGE PICTURES, LLC (collectively, "Voltage") is a Nevada limited liability company with its principal place of business at 116 N. Robertson Blvd, Suite 200, Los Angeles, CA 90048.

38. Plaintiff AFTER II MOVIE, LLC ("After") is a Nevada limited liability company with its principal place of business at Las Vegas, NV.

39. Plaintiff VENICE PI, LLC ("Venice") is a California limited liability company with its principal place of business at 116 N Robertson Blvd Ste #200, Los Angeles, CA 90048

40. Plaintiff WONDER ONE, LLC ("Wonder") is a Wyoming limited liability company with its principal place of business at 4164 Weslin Ave. Sherman Oaks, CA 91423.

41. After, Venice, Wonder are affiliates of Voltage, a production company with a notable catalog of major award-winning motion pictures. *See* <http://www.voltagepictures.com/>.

42. Plaintiff SCREEN MEDIA VENTURES, LLC (“SMV”) is a Delaware limited liability company with its principal place of business at New York, NY. SMV also has a notable catalog of major motion pictures. See <https://screenmediafilms.net/>.

43. Plaintiffs AMERICAN CINEMA INTERNATIONAL, INC. and AMERICAN CINEMA INSPIRES, INC. are California corporations with principal place of business at 15363 Victory Blvd, Van Nuys, CA 91406 and a notable catalog of family friendly independently produced motion pictures. See <https://aci-americancinema.com/screeners/all>.

44. Copyright Plaintiffs are producers and distributors of popular motion pictures currently available for sale in online and brick and mortar retail stores. Many of these critically acclaimed motion pictures were released in theaters throughout the world and feature A-list actors.

45. Copyright Plaintiffs invested significant financial resources, time and effort in making and marketing these motion pictures based upon the expectation that they would have an opportunity to get a return on their investment from rentals and sales. Massive piracy of these motion pictures by Defendants and their willful failure to deal with this issue despite clear notice have hindered this opportunity.

46. Plaintiff 42 is a limited liability company organized under the laws of Hawaii and having its principal place of business in Kailua-Kona, Hawaii.

47. 42 distributes and streams licensed content to the public from a plurality of means including, but not limited to, websites.

48. For example, 42 streams in depth humorous movie reviews called “Reel Reviews” and debates concerning motion pictures and pop culture called “Nerd Wars” from the website <http://popcorn4u.com/> under the marks “Popcorn Time”, “RARBG” and “YTS” through an agreement with Andy Signore, the creator of the popular YouTube channel Popcorned Planet

(since 2009) and former executive producer of the Emmy nominated series Honest Trailers (nominated in 2016 and 2017).

***B. The Defendants***

49. Defendant VeePN is a corporation organized under the laws of Panama and having a principal place of operation in 50th and 59th Str., Nuevo Reparto, Paitilla, Duplex 8E, Panama.

50. VeePN is a provider of VPN services.

51. VeePN contracts with data centers such as DataCamp to obtain IP addresses and services for the VPN service provided by VeePN to its end users.

52. VeePN's service is for transmitting, routing, and/or or providing connections for said transmitting and routing, through a network controlled by VeePN ("providing network connections").

53. A VPN is a type of Internet Service that provides access to the Internet. A conventional ISP will assign its users an IP address and log the users' activities on the Internet while using the assigned IP address. In comparison, many VPN providers provide their end users "anonymous" usage by, for example, deleting end user log records, assigning the end users IP addresses that are simultaneously shared among many users, and/or encrypting traffic.

54. VeePN promotes its VPN service as a tool that can be used to pirate copyright protected content without getting caught.

55. From April of 2021, VeePN begin advertising its VPN service under the brand name "Popcorn Time VPN".

56. Upon information and belief, VeePN is controlled by one or more individuals in Russia and/or Ukraine including an individual named Tetiana Horkusha.

57. DOES 1-100 are subscribers of DataCamp. DOES 1-100 use IP addresses and servers they lease from DataCamp to publicly perform, download and reproduce Plaintiffs' Works without a license and further share (distribute) copies of Plaintiffs' Works to individuals across the world and/or stream (publicly perform) from said IP addresses.

58. Plaintiffs are informed and believe that DataCamp is in possession of identification information or information that will lead to the identities of DOES 1-100 such as payment information. However, further discovery may be necessary in some circumstances in order to be certain of the identity of the proper Defendant. Plaintiffs believe that information obtained in discovery will lead to the identification of DOES 1-100's true names and permit the Plaintiffs to amend this Complaint to state the same. Plaintiffs further believe that the information obtained in discovery may lead to the identification of additional infringing parties to be added to this Complaint as defendants. Plaintiffs will amend this Complaint to include the proper names and capacities when they have been determined. Plaintiffs are informed and believe, and based thereon allege, that each of the fictitiously named Defendants participated in and are responsible for the acts described in this Complaint and damages resulting therefrom.

***C. Non-parties***

59. The American Registry of Internet Numbers ("ARIN") is a nonprofit, member-based organization that manages and distributes Internet number resources such as IP addresses and Autonomous System Numbers (ASNs).

60. Réseaux IP Européens Network Coordination Centre (RIPE) is the regional Internet registry that manages and distributes Internet number resources such as IP addresses for Europe, West Asia, and the former USSR.

61. Members of ARIN and RIPE such as, upon information and belief, Defendant DataCamp are required to agree to terms of a registration agreement.

62. Datacamp is a limited company organized under the laws of the United Kingdom, and, upon information and belief, has a principal place of operations at 207 Regent Street in London W1B 3HH.

63. Upon information and belief, DataCamp maintains one or more membership handles with ARIN and/or RIPE.

64. DataCamps's ARIN and/or RIPE handles include "CDN77\_DAL-EQ6".

## **V. JOINDER**

65. Pursuant to Fed. R. Civ. P. 20(a)(1), each of the Plaintiffs are properly joined because, as set forth in detail above and below, the Plaintiffs assert: (a) a right to relief arising out of the same transaction, occurrence, or series or transactions, namely Defendants use of servers leased from DataCamp's for directly and contributorily infringing the copyrights in the Copyright Plaintiffs' Works and 42's trademarks,; and (b) that there are common questions of law and fact.

66. Pursuant to Fed. R. Civ. P. 20(a)(2), each of the Defendants are properly joined because, as set forth in more detail below, Plaintiffs assert that the infringements complained of herein by each of the Defendants (a) arise out of the same transaction, occurrence, or series of transactions or occurrences, and (b) there are common questions of law and fact. That is, each of Defendants used service provided by DataCamp to infringe Plaintiffs' copyrights in their Works.

## **VI. FACTUAL BACKGROUND**

### ***A. Plaintiffs Own Valid Copyrights and Trademarks***

67. The Copyright Plaintiffs are the owners/beneficial owners of the copyright in the Works, respectively either through original authors or inter-company assignments. The Works are the subjects of copyright registrations, and this action is brought pursuant to 17 U.S.C. § 411. *See* Exhibit “1”.

68. Each of the Works are motion pictures currently offered for sale in commerce.

69. Defendants had notice of Copyright Plaintiffs’ rights through at least the credits indicated in the content of the motion pictures which bore proper copyright notices.

70. Defendants also had notice of Copyright Plaintiffs’ rights through general publication and advertising associated with the motion pictures, and packaging and copies, each of which bore a proper copyright notice.

71. Plaintiff 42 is the owner of a federal trademark registration, Reg. No. 5,963,253 for the standard character mark Popcorn Time, which issued on Jan. 14, 2020 on the principal register of the United States Patent and Trademark Office. This registration for the standard character mark Popcorn Time covers CLASS 9: Downloadable computer software for downloading and streaming multimedia content images, videos and audio. A true copy of this registration is attached as Exhibit “2”. The registration is valid and subsisting and has never been cancelled.

72. 42 is also owner of the trademark registrations for Popcorn Time in Iceland and Russia.

73. 42’s US trademark in Popcorn Time asserts a first date of use of 11/29/2019.

74. 42 is the owner of a federal trademark registration, Reg. No. 6,025,651 for the standard character mark YTS, which issued on Mar. 31, 2020 on the principal register of the United States Patent and Trademark Office. This registration for the standard character mark YTS covers CLASS 9: Downloadable computer software for downloading and streaming multimedia content

images, videos and audio. A true copy of this registration is attached as Exhibit “3”. The registration is valid and subsisting and has never been cancelled.

75. 42 is also owner of the trademark registrations for YTS in India.

76. Plaintiff 42’s US trademark in YTS asserts a first date of use of 1/27/2020.

77. 42 is the owner of a federal trademark registration, Reg. No. 6,391,376 for the standard character mark RARBG, which issued on Jun 15, 2021 on the principal register of the United States Patent and Trademark Office. This registration for the standard character mark RARBG covers CLASS 9: Downloadable computer software for downloading and streaming multimedia content images, videos and audio. A true copy of this registration is attached as Exhibit “4”. The registration is valid and subsisting and has never been cancelled.

78. 42 is also owner of the trademark registrations for RARBG in Brazil, India and Sweden.

79. Plaintiff 42’s US trademark in RARBG asserts a first date of use of 1/28/2021.

80. Plaintiff 42 distributes and streams content under these marks throughout the US on one or more websites.

81. Plaintiff 42 has invested time, effort and financial resources promoting its Popcorn Time, YTS and RARBG trademarks in connection with the marketing of its software and websites in interstate commerce.

82. Plaintiff 42’s Popcorn Time, RARBG and YTS trademarks are inherently distinctive as applied to 42’s websites that bear the mark.

83. VeePN had notice of 42’s trademarks because they were each published on the Principal Register and VeePN itself has a trademark registered on the Supplemental Register.



84. VeePN had notice of 42's registered trademark Popcorn Time through the *Millennium* VPN lawsuit in this district that was widely reported..

***B. Defendants directly infringe Plaintiffs' Copyrights***

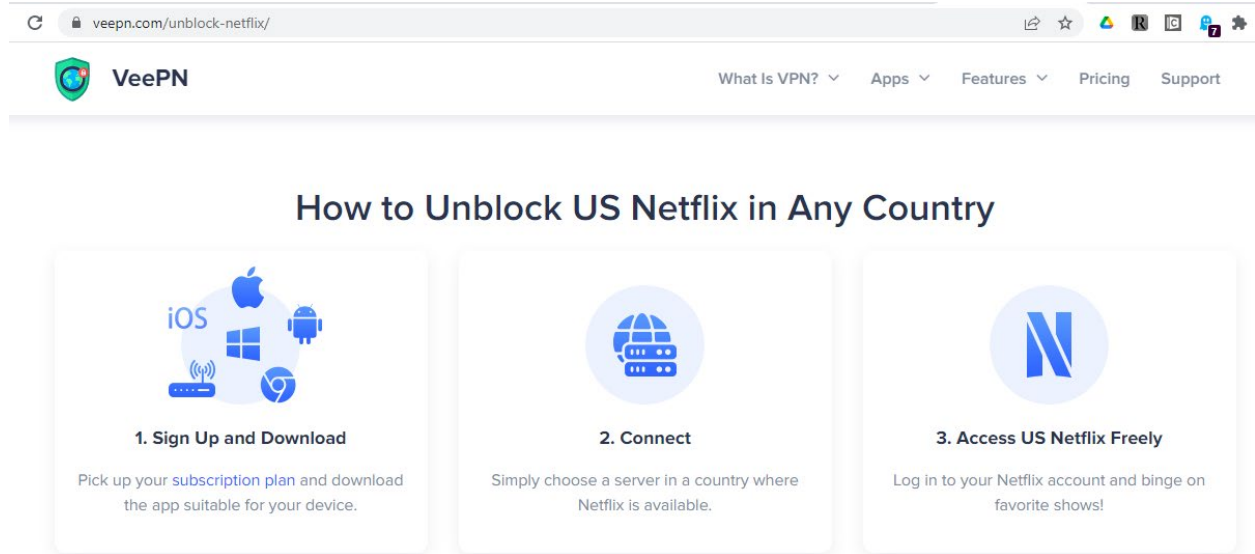
85. Defendants VeePN and DOES 1-100 distribute, reproduce and/or publicly perform (stream) Plaintiffs' Works from servers they leased from data centers such as DataCamp in violation of Plaintiffs' exclusive rights.

86. DOES 1-100 include seedbox operators that reproduce and distribute copies of Plaintiffs' Works in violation of Plaintiffs' exclusive rights.

87. VeePN distributes Plaintiffs' Works for its end users in violation of Plaintiffs' exclusive right of distribution.

88. VeePN reproduces Plaintiffs' Works for its end users in violation of Plaintiffs' exclusive right of distribution.

89. VeePN advertises its VPN service for allowing its end users to bypass regional restrictions of legal platforms such as Netflix to stream or download copies of copyright protected content including Plaintiffs' Works from locations Plaintiffs have not authorized the platform to stream or distribute the Works.



90. VeePN advertises its service for allowing its end users not located in the US to stream or download content restricted to United States locations to their non-US locations in violation of Plaintiffs' exclusive rights to authorize distribution, public performance and/or reproduction of their Works.

91. VeePN advertises its service for allowing its end users located in the US to stream or download content from non-US locations in violation of Plaintiffs' exclusive rights to authorize distribution, public performance and/or reproduction of their Works.

92. VeePN violates Plaintiffs' exclusive right to import copies of their Works to the United States.

93. VeePN violates Plaintiffs' exclusive right to export copies of their Works from the United States.

***1. Defendants use BitTorrent to engage in piracy.***

94. BitTorrent is one of the most common P2P file sharing protocols (in other words, set of computer rules) used for distributing large amounts of data.

95. In a report from January 2011, a survey conducted by the firm Envisional estimated that 11.4 percent of all Internet traffic involved the unauthorized distribution of non-pornographic copyrighted content via BitTorrent.

96. A more recent study by Sandvine determined that file-sharing accounts for 3 percent of global downstream and 22 percent of upstream traffic, with 97% of that traffic in turn being BitTorrent. See Sandvine, “The Global Internet Phenomena Report”, October 2018, <https://www.sandvine.com/hubfs/downloads/phenomena/2018-phenomena-report.pdf> [last accessed on May 27, 2021].

97. BitTorrent is overwhelmingly used for piracy. See David Price, “NetNames Piracy Analysis: Sizing the Piracy Universe”, September 2013, pg. 18, [http://creativefuture.org/wp-content/uploads/2016/01/netnames-sizing\\_piracy\\_universe-FULLreport-sept2013.pdf](http://creativefuture.org/wp-content/uploads/2016/01/netnames-sizing_piracy_universe-FULLreport-sept2013.pdf) [last accessed on Jun. 27, 2022] (“Of all unique visitors to bittorrent portals in January 2013, it is estimated that 96.28% sought infringing content during the month...”)

98. The BitTorrent protocol’s popularity stems from its ability to distribute a large file without creating a heavy load on the source computer and network. In short, to reduce the load on the source computer, rather than downloading a file from a single source computer (one computer directly connected to another), the BitTorrent protocol allows users to join a "swarm" of host computers to download and upload from each other simultaneously (one computer connected to numerous computers).

99. A BitTorrent Client is a software program that implements the BitTorrent Protocol. There are numerous such software programs which can be directly downloaded from the Internet such as the piracy app Popcorn Time.

100. Once installed on a computer, the BitTorrent Client serves as the user's interface during the process of uploading and downloading data using the BitTorrent protocol.

101. DOES 1-100, VeePN and its end users use BitTorrent and BitTorrent Client applications such as Popcorn Time to infringe Plaintiffs' exclusive rights of reproduction, distribution and public performance.

102. The United States Trade Representative ("USTR") placed the piracy app Popcorn Time on a list of examples of Notorious Markets engaged in and facilitating substantial piracy. See USTR, 2020 Review of Notorious Markets, Jan. 14, 2021, pg. 26, Available at [https://ustr.gov/sites/default/files/files/Press/Releases/2020%20Review%20of%20Notorious%20Markets%20for%20Counterfeiting%20and%20Piracy%20\(final\).pdf](https://ustr.gov/sites/default/files/files/Press/Releases/2020%20Review%20of%20Notorious%20Markets%20for%20Counterfeiting%20and%20Piracy%20(final).pdf) [last accessed on March 5, 2021].

## ***2. The Initial Seed, Torrent, Hash and Tracker***

103. A BitTorrent user who wants to upload a new file, known as an "initial seeder," starts by creating a "torrent" descriptor file using the Client he or she installed onto his or her computer.

104. The initial user or seeder of a file used a process referred to as "ripping" to create a copy of motion pictures from either Blu-ray or legal streaming services.

105. The initial seeder often modifies the file title of the Work to include a wording such as "RARBG", "FGT" or "YTS" (without 42's authorization) in the title of the torrent files and file copies in order to enhance a reputation for the quality of his or her files and attract users to his or her piracy website.

106. The Client takes the target computer file, the "initial seed," here the copyrighted Work, and divides it into identically sized groups of bits known as "pieces."

107. The Client then gives each one of the computer file's pieces, in this case, pieces of the copyrighted Work, a random and unique alphanumeric identifier known as a "hash" and records these hash identifiers in the torrent file.

108. When another peer later receives a particular piece, the hash identifier for that piece is compared to the hash identifier recorded in the torrent file for that piece to test that the piece is error-free. In this way, the hash identifier works like an electronic fingerprint to identify the source and origin of the piece and that the piece is authentic and uncorrupted.

### ***3. Torrent Sites***

109. "Torrent sites" are websites that distribute torrent files for pirating movie files that are currently being made available for copying and distribution by people using the BitTorrent protocol. There are numerous torrent websites such as the piracy websites YTS, The Pirate Bay, Kickass Torrents, and Extratorrents that are promoted on VeePN's website.

### ***4. Uploading and Downloading a Work Through a BitTorrent Swarm***

110. Once the initial seeder has created a torrent and uploaded it onto one or more torrent sites, then other peers begin to download and upload the computer file to which the torrent is linked (here the copyrighted Works) using the BitTorrent protocol and BitTorrent Client that the peers installed on their computers.

### ***5. The Plaintiffs' Computer Investigator Identified IP Addresses as Participants in a Swarm That Was Distributing the Plaintiffs' Copyrighted Works***

111. The Plaintiffs retained data service providers such as Maverickeye UG ("MEU") to identify the IP addresses that are being used by those people that are using the BitTorrent protocol and the Internet to reproduce, distribute, display or perform the Plaintiffs' copyrighted Works or distribute illicit file copies using Plaintiff 42's trademarks RARBG and YTS.

112. MEU used forensic software to enable the scanning of P2P networks for the presence of infringing transactions.

113. MEU extracted the resulting data emanating from the investigation, reviewed the evidence logs, and isolated the transactions and the IP addresses associated therewith for the files identified by the SHA-1 hash value of the Unique Hash Number.

114. The IP addresses, Unique Hash Number, and hit dates accurately reflect what is contained in the evidence logs, and show that servers controlled by Defendants have copied a piece of the Plaintiffs' copyrighted Works as identified by the Unique Hash Number from, for example, IP addresses 37.19.220.179 in Virginia as well as other IP addresses in the US.

115. One or more of Defendants VeePN and DOES 1-100's computers used the IP addresses assigned to them from DataCamp, some of which such as 37.19.220.179 are in this District, to connect to the investigative server in order to transmit a full copy, or a portion thereof, of a digital media file identified by the Unique Hash Number.

116. MEU analyzed each BitTorrent "piece" distributed by the IP addresses and verified that re-assembly of the pieces using a BitTorrent Client results in fully-playable digital motion pictures of the Works.

117. MEU viewed the Works side-by-side with the digital media file that correlates to the Unique Hash Number and determined that they were identical, strikingly similar or substantially similar.

***C. Defendant VeePN knew the Copyright Management Information included in the files it distributed to other peers had been removed or altered without the authority of Plaintiffs.***

118. A legitimate file copy of the Works includes copyright management information (“CMI”) indicating the title.

119. The initial seeders of the infringing file copies of Plaintiffs’ Works added wording to the file titles of the Works to “brand” the quality of piracy files he or she released and attract further traffic to his or her website.

120. The initial seeder of the infringing file copies of the Works added wording such as “YTS”, “RARBG” or “STUTTERSH\*T” to the file titles to brand the quality of piracy files he or she released and attract further traffic to the piracy websites from which the torrent files originated (such as YTS.MX or RARBG.TO).

121. The word YTS is not included in the file titles of legitimate copies or streams of the Copyright Plaintiffs’ Works. The initial seeder of the Works altered the title to falsely include the words “YTS”, “RARBG” or “STUTTERSH\*T” in the CMI.

122. The file copies Defendants distributed to other peers in the Swarm included the altered CMI in the file title.

123. Defendants knew that the torrent source from which the torrent files were obtained were sources for distributing illegal copies of the Works.

124. Defendants knew that YTS or RARBG was not the author of Plaintiffs’ Works.

125. Defendants knew that YTS or RARBG was not a licensed distributor of Plaintiffs’ Works. Indeed, the YTS website includes a warning to this effect.

126. Defendants knew that the CMI that included YTS or RARBG in the file names was false.

127. Defendants knew that the false or altered CMI in the titles would induce, enable, facilitate or conceal infringements of the Works when they distributed the false CMI, altered CMI, or the Works including the false or altered CMI.

128. Namely, Defendants knew that other recipients would see the file titles and use the altered CMI to go to the torrent sites such as YTS from where the torrent files originated to obtain unlicensed copies of the Works.

129. Indeed, VeePN promote its VPN service as a tool to pirate copyright protected content from the YTS and RARBG torrent sites and even promotes its VPN service on the YTS torrent site.

130. By providing the altered CMI to others, Defendants induced, enabled, and facilitated further infringements of the Works.

131. By providing the altered CMI to others via its so called “Popcorn Time VPN”, Defendant VeePN induced, enabled, and facilitated further infringements of the Works.

132. By providing the altered CMI to others, Defendants induced, enabled, and facilitated further infringements of the Works.

***D. VeePN had knowledge that its end users were using its service to infringe Plaintiffs’ Works and distributing file copies of the Works with altered CMI but failed to take any meaningful action and encouraged said conduct.***

133. Plaintiffs’ agents sent Notices of infringements (“Notices”) styled per 17 U.S.C. §512(c)(3) of the DMCA to be sent to ISPs assigned IP addresses where infringement of copyright protected content was confirmed

134. Each Notice included at least the name of the copyright owner, the title of the Work, the manner by which it was infringed, the infringing file name which includes the altered CMI, the



IP address and port number at where infringement was confirmed and the time of infringement down to the second.

135. Plaintiffs' agents sent notices to the ISPs such as DataCamp, M247 and Cogent that provide services to VeePN.

136. Plaintiffs' agents sent the Notices to DataCamp's abuse contact email address ([abuse@cdn77.com](mailto:abuse@cdn77.com)).

137. Plaintiffs' agents have sent over 230,000 Notices to DataCamp concerning infringements of copyright protected Works including DataCamp's at IP addresses assigned to DataCamp from ARIN or RIPE that DataCamp reallocated to Defendants.

138. Plaintiffs' agent sent over 12,300 Notices to DataCamp concerning infringement of the motion picture *Ava* at IP addresses assigned to DataCamp.

139. Plaintiffs' agent sent over 40,400 Notices to DataCamp concerning infringement of the motion picture *Willy's Wonderland* at IP addresses assigned to DataCamp.

140. Plaintiffs' agent sent 1400 Notices to DataCamp concerning observed infringements at IP addresses 89.187.164.179.

141. Plaintiffs' agent sent 400 Notices to DataCamp concerning observed infringements at each of IP addresses 89.187.171.116, 89.187.182.111, 156.146.50.1, 156.146.50.134, 156.146.50.65, 156.146.50.198, 89.187.187.129, 156.146.47.11, 89.187.187.162 (total of over 3600 Notices for these nine IP addresses).

142. Upon information and belief, other rightsholders had similar Notices sent to DataCamp concerning infringing activity at IP addresses assigned to VeePN.

143. Defendant VeePN had knowledge that its end users were using its service to pirate Plaintiffs' Works and violate 42's trademarks from notices that were sent to providers such as DataCamp and forwarded to it.

144. Defendant VeePN also had knowledge that its end users were using its service to pirate Plaintiffs' Works and violate 42's trademark YTS because VeePN promoted its service on the YTS torrent sites that included links to downloading and/or streaming copies of Plaintiffs' Works with an explicit warning that if the user did not use its VPN service the user would likely be subject to legal liability for copyright infringement.

***E. VeePN intentionally induces infringements of copyright protected Works, including Plaintiffs' Works and has knowledge of its end users' infringements.***

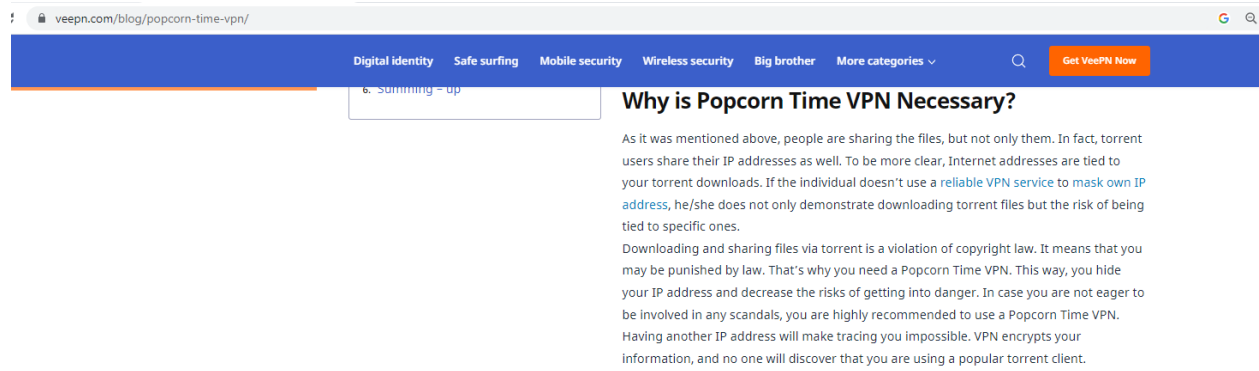
145. VeePN actively promotes its VPN service for the purpose of movie piracy, including of infringing Plaintiffs' Works.

146. VeePN actively promotes the VPN service as a tool to use the notorious movie piracy website YTS.

147. VeePN actively promotes the VPN service as a tool to use the notorious movie piracy application Popcorn Time.

148. On or about April 12, 2021, shortly after some of the copyright Plaintiffs obtained a temporary restraining order against VPN.HT and the operators of Popcorn Time, VeePN begin promoting its service under the brand name "Popcorn Time VPN" and explicitly stating that "Downloading and sharing files via torrent is a violation of copyright law. It means that you may be

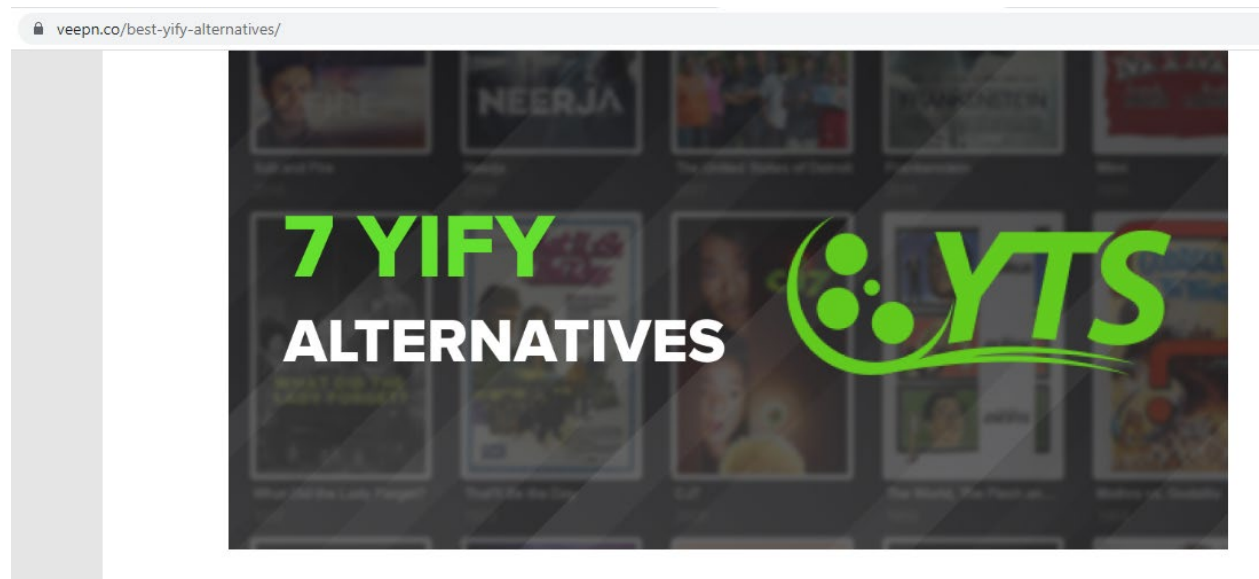
punished by law. That’s why you need a Popcorn Time VPN...”



149. VeePN blatantly entices and encourages customers to pirate by saying its VPN service can be used to “decrease the risks of getting into danger...involved in scandals...and no one will discover that you are using popular torrent client.”

150. VeePN and its end users use Popcorn Time exactly as explained and encouraged to them by VeePN – to infringe copyright protected content while logged into VeePN’s VPN service “to make tracing you impossible”.

151. VeePN actively promotes its VPN service as a tool to use the notorious movie piracy website YTS.



152. The YTS website is known for distributing torrent files of copyright protected motion pictures including Plaintiffs without a license.

153. VeePN promotes its VPN service on the YTS piracy website as a tool to engage in massive copyright infringement to entice end users to purchase the VPN service.



154. VeePN promotes its VPN service on the YTS piracy websites for downloading or streaming pirated copies of Plaintiffs' Works as a tool to engage in massive copyright infringement to entice end users to purchase the VPN service.

155. Particularly, VeePN entered into an affiliate marketing agreement with YTS in which the YTS website promotes VeePN's VPN service as a tool to safely use the YTS website to pirate copyright protected content in exchange for VeePN paying the YTS website for each YTS user that signed up for VPN service using a link on the YTS website.

156. VeePN provides a script for the YTS website operator to run on his website to generate advertisements for VeePN.

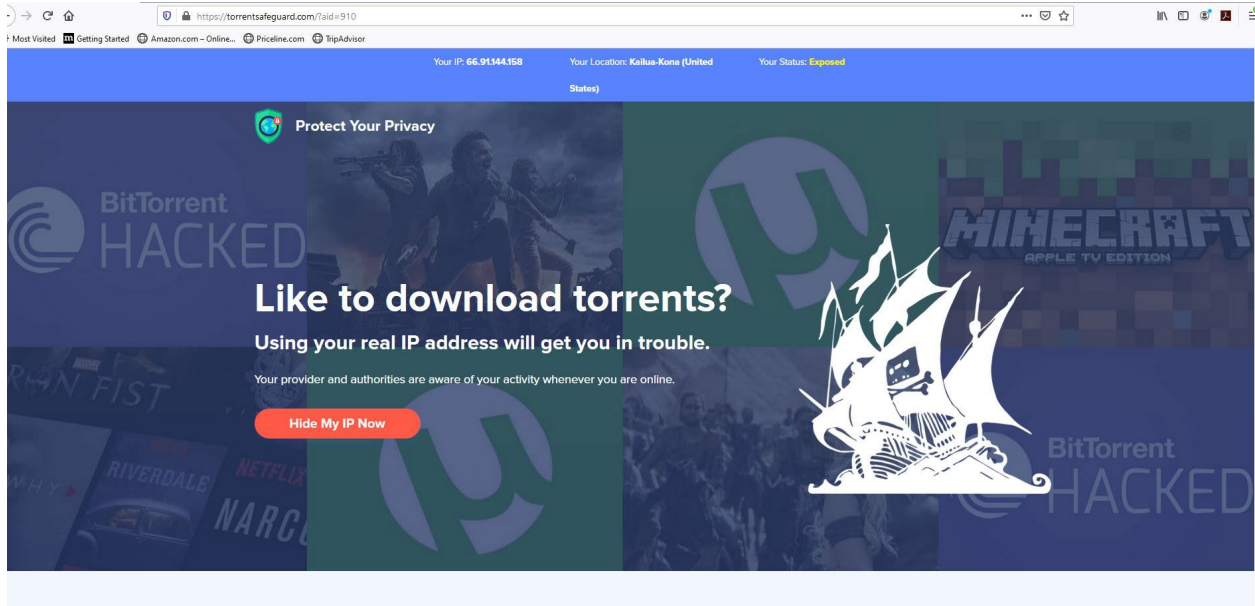
157. The script displays a message on the YTS webpages below a link to download torrent files for pirating copyright protected movies warning “If you torrent without a VPN, your ISP can see that you’re torrenting and may throttle your connection and get fined by legal action!”. Below this warning is a link to “Get Secure VPN”.

The screenshot shows a web browser window with the URL [yts.mx/movies/love-finds-you-in-valentine-2016](https://yts.mx/movies/love-finds-you-in-valentine-2016). The page features the YTS.MX logo and the tagline "HD movies at the smallest file size." The main content area displays the movie poster for "Love Finds You in Valentine" (2016), which is categorized as Action / Comedy / Drama / Romance. The poster includes the text "Sometimes You Don't Know What's Missing Until You Find It" and shows a group of people in a field with horses. To the right of the poster, there are buttons for "Download Subtitles" and "Download", and a "Watch Now" button. Below these are social media icons for Twitter, YouTube, and Pinterest. A warning box at the bottom of the page states: "Please enable your VPN when downloading torrents. If you torrent without a VPN, your ISP can see that you're torrenting and may throttle your connection and get fined by legal action!" with a "Get Secure VPN" button.

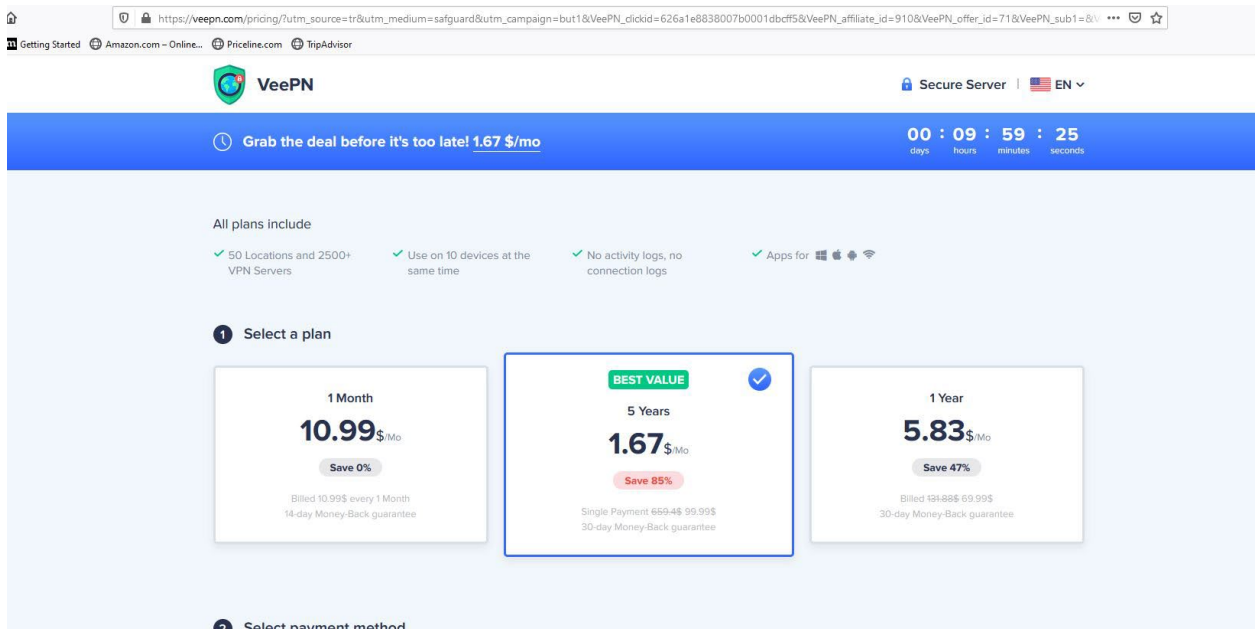
The screenshot shows a web browser window with the URL <https://yts.mx/movies/disturbing-the-peace-2020>. The browser's address bar and tabs are visible at the top. The website header includes the logo 'TS.MX' and the tagline 'HD movies at the smallest file size.' The main content area features a movie poster for 'Disturbing the Peace' on the left, which depicts a man holding a handgun. To the right of the poster, the movie title 'Disturbing the Peace' is displayed in large white text, followed by the year '2020' and the genres 'Action / Adventure / Thriller / Western'. Below this, there are buttons for 'Available in:' with options for '720p.BluRay', '1080p.BluRay', '720p.WEB', and '1080p.WEB'. A 'Download Subtitles' button is also present. Further down, there are statistics: a heart icon with '31', a leaf icon with '20% - Critics', a hand icon with '10% - Audience', and the IMDb logo with a '3.3' rating and a star icon. At the bottom of the movie information, there are 'Download' and 'Watch Now' buttons, and social media sharing icons for Twitter, Reddit, Pinterest, and a grid icon. A dark grey box at the bottom of the page contains a warning: 'Please enable your VPN when downloading torrents. If you torrent without a VPN, your ISP can see that you're torrenting and may throttle your connection and get fined by legal action!' Below this warning is a green button labeled 'Get Secure VPN'.

158. Clicking on the link “Get Secure VPN”, redirects to a landing website “torrentssafeguard.com/?aid=910” controlled by VeePN that displays a message promoting piracy next to an image associated with the notorious piracy website The Pirate Bay and a link “Hide My IP Now”.





159. When the user clicks on the link “Hide My IP Now”, the user is redirected to the VeePN website with a promoted offer to purchase the service.



160. Based upon VeePN’s encouragement that its service can be used to “safely” operate piracy apps such as Popcorn Time and visit torrent sites such as YTS, end users purchase the “Popcorn Time VPN”, install piracy apps such as Popcorn Time on their devices and/or visit

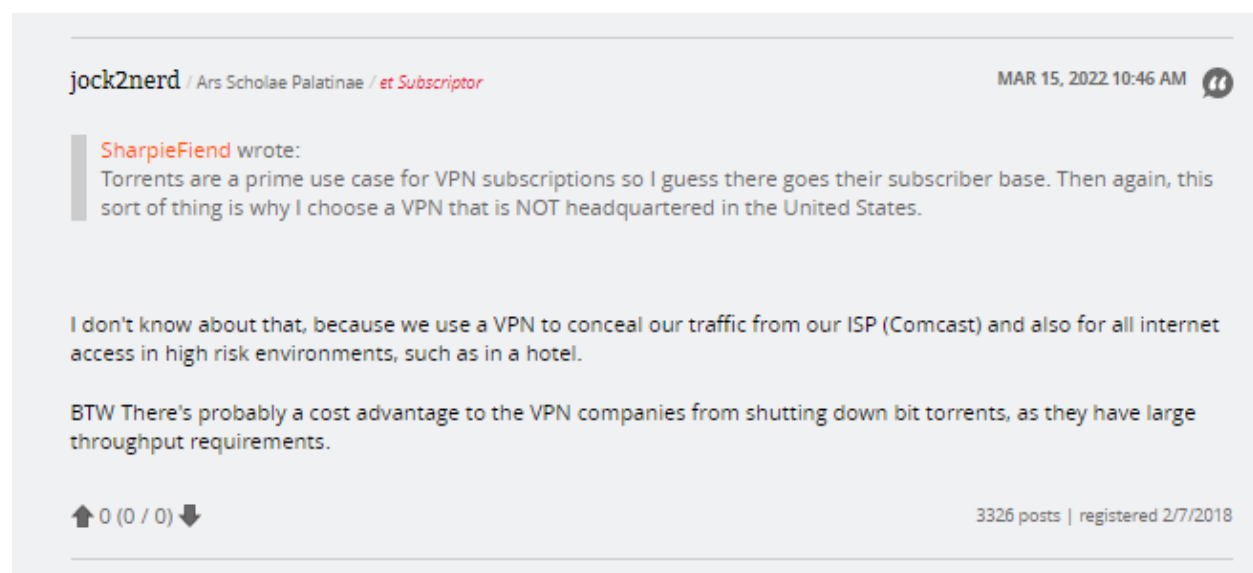
torrent sites to infringe copyright protected content including Plaintiffs' while using VeePN's VPN service.

161. VeePN knew or had reason to know that its end users used websites such as YTS and BitTorrent clients such as Popcorn Time exactly as promoted, resulting in direct infringement of the copyrights of specific material including Plaintiffs' Works.

162. The ability of end users to use VeePN's VPN Service to access Popcorn Time and the YTS website to infringe Plaintiffs' Works while concealing their activities acts as a powerful draw for users of the VPN Service, who use that service exactly as encouraged by VeePN to download and distribute copies of Plaintiffs' Works.

163. Emboldened by VeePN's promises that their identities cannot be disclosed, VeePN's end users openly brag about their use of the VPN service to engage in widespread movie piracy on the Internet.

164. In response to an article on ArsTechnica discussing an agreement by a VPN provider to block BitTorrent piracy on its US servers, VPN end user at DataCamp IP address 45.134.140.150 openly boasts about his use of a VPN to conceal his piracy traffic from his VPN.





<https://arstechnica.com/tech-policy/2022/03/torguard-vpn-blocks-bittorrent-on-us-servers-to-settle-piracy-lawsuit/?comments=1&start=120> [last accessed on Jun. 29, 2022].

**F. Defendants control the conduct of their customers.**

165. VeePN can terminate end user accounts at any time. For example, VeePN states in its terms of service that it will terminate end user accounts if the user violates the terms of service. See <https://veepn.com/terms-of-service/>

166. Upon information and belief, VeePN promptly terminated end users accounts when said end users failed to pay for the VPN service.

167. VeePN has the capability to log its subscribers' access to the VPN service but purposefully chooses not to. <https://veepn.com/privacy-policy/> (“We may collect information...”)

As an outstanding VPN Service provider, we value the privacy of our users. Therefore, **we never collect logs of your activity** (“usage logs”), including no logging of browsing history, traffic destination, or data content. When you register your account to use the VPN service, we receive your data so we can verify that your account works and you can always restore it if necessary. We may collect information that directly identifies you, such as your name and email address (which you specified when registering) (“Personal Information”), and other information that does not identify you, as listed below.

**G. VeePN profits from the massive piracy conducted by its end users.**

168. VeePN encourages its end users to use its VPN service for piracy.

169. VeePN promotes the YTS, RARBG, 1337x and The Pirate Bay piracy websites on its websites.

170. VeePN markets its VPN service on the piracy website YTS.

171. VeePN markets its VPN service as “Popcorn Time VPN”.

172. VeePN encourages Popcorn Time users to purchase its VPN service so that they can pirate copyright protected content while avoiding legal consequences.

173. Individuals that wish to safely pirate from the YTS website or using the piracy app Popcorn Time sign up for VPN service with VeePN thereby leading to profit for VeePN.

**H. Defendants do not have a safe harbor from liability.**

174. As part of the DMCA, Congress created a safe harbor that limits the liability of ISPs for copyright infringement when their involvement is limited to, among other things, “transmitting, routing, or providing connections for, material through a system or network controlled or operated by or for the service provider.” 17 U.S.C. § 512(a). To benefit from this safe harbor, however, an ISP must demonstrate that it “has adopted and reasonably implemented ... a policy that provides for the termination in appropriate circumstances of subscribers ... who are repeat infringers.” 17 U.S.C. § 512(i)(1)(A)

175. Defendants have not adopted and/or reasonably implemented a policy of terminating repeat infringers.

176. Plaintiffs’ agents have sent over 78,500 Notices to DataCamp concerning infringements at IP addresses DataCamp publishes as assigned to it that, upon information and belief, DataCamp forwards to its subscribers.

177. VeePN has failed to terminate the accounts and/or take any meaningful actions against its subscribers in response to these Notices consistent with a reasonably implemented policy for termination of users and account holders of the service provider’s system or network who are repeat infringers necessary to support a safe harbor from liability (“policy”).

178. Congress created a safe harbor that limits the liability of a service provider for copyright infringement “...by reason of the storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider, if the service provider” does not have the requisite knowledge, “...responds expeditiously to remove or disable access to, the material...” and has the appropriate designated agent for receiving notices. 17 U.S.C. § 512(c)(1), (2).

179. DataCamp leases use of its servers to its subscribers.

180. DataCamp's subscribers (VeePN and DOES 1-100) store copies of Plaintiffs' Works on DataCamp's servers and use DataCamp's servers to distribute copies of Plaintiffs' Works.

181. The over 78,500 Notices Plaintiffs' agent sent to DataCamp which DataCamp forwarded to Defendants gave Defendants notice of the ongoing piracy.

182. Defendants failed to respond and expeditiously remove or disable access to the material in response to the over 78,500 Notices forwarded to them from DataCamp.

183. VeePN failed to designate and register an agent with the Copyright Office as provided by 17 U.S.C. § 512(c)(2).

184. VeePN's conduct renders it ineligible for safe harbor immunity from copyright liability under the DMCA.

***I. VeePN infringed Plaintiff 42's registered Trademark Popcorn Time and contributed to infringement of the Trademarks RARBG and YTS.***

185. Notwithstanding Plaintiff 42's established rights in the trademark Popcorn Time, VeePN adopted and used the confusingly similar and/or identical mark Popcorn Time in interstate commerce in connection with the distribution and/or streaming of unlicensed copyright protected content after 42 first adopted the trademark.

186. 42's registered trademark is shown in Exhibit "2".

187. VeePN uses the Popcorn Time mark on its website:

The screenshot shows a web browser window with the URL [veepn.com/blog/popcorn-time-vpn/](https://veepn.com/blog/popcorn-time-vpn/). The navigation bar includes links for Digital Identity, Safe surfing, Mobile security, Wireless security, Big brother, and More categories. A search icon and a 'Get VeePN Now' button are also present. A 'Quick Navigation' sidebar lists six items, with the second item, 'How to Select a Good Popcorn Time VPN?', highlighted. The main content area features the article title 'How to Select a Good Popcorn Time VPN?' followed by an introductory paragraph and a bulleted list of five key considerations for choosing a VPN.

**How to Select a Good Popcorn Time VPN?**

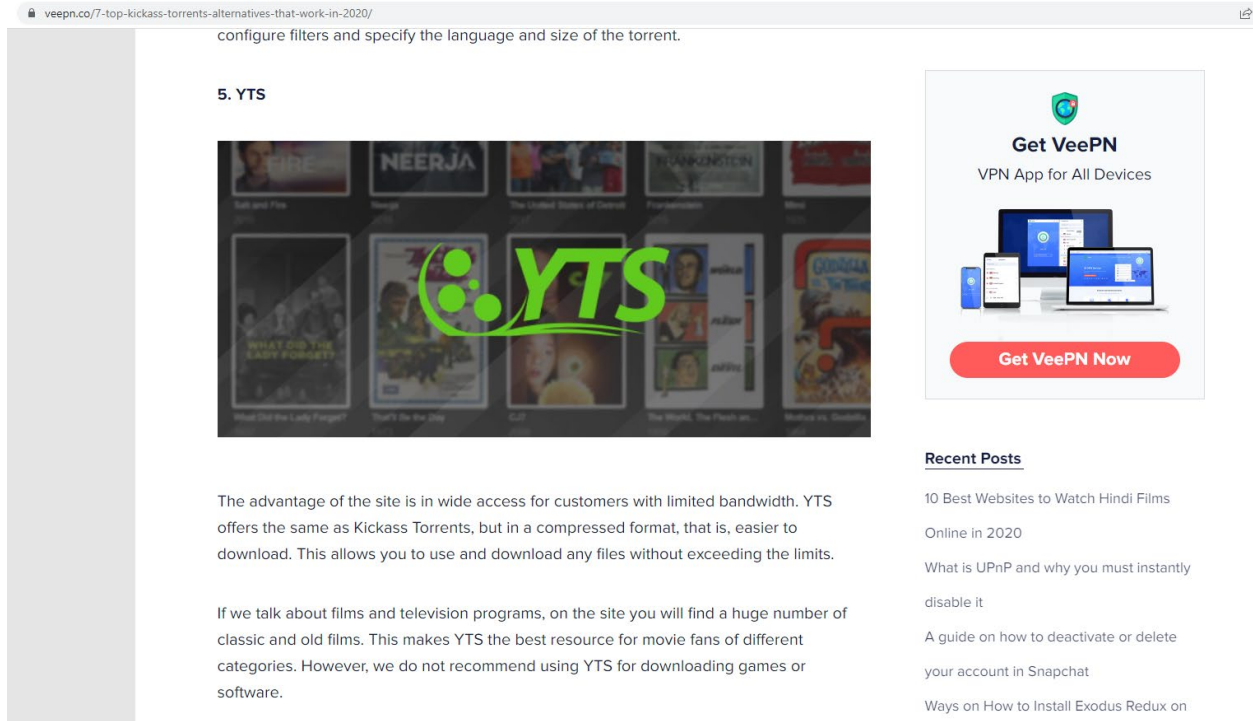
It should be mentioned that all VPNs are developed in different ways. It means that some services suit Popcorn Time better than others. Hence, you should be aware of the following things:

- **Kill Switch.** It happens that a VPN connection is interrupted. In case you are using your regular Internet connection, Popcorn Time users will be able to discover your real IP address. With Kill Switch, you can prevent this. It cuts the Internet connection if the VPN connection is interrupted. For example, VeePN has a Kill Switch, so you can feel more confident and safe while using it.
- **P2P torrenting.** Some VPNs have difficulties with torrent streaming. In case you really care about other users, it is better to check this detail in advance and give preference to a trustworthy service.
- **No-log policy.** Some VPN providers can keep users' metadata on the servers. In other words, they keep an eye on your online activities. A reliable VPN server always operates in a **no-logs policy**. It means that no records of your Internet activities exist.
- **Good speed.** You can easily check it by reading the reviews of other people. Streaming video is always a resource-intensive process. Hence it is better to give preference to a fast VPN with plentiful servers in different countries.
- **Support of numerous platforms.** You can use Popcorn Time on iOS and Android devices. Hence you should choose the VPN which covers those platforms and makes your experience as comfortable as possible.

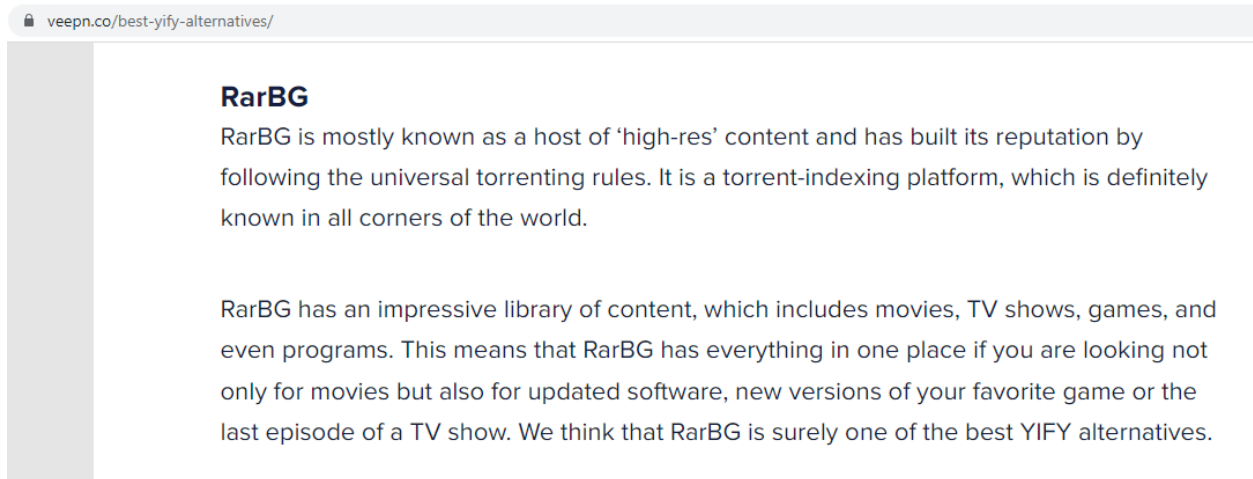
188. Defendant VeePN begin using the mark Popcorn Time in the US on its website in April of 2021 after 42 begin using and registered the trademark Popcorn Time in the United States and after 42 had filed a well-publicized lawsuit against VPN.HT in this district.

189. Notwithstanding Plaintiff 42's established rights in the trademark YTS, VeePN promotes the notorious piracy website YTS.MX that has adopted and used the confusingly similar and/or identical mark YTS in interstate commerce on the website YTS.MX in connection with the distribution and/or streaming of unlicensed copyright protected content after 42 first adopted the trademark.

190. Defendant markets its VPN service on the YTS website and promotes the YTS piracy website on its website Veepn.co:



191. Notwithstanding Plaintiff 42’s established rights in the trademark RARBG, VeePN promotes the notorious piracy website RARBG on its website that has adopted and used the confusingly similar and/or identical mark RARBG in interstate commerce in connection with the distribution and/or streaming of unlicensed copyright protected content after 42 first adopted the trademark.



192. Because VeePN's use of the marks is exactly like 42's registered trademarks, there is likelihood of confusion in the marketplace and actual confusion. *See* Decl. of Sun Kim at ¶16.

193. Any prior use of the marks Popcorn Time, YTS and RARBG by Defendant VeePN is ineligible for senior rights because such use was for criminal copyright infringement and thus unlawful commerce.

**VII. FIRST CLAIM FOR RELIEF**  
**(Direct Copyright Infringement against all Defendants)**

194. Copyright Plaintiffs re-allege and incorporate by reference the allegations contained in each of the foregoing paragraphs.

195. Copyright Plaintiffs are the copyright owners of the Works, each of which contains an original work of authorship.

196. Defendants VeePN and DOES 1-100 transmit, route, or provide connections for transmitting copies of Plaintiffs' Works through a network under their control including servers provided by DataCamp in the United States generally and in Virginia in particular.

197. Defendants VeePN and DOES 1-100 copied the constituent elements of these Works on said network when transmitting, routing, or providing connections for transmitting copies of Plaintiffs' Works through said network.

198. Defendants VeePN and DOES 1-100 stream copies of Plaintiffs' Works from sources with knowledge that said sources infringe Plaintiffs' rights.

199. Plaintiffs did not authorize, permit, or provide consent to Defendants to copy, reproduce, distribute, perform or display their Works.

200. As a result of the foregoing, Defendants VeePN and DOES 1-100 violated the Plaintiffs' exclusive right to reproduce the Works in copies, in violation of 17 U.S.C. §§ 106(1) and 501.

201. As a result of the foregoing, Defendants VeePN and DOES 1-100 violated the Plaintiffs' exclusive rights to distribute copies of the Work in copies, in violation of 17 U.S.C. §§ 106(3) and 501.

202. As a result of the foregoing, the Defendants VeePN and DOES 1-100 violated the Plaintiffs' exclusive rights to publicly perform the Works, in violation of 17 U.S.C. §§ 106(4) and 501.

203. Defendants VeePN and DOES 1-100's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

204. VeePN actively promotes its VPN service for piracy and encourages its customers ("end users") to use its VPN service for piracy.

205. VeePN and its end users use VeePN's VPN service for piracy.

206. VeePN encourages its end users to use the network to distribute, stream and reproduce copies of Plaintiffs' Works.

207. VeePN encourages its end users outside of the United States to access and use its servers and IP addresses in the United States to violate geographical restrictions of authorized platforms and publicly perform, reproduce and/or distribute copies of the Plaintiffs' Works to the end user outside of the United States.

208. VeePN encourages its end users inside of the United States to use its VPN service to access and use servers and IP addresses outside of the United States to publicly perform, reproduce and/or distribute copies of the Plaintiffs' Works to the end users inside of the United States.

209. As a result of the foregoing, VeePN violated the Plaintiffs' exclusive rights to distribute copies of the Works in copies, in violation of 17 U.S.C. §§ 106(3) and 501.

210. As a result of the foregoing, VeePN violated the Plaintiffs' exclusive rights to publicly perform (stream) copies of the Works in copies, in violation of 17 U.S.C. §§ 106(3) and 501.

211. As a result of the foregoing, VeePN imported, without the authority of Copyright Plaintiffs, copies of the Works that have been acquired outside the United States in violation of 17 U.S.C. §602(a)(1).

212. As a result of the foregoing, VeePN imported into the United States, without the authority of Copyright Plaintiffs, pirated copies of the Works in violation of 17 U.S.C. §602(a)(2).

213. As a result of the foregoing, VeePN exported from the United States, without the authority of Copyright Plaintiffs, pirated copies of the Works in violation of 17 U.S.C. §602(a)(2).

214. VeePN's violations of 17 U.S.C. §602(a) violate Copyright Plaintiffs' exclusive right to distribute copies of the Works in violation of 17 U.S.C. §§ 106(3) and 501.

215. VeePN's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

216. VeePN interferes with standard technical measures used by copyright holders to identify or protect copyright works by purposefully deleting its end users' log information. *See* 17 U.S.C. § 512(i)(1)(B).

217. The Copyright Plaintiffs have suffered damages that were proximately caused by the Defendants VeePN and DOES 1-100's copyright infringements including, but not limited to lost sales, price erosion, and a diminution of the value of its copyright.

**VIII. SECOND CLAIM FOR RELIEF  
(Contributory Copyright Infringement by Intentional Inducement against VeePN)**

218. Copyright Plaintiffs re-allege and incorporate by reference the allegations contained in each of the foregoing paragraphs.



219. Defendant VeePN intentionally induces infringement of Copyright Plaintiffs' exclusive rights under the Copyright Act, including infringement of Copyright Plaintiffs' exclusive rights to reproduce, publicly perform, and distribute copies of their Copyrighted Works.

220. As instructed and encouraged by VeePN, its end users purchase and install VeePN's so called Popcorn Time VPN to conceal their identities while using Popcorn Time to engage in movie piracy.

221. As instructed and encouraged by VeePN, its end users use the piracy app Popcorn Time on their devices while assigned IP addresses by VeePN's VPN services to conceal their identities.

222. VeePN's end users use Popcorn Time to connect to sources so they can publicly perform and/or distribute copies of Plaintiffs' Copyrighted Works while anonymously connected to the Internet by VeePN's so called Popcorn Time VPN.

223. As instructed and encouraged by VeePN, its end users use piracy websites such as RARBG, YTS, 13377x and The Pirate Bay to conceal their identities while logged onto VeePN's service obtaining pirated copies of Plaintiffs' Works.

224. As instructed and encouraged by VeePN, its end users use piracy websites such as RARBG, YTS, 1337x and The Pirate Bay while assigned IP addresses by VeePN's VPN services to conceal their identities.

225. VeePN's end users use torrent files provided by these piracy websites to connect to sources that publicly distribute copies of Plaintiffs' Copyrighted Works while anonymously connected to the Internet by VeePN's so called Popcorn Time VPN.

226. VeePN induces direct infringement of Plaintiffs' Works by encouraging their subscribers to use movie piracy apps such as Popcorn Time and piracy websites such as RARBG,

YTS, 1337x and The Pirate Bay that facilitate, enable, and create direct links between their customers and infringing sources, and by actively inducing, encouraging, and promoting the VPN service Popcorn Time VPN as a means to safely use movie piracy applications and websites for blatant copyright infringement by assuring customers that their identification information will be concealed.

227. VeePN's intentional inducement of the infringement of Plaintiffs' rights in their Copyrighted Works constitutes a separate and distinct act of infringement.

**IX. THIRD CLAIM FOR RELIEF**  
**(Contributory Copyright Infringement based upon Material Contribution against all Defendants)**

228. Copyright Plaintiffs re-allege and incorporate by reference the allegations contained in each of the foregoing paragraphs.

229. By participating in the BitTorrent swarms with others, Defendants DOES 1-100 induced, caused, or materially contributed to the infringing conduct of Plaintiffs' copyright protected Works by others.

230. Copyright Plaintiffs did not authorize, permit, or provide consent to the Defendants DOES 1-100 inducing, causing, or materially contributing to the infringing conduct of others.

231. Defendants DOES 1-100 knew or should have known that the other BitTorrent users in a swarm with them were directly infringing the Copyright Plaintiffs' copyrighted Works by copying constituent elements of the registered Works that are original. Indeed, Defendants DOES 1-100 directly participated in and therefore materially contributed to others' infringing activities.

232. Through its conduct, VeePN knowingly and intentionally induced, enticed, persuaded, and caused its end users to infringe Copyright Plaintiffs' Copyrighted Works and continues to do so in violation of Copyright Plaintiffs' copyrights.

233. Through its activities, VeePN knowingly and intentionally took steps that are substantially certain to result in direct infringement of Plaintiffs' Copyrighted Works, and that have resulted in such direct infringement in violation of Plaintiffs' copyrights.

234. Despite VeePN's knowledge that its end users are using its VPN service to engage in widescale copyright infringements, VeePN has failed to take reasonable steps to minimize the infringing capabilities of its VPN service.

235. Not only has VeePN failed to take reasonable steps to minimize the infringing capabilities of its services, but VeePN actively promote is VPN service as "Popcorn Time VPN" and on the notorious piracy website YTS as the means to safely infringe Copyright protected Works, including Plaintiffs'.

236. VeePN is liable as a contributory copyright infringer for the infringing acts of end users of its VPN service. VeePN had actual and constructive knowledge of the infringing activity of its end users. VeePN knowingly caused and otherwise materially contributed to these unauthorized reproductions, public performances and distributions of Plaintiffs' Works from its end users.

237. Defendants' contributory infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

238. By engaging in the contributory infringement alleged in this Complaint, Defendants deprived not only the producers of the Works from income that could have been derived when the respective films were shown in public theaters and offered for sale or rental, but also all persons

involved in the production and marketing of this film, numerous owners of local theaters and retail outlets and their employees, and, ultimately, the local economy. The Defendants' misconduct therefore offends public policy.

**X. FOURTH CLAIM FOR RELIEF  
(Vicarious Infringement against VeePN)**

239. Copyright Plaintiffs re-allege and incorporate by reference the allegations contained in each of the foregoing paragraphs.

240. Defendant VeePN is vicariously liable for the infringing acts of its end users.

241. VeePN has the right and ability to supervise and control the copyright infringements that occur through the use of its service, and at all relevant times has derived a direct financial benefit from the infringements complained of herein.

242. VeePN has refused to take any meaningful action to prevent the widespread infringement by its end users. Indeed, the ability of end users to use VeePN's so called Popcorn Time VPN to access Popcorn Time and the YTS website to infringe Plaintiffs' Works while concealing their identities acts as a powerful draw for users of the VPN Service, who use that service exactly as encouraged by VeePN to download and distribute copies of Plaintiffs' Works.

243. VeePN could have taken simple measures to stop further piracy of Plaintiffs' Works such as null-routing ports of IP addresses where ongoing infringement was identified, logging its end users to identify the end users that were engaged in piracy, suspending or terminating the end users' accounts, or blocking access to notorious piracy websites such as YTS and RARBG but refuses to do so.

244. VeePN is therefore vicariously liable for the unauthorized distribution, public performances and reproductions of Plaintiffs' Works.

**XI. FIFTH CLAIM FOR RELIEF**

**(DMCA Violations)**

245. Copyright Plaintiffs re-allege and incorporate by reference the allegations contained in each of the foregoing paragraphs.

246. Defendants knowingly and with the intent to induce, enable, facilitate, and/or conceal infringement of the copyright protected Works distributed copyright management information (“CMI”) that falsely included wording such as “YTS” or “RARBG” in violation of 17 U.S.C. § 1202(a)(2).

247. Defendants, without the authority of Copyright Plaintiffs or the law, distributed removed or altered CMI knowing that the CMI had been removed or altered to include wording such as “YTS” or “RARBG” without the authority of the Copyright Plaintiffs and knowing, or having reasonable grounds to know, that it will induce, enable, facilitate, or conceal infringement of Plaintiffs’ Copyright protected Works in violation of 17 U.S.C. § 1202(b)(2).

248. Defendants, without the authority of the Copyright Plaintiffs or the law, distributed Plaintiffs’ Copyright protected Works knowing that the CMI had been removed or altered to include wording such as “YTS” or “RARBG”, and knowing, or having reasonable grounds to know, that it will induce, enable, facilitate, or conceal infringement of the copyright protected Works in violation of 17 U.S.C. § 1202(b)(3).

249. Particularly, the Defendants knew that the CMI in the file names of the pieces of the Work had been altered to include wording “YTS” or “RARBG”.

250. Particularly, the Defendants distributed the file names that included CMI that had been altered to include the wording “YTS” or “RARBG”.

251. Defendants knew that the wording such as “RARBG” or “YTS” originated from notorious movie piracy websites.

252. Indeed, VeePN promotes its service for using the piracy websites RARBG and YTS on its website.

253. Defendants' acts constitute violations under the Digital Millennium Copyright Act ("DMCA violation"), 17 U.S.C. § 1202.

254. Copyright Plaintiffs are entitled to an injunction to prevent Defendants from engaging in and/or contributing to further violations of 17 U.S.C. § 1202.

255. Copyright Plaintiffs are entitled to recover from Defendants the actual damages suffered and any profits Defendants have obtained as a result of their wrongful acts that are not taken into account in computing the actual damages. Copyright Plaintiffs are currently unable to ascertain the full extent of the profits Defendants have realized by their violations of 17 U.S.C. § 1202.

256. Copyright Plaintiffs are entitled to elect to recover from Defendants statutory damages for their violations of 17 U.S.C. § 1202.

257. Copyright Plaintiffs are further entitled to costs and reasonable attorneys' fees.

**XII. SIXTH CLAIM FOR RELIEF  
(Secondary Liability for DMCA Violations against VeePN)**

258. This claim is being asserted in the alternative to Count 5 against VeePN.

259. Copyright Plaintiffs re-allege and incorporate by reference the allegations contained in each of the foregoing paragraphs.

260. Through its conduct, VeePN knowingly and intentionally induced, enticed, persuaded, and caused its end users to commit DMCA violations.

261. Through its activities, VeePN knowingly and intentionally takes or took steps that are substantially certain to result in its end users committing DMCA violations, and that have resulted in DMCA violations.

262. VeePN encourages its end user to access torrent files for copying copyright-protected Works from notorious movie piracy websites such the YTS, RARBG, 1337x and The Pirate Bay websites.

263. VeePN encourages its end users to use Popcorn Time for copying copyright-protected Works and sharing illicit file copies with altered CMI using the BitTorrent protocol.

264. Despite VeePN's knowledge that its end users use the VPN service to commit DMCA violations, VeePN has failed to take reasonable steps to minimize the capabilities of the service to facilitate DMCA violations.

265. VeePN is secondarily liable for the DMCA violations of its end users. VeePN has actual and constructive knowledge of its end users' DMCA violations. VeePN knowingly caused and otherwise materially contributed to these DMCA violations.

266. VeePN is vicariously liable for the DMCA violations of its end users. VeePN has the right and ability to supervise and control the DMCA violations that occur through the use of its service, and at all relevant times has derived a direct financial benefit from the DMCA violations complained of herein. VeePN has refused to take any meaningful action to prevent the widespread DMCA violations by its end users.

267. The ability of end users to access torrent sources such as the YTS website and Popcorn Time that VeePN promotes, and to obtain file copies of the Works with altered CMI and distribute said copies while concealing their activities, acts as a powerful draw for users of the VPN service, who use that service exactly as encouraged by VeePN to commit DMCA violations. VeePN is therefore vicariously liable for the DMCA violations.

268. VeePN could take simple measures to stop further DMCA violations but purposefully chooses to do nothing.

269. Copyright Plaintiffs are entitled to an injunction to prevent Defendant VeePN from contributing to further violations of 17 U.S.C. § 1202.

270. Copyright Plaintiffs are entitled to recover from Defendant VeePN the actual damages suffered by Plaintiffs and any profits Defendants have obtained as a result of its wrongful acts that are not taken into account in computing the actual damages. Plaintiffs are currently unable to ascertain the full extent of the profits VeePN has realized by their violations of 17 U.S.C. § 1202.

271. Copyright Plaintiffs are entitled to elect to recover from VeePN statutory damages for their violations of 17 U.S.C. § 1202.

272. Copyright Plaintiffs are further entitled to costs and reasonable attorneys' fees.

**XIII. SEVENTH CLAIM FOR RELIEF  
(Trademark Infringement against VeePN)**

273. Plaintiff 42 re-alleges and incorporates by reference the allegations contained in each of the foregoing paragraphs.

274. 42 is the owner of the registered trademarks POPCORN TIME, YTS and RARBG.

275. Defendant VeePN infringed 42's trademarks in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

276. 42 has distributed and streamed licensed content in United States commerce under the POPCORN TIME trademark since at least November 29, 2019. It has used the POPCORN TIME trademark continuously in United States commerce since that time.

277. 42 has distributed and streamed licensed content in United States commerce under the YTS trademark since at least January 27, 2020. It has used the YTS trademark continuously in United States commerce since that time.



278. 42 has distributed and streamed licensed content in United States commerce under the RARBG trademark since at least January 28, 2021. It has used the RARBG trademark continuously in United States commerce since that time.

279. Without 42's consent, VeePN used and continue to use the infringing Popcorn Time mark in connection with the sale, offering for sale, distribution and advertising of goods and/or services at least on VeePN's website in the United States.

280. Without 42's consent, VeePN used and continue to use the infringing YTS mark in connection with the sale, offering for sale, distribution and advertising of goods and/or services at least VeePN's website in the United States.

281. Without 42's consent, VeePN used and continue to use the infringing RARBG mark in connection with the sale, offering for sale, distribution and advertising of goods and/or services at least VeePN's website in the United States.

282. 42 has engaged in their infringing activity despite having knowledge of Plaintiff 42's federal registration rights under 15 U.S.C. § 1072.

283. VeePN's actions are likely to mislead the public into concluding that their goods and or services originate with or are authorized by 42, which will damage both 42 and the public. Plaintiff 42 has no control over the quality of goods and services sold by VeePN and because of the source confusion caused by VeePN, Plaintiff 42 has lost control over its valuable goodwill.

284. Upon information and belief, VeePN has advertised and offered its goods and services for sale using 42's trademarks with the intention of misleading, deceiving or confusing consumers as to the origin of its goods and of trading on Plaintiff 42's reputation and goodwill. VeePN's use of the Popcorn Time, YTS and RARBG marks constitute willful, deliberate and intentional trademark infringement.

285. As a direct and proximate result of VeePN's trademark infringement, 42 has suffered and will continue to suffer irreparable loss of income, profits and goodwill and VeePN has and will continue to unfairly acquire income, profits and goodwill.

286. VeePN's acts of infringement will cause further irreparable injury to 42 if Defendant is not restrained by this Court from further violation of Plaintiff's rights. Plaintiff has no adequate remedy at law.

287. VeePN's acts of infringement associate 42's trademarks with rampant illegal movie piracy and thus hinder 42's ability to establish legitimate business relationships with other content creators.

**XIV. EIGHTH CLAIM FOR RELIEF  
(Federal Unfair Competition against VeePN)**

288. Plaintiff 42 re-alleges and incorporate by reference the allegations contained in each of the foregoing paragraphs.

289. Defendant VeePN engages in unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

290. VeePN's unauthorized marketing and sale of their products in interstate commerce using 42's Popcorn Time trademark constitutes a use of a false designation of origin or false representation that wrongfully and falsely designates Defendants' products and/or services as originating from or connected with 42, and constitutes the use of false descriptions or representations in interstate commerce. The actions of VeePN as alleged herein constitute intentional, willful, knowing and deliberate unfair competition.

291. VeePN's actions constitute federal unfair competition and violate 15 U.S.C. § 1125(a).

292. As a direct and proximate result of VeePN's unfair competition, 42 has suffered and will continue to suffer irreparable loss of income, profits and goodwill and VeePN has and will continue to unfairly acquire income, profits and goodwill.

293. VeePN's acts of unfair competition will cause further irreparable injury to 42 if they are not restrained by this Court from further violation of 42's rights. 42 has no adequate remedy at law.

**XV. NINTH CLAIM FOR RELIEF  
(Contributory Trademark Infringement against VeePN)**

294. Plaintiff 42 re-alleges and incorporate by reference the allegations contained in each of the foregoing paragraphs.

295. The YTS website directly infringes Plaintiff 42's registered trademark YTS which was published on the Principal Register.

296. Defendant VeePN entered into an affiliate marketing agreement with YTS in which the YTS website promotes VeePN's VPN service as a tool to safely use the YTS website to pirate copyright protected content in exchange for VeePN paying the YTS website for each YTS user that signed up for VPN service using a link on the YTS website.

297. VeePN knows that the YTS website directly infringed 42's registered trademark YTS. Indeed, VeePN promotes the YTS website on its website for piracy.

298. VeePN entered into and continues this marketing relationship despite knowing that the YTS website directly infringes 42's registered trademark.

299. The RARBG website directly infringes Plaintiff 42's registered trademark RARBG which was published on the Principal Register.

300. VeePN knows that the RARBG website directly infringes 42's registered trademark RARBG. Indeed, VeePN promotes the RARBG website on its website for piracy.

301. VeePN's end users directly infringe Plaintiff 42's registered trademarks YTS and RARBG by using VeePN's servers to distribute illicit copies of copyright protected Works with file titles modified to include the word "YTS" or "RARBG".

302. VeePN has knowledge of its end users' direct infringement of 42's registered trademarks from notices that were sent by 42's agent to DataCamp who in turn forwarded the notices to VeePN.

303. VeePN has knowledge that its end users directly infringe 42's trademarks YTS and RARBG because VeePN promotes the YTS and RARBG websites to its end users for piracy on its website.

304. VeePN continues to provide VPN services to its end users despite knowledge that they use the service to infringe 42's registered trademarks.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs respectfully requests that this Court:

(A) Temporarily and permanently enjoin Defendants from continuing to infringe the Copyright Plaintiffs' copyrighted Works and committing and contributing to DMCA violations;

(B) Temporarily and permanently enjoin Defendant VeePN from contributing to infringement of the Plaintiff 42's trademarks;

(C) Award the Copyright Plaintiffs actual damages and Defendants' profits in such amount as may be found; alternatively, at Copyright Plaintiffs' election, for maximum statutory damages of \$150,000/copyright pursuant to 17 U.S.C. § 504-(a) and (c) against each of Defendants;

(D) Award the Copyright Plaintiffs their actual damages from the DMCA violations and Defendants' profits in such amount as may be found; or, in the alternative, at the Copyright

Plaintiffs' election, for maximum statutory damages of \$25,000 for each DMCA violation pursuant to 17 U.S.C. § 1203(c) for violations of 17 U.S.C. § 1202 against each of Defendants;

(E) Award the Copyright Plaintiffs their reasonable attorneys' fees and costs pursuant to 17 U.S.C. §§ 505 and 1203(b)(5) against Defendants;

(F) Enter a judgment that Plaintiff 42's registered trademarks Popcorn Time, YTS and RARBG have been and continues to be infringed by the VeePN in violation of 15 U.S.C. § 1114(1);

(G) Enter a judgment that VeePN's use of the Popcorn Time mark on a US domain constitutes federal unfair competition in violation of 15 U.S.C. § 1125(a);

(H) Enter a judgment that VeePN has contributed to infringements of 42's registered trademarks YTS and RARBG in violation of 15 U.S.C. § 1114(1);

(I) Permanently enjoin and restrain VeePN and each of its agents, representatives, employees, officers, attorneys, successors, assigns, affiliates, and any persons in privity or active concert or participation with any of them from using the trademarks Popcorn Time, RARBG and YTS, alone or in combination with other words or symbols, as a trademark or trade name component or otherwise, to market, advertise, distribute or identify products or services where that designation would create a likelihood of confusion, mistake or deception with 42's trademarks YTS, RARBG and Popcorn Time;

(J) Order the Defendant VeePN to pay statutory damages of \$6,000,000 pursuant to 15 U.S. Code § 1117(c)(2) for willful infringement of Plaintiff 42's registered trademarks Popcorn Time, RARBG and YTS; and

(K) Grant the Plaintiffs any and all other and further relief that this Court deems just and proper.

The Plaintiffs hereby demand a trial by jury on all issues properly triable by jury.

DATED: Kailua Kona, Hawaii, June 30, 2022.

Respectfully submitted,

/s/ Kerry S. Culpepper

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