

1 Kerry S. Culpepper, HI Bar No. 9837, *pro hac vice*
2 Culpepper IP, LLLC
3 75-170 Hualalai Road, Suite B204
4 Kailua Kona, HI 96740
5 Tel: 808-464-4047
6 Fax: 202-204-5181
7 kculpepper@culpepperip.com

8 Tobi Clinton, (SBN 209554)
9 330 Vernon St., Unit 795
10 Roseville, CA 95678
11 Tel: 650-735-2137
12 Fax: 202-204-5181
13 tclinton@culpepperip.com

14 *Attorneys for Third-Party Plaintiff:*
15 *KILLING LINK DISTRIBUTION, LLC*

16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**

18 KILLING LINK DISTRIBUTION, LLC,
19
20 Third-Party Plaintiff,
21
22 v.
23 SOPHIDEA, INC.
24
25 Third-Party Defendant.

Case No.: 3:20-CV-3813-CRB

**STIPULATED INJUNCTION AND
DISMISSAL BETWEEN THIRD-PARTY
PLAINTIFF KILLING LINK
DISTRIBUTION, LLC AND THIRD-
PARTY DEFENDANT SOPHIDEA, INC.**

26 **STIPULATED INJUNCTION AND DISMISSAL BETWEEN THIRD-PARTY**
27 **PLAINTIFF KILLING LINK DISTRIBUTION, LLC AND THIRD-PARTY**
28 **DEFENDANT SOPHIDEA, INC.**

Whereas, Third-Party Plaintiff KILLING LINK DISTRIBUTION, LLC (“Plaintiff”), appearing through its counsel Kerry S. Culpepper, and Third-Party Defendant SOPHIDEA, INC. (“Defendant”), through its authorized officer and president, Mark Chen, comes before the Court on their joint Stipulated Injunction and Stipulated Dismissal.

Plaintiff has filed a Third-Party Complaint requesting injunctive relief against Defendant based upon allegations that Defendant contributes to copyright infringement of its users that Defendant’s Virtual Private Network (“VPN”) service to pirate Plaintiff’s motion pictures.

1 Defendant provides its VPN service for the purpose of providing uncensored Internet access
2 to people in closed societies. Defendant is operated by a group of volunteers who are dedicated to
3 this goal. Many of Defendant’s users are citizens in countries with internet censorship such as Iran,
4 China, Russia and Vietnam, etc. Defendant depends on donations to provide this VPN service and
5 does not make any profit. Defendant has recently operated at a deficit.

6 To protect Defendant’s users from their own governments, Defendant does not require users
7 to log in to use Defendant’s services. Rather, users can download Defendant’s software for free
8 without providing any personal information. To further protect them, and also due to the volume of
9 traffic, Defendant does not log their users’ access, i.e. their IP addresses and websites visited.

10 Although the vast majority of Defendant’s users use the VPN service legitimately solely to
11 access blocked content, Defendant concedes that in rare occasions, some users have abused
12 Defendant’s systems and access information they should not be accessing. Accordingly, Defendant
13 has been using its best efforts to discourage such abuses by informing and warning users and
14 adopting technical means such as blocking access on Defendant’s servers.

15 Defendant has been unable to eliminate occasional illicit usages due to the difficulty in
16 distinguishing unacceptable from acceptable web accesses among traffic, the vast majority of traffic
17 of which is encrypted. However, Defendant respects United States intellectual property rights and
18 wishes to prevent its users from using the VPN service for movie piracy.

19 Accordingly, Plaintiff is providing Defendant with a list of notorious movie piracy websites
20 and the Internet Protocol addresses at where these notorious movie piracy websites are hosted so
21 that Defendant can block access to said websites on its servers pursuant to 17 U.S.C. §512(j).

22 Plaintiff and Defendant (“Parties”) believe these websites originate from online locations
23 outside the United States, although some use United States services for Content Delivery Network
24 and Domain Name System services. Indeed, the majority of these websites have been mentioned
25 in the “2019 Review of Notorious Markets for Counterfeiting and Piracy” published by the office
26 of the United States Trade Representative. *See*
27 [https://ustr.gov/sites/default/files/2019_Review_of_Notorious_Markets_for_Counterfeiting_and_](https://ustr.gov/sites/default/files/2019_Review_of_Notorious_Markets_for_Counterfeiting_and_Piracy.pdf)
28 [Piracy.pdf](https://ustr.gov/sites/default/files/2019_Review_of_Notorious_Markets_for_Counterfeiting_and_Piracy.pdf) [last accessed on Dec. 8, 2020].

1 **WHEREFORE IT IS HEREBY STIPULATED AND ORDERED** for all matters
 2 relevant to this case between the parties as follows:

3 1. The Parties agree that the Court has personal jurisdiction over the Parties and venue
 4 is proper.

5 2. The Parties agree that Plaintiff has valid and enforceable copyrights in the movie
 6 *Killing Chain* as identified in the Third-Party Complaint.

7 3. Defendant acknowledges that it has received independent legal advice from counsel
 8 or has had the opportunity to seek advice from counsel, with respect to the facts and this Stipulation.

9 4. Defendant denies liability but acknowledges that its users may have used the VPN
 10 service provided by Defendant to pirate copyright protected content, including Plaintiff’s Work.

11 5. The Parties give the Court authority to modify this website blocking injunction and
 12 the time period for which it will retain jurisdiction to enforce the injunction.

13 **PERMANENT WEBSITE BLOCKING INJUNCTION PER 17 U.S.C. §§512(i)**

14 Pursuant to 17 U.S.C. §§512(j)(A)(1)(i), (iii) and (B)(ii), the Court **ORDERS** Defendant
 15 and those under its control to **BLOCK** access on its servers or servers under its control to the
 16 following domains, including their proxy links, mirror sites, etc. within 30 days of this Order:

Website Name	Current Domain	Known Proxies	Current IP address
The PirateBay	thepiratebay.org		162.159.136.6
Rarbg	rarbg.to		185.37.100.122
1337x	1337x.to	1337x.se; 1337x.st; x1337x.ws; x1337x.eu; x1337x.se	104.31.88.65
Fmovies	fmovies.is	fmovies.to; fmovies.se	199.59.242.153
YTS	yts.ae		104.24.106.160
YTS	yst.lt		104.24.96.132
YTS	yts.mx		104.26.6.75
Cimaclub	cimaclub.com	cima4u.tv	104.28.18.69

1	Phinmoi	phimmoi.net		104.18.27.248
2	Rapidgator	rapidgator.net	rg.to	195.211.222.116
3	Rutracker	rutracker.org		195.82.146.214
4	Torrentz2	torrentz2.eu	torrentz2eu.xyz; torrentz2.is	Currently not available
5				
6	Uploaded	uploaded.net	ul.to; uploaded.to	81.171.123.200
7	VK	vk.com		87.240.139.194

8
9 The Defendant shall be considered having complied with this Order if the Defendant
10 implements any *one* or more of the following steps:

- 11 (a) Domain Blocking of the Target Domain Names;
12 (b) IP Address blocking or re-routing in respect of the Target IP Addresses;
13 (c) URL blocking in respect of the Target URLs and the Target Domain Names; or
14 (d) any alternative technical means for disabling access to the Target Online Locations as
15 agreed in writing between the Parties.

16 The Plaintiff can supplement or update this list with further movie piracy websites that are
17 mentioned in future versions of the *Review of Notorious Markets for Counterfeiting and Piracy*
18 published by the office of the United States Trade Representative or a website that has been found
19 liable for copyright infringement in an appropriate Court in the United States.

20 The Plaintiff can supplement or update this list at most two times a year unless further
21 updates are accepted by Defendant.

22 Defendant must **BLOCK** access to the domains associated with the updated list within 30
23 days of receipt from Plaintiff or file any objection to the updated list in this Court after the Parties
24 have met and conferred to attempt to resolve any dispute concerning the updated list.

25 Any third party who asserts an ownership interest in any website and/or IP address on this
26 list or any updated list may make an appropriate motion in this Court after first attempting to meet
27 and confer with Plaintiff by contacting Plaintiff's counsel to protect their rights.

28 This Court will retain jurisdiction for the purposes of enforcing the Website Blocking

1 Injunction.

2 **STIPULATED DISMISSAL**

3 Pursuant to Rules 41(a)(1)(A)(ii) and 41(a) (2) of the *Federal Rules of Civil Procedure*, this
4 action and all claims asserted herein by Plaintiff Killing Link Distribution, LLC against Defendant
5 Sophidea, Inc. are hereby dismissed with prejudice, each party to bear any remaining costs and
6 attorneys' fees. No answer or motion for summary judgment has been filed by Defendant.

7 With entry of this Stipulation, this matter is terminated with respect to Defendant
8 SOPHIDEA, INC.

9

10 IT IS SO STIPULATED.

11

12

DATED Kailua-Kona, Hawaii, December 9, 2020.

13

14

Respectfully submitted,

15

CULPEPPER IP, LLLC

16

17

/s/ Kerry S. Culpepper

Kerry S. Culpepper

Attorney for Plaintiff Killing Link Distribution, LLC

18

19

DATED Kailua-Kona, Hawaii, December 9, 2020.

20

21

Respectfully submitted,

22



23

24

Mark Chen

President and Authorized Officer for Sophidea, Inc.

25

26

27

ORDER
[L.R. 7-12]

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Charles R. Breyer
United States District Judge