1015 JUN 30 P 3 09 1 LATHAM & WATKINS LLP Daniel Scott Schecter (Bar No. 171472) 2 daniel.schecter@lw.com Robert J. Ellison (Bar No. 274374) 3 robert.ellison@lw.com 355 South Grand Avenue Los Angeles, California 90071-1560 Telephone: +1.213.485.1234 Facsimile: +1.213.891.8763 5 6 Attorneys for Petitioner Lucasfilm Ltd. LLC 8 UNITED STATES DISTRICT COURT 9 NORTHERN DISTRICT OF CALIFORNIA 10 MISCELLANEOUS ACTION NO. 11 IN RE: DMCA SECTION 512(h) SUBPOENA TO IMAGESHACK 12 CORP. LUCASFILM LTD., LLC'S REQUEST 13 TO THE CLERK FOR ISSUANCE OF SUBPOENA, PURSUANT TO 17 U.S.C. 14 §512(h), TO IDENTIFY ALLEGED INFRINGERS 15 16 17 18 19 20 21 22 23 24 25 26 27 28 LAN3929440 2

ATTORNEYS AT LAW

LOS ANGELES

LUCASFILM'S REQUEST TO THE CLERK FOR

ISSUANCE OF DMCA SUBPOENA

1	Petitio	oner Lucasfilm Ltd. LLC ("Lucasfilm"), through its undersigned
2	counsel of re	ecord, hereby requests that the Clerk of this Court issue a subpoena on
3	ImageShack	Corp. ("ImageShack") to identify an alleged infringer or infringers,
4	pursuant to t	the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. § 512(h)
5	(the "DMCA"	A Subpoena"). The proposed DMCA Subpoena is attached hereto as
6	Exhibit A.	
7	The D	OMCA Subpoena is directed to ImageShack, the service provider of a
8	site to which	the infringing party, identified as "Darth_Simi", posted content which
9	infringes co	pyright rights held by Lucasfilm (the "Infringing Content"). (See
10	Declaration	of Kevin Clark, ¶ 2.)
11	Lucas	sfilm has satisfied the requirements for issuance of a subpoena pursuant
12	to 17 U.S.C.	. § 512(h), namely:
13	(1)	Lucasfilm has submitted a copy of the notification required by 17
14		U.S.C. § 512(c)(3)(A) as Exhibit 1 to the Clark Declaration, submitted
15		concurrently herewith;
16	(2)	Lucasfilm has submitted the proposed DMCA Subpoena concurrently
17		herewith; and
18	(3)	Lucasfilm has submitted a sworn declaration confirming that the
19		purpose for which the DMCA Subpoena is sought is to obtain the
20		identity of an alleged infringer or infringers, and that such information
21		will only be used for the purpose of protecting Lucasfilm's rights
22		under Title 17 U.S.C. § 512(h)(2).
23	Acco	rdingly, in support of its request for a DMCA Subpoena, Lucasfilm
24	submits and	attaches:
25	0	A copy of the notification described in 17 U.S.C. § 512(c)(3)(A)
26		(see Clark Decl., Ex. 1);
27	0	
28		(ImageShack) (Ex. A hereto); and

1	o A sworn declaration that the purpose for which the DMCA Subpoena
2	is sought is proper under the DMCA. (See Clark Decl., ¶ 4.)
3	Because Lucasfilm has complied with the statutory requirements, Lucasfilm
4	respectfully requests that the Clerk expeditiously issue and sign the proposed
5	DMCA Subpoena pursuant to 17 U.S.C. § 512(h)(4) and return it to undersigned
6	counsel for service on the subpoena recipient.
7	Dated: January 30, 2015 Respectfully submitted,
8	LATHAM & WATKINS LLP
9	
10	By <u>/S/ Daniel Scott Schecter</u> Daniel Scott Schecter
11	Robert J. Ellison Attorneys for Petitioner
12	Lucasfilm Ltd. LLC
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LATHAM & WATKINS LLP Daniel Scott Schecter (Bar No. 171472) 2015 1 2 daniel.schecter@lw.com Robert J. Ellison (Bar No. 274374) KOK robert.ellison@lw.com 3 355 South Grand Avenue Los Angeles, California 90071-1560 (Telephone: +1.213.485.1234 Facsimile: +1.213.891.8763 4 5 6 Attorneys for Petitioner Lucasfilm Ltd. LLC 7 8 UNITED STATES DISTRICT COURT 9 NORTHERN DISTRICT OF CALIFORNIA 10 IN RE: DMCA SECTION 312h) 5 SUBPOENA TO IMAGESHA (K 11 CORP. DECLARATION OF KEVIN CLARK IN 12 SUPPORT OF PETITIONER LUCASFILM LTD., LLC'S REQUEST FOR ISSUANCE OF SUBPOENA, 13 PURSUANT TO 17 U.S.C. §512(h),TO 14 IDENTIFY ALLEGED INFRINGERS 15 16 17 18 19 20 21 22 23 24 25 26 27 28

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I, Kevin Clark, declare as follows:

Lam the Director of Information Technology for Lucasfilm

 I am the Director of Information Technology for Lucasfilm Ltd. LLC ("Lucasfilm"). As part of my duties, I am responsible for monitoring and addressing infringement of copyright rights owned by Lucasfilm and its affiliated companies.

- 2. I am authorized to act on Lucasfilm's behalf. I submit this declaration in support of Lucasfilm's request for issuance to ImageShack, Inc. ("ImageShack") of a subpoena, pursuant to the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. § 512(h) (the "DMCA Subpoena"), to identify an alleged infringer (or infringers) who posted images which infringe copyright rights held by Lucasfilm related to an upcoming motion pictures in the Star Wars franchise, Star Wars Episode VII (the "Infringing Content"), on systems operated by ImageShack without Lucasfilm's authorization. I have personal knowledge of the facts contained herein and, if called upon to do so, I could and would testify competently thereto.
- 3. On January 30, 2015, Patrick Miller, Paralegal at The Walt Disney Company (the parent of Lucasfilm), submitted on behalf of Lucasfilm a notification, via ImageShack's online DMCA notification form (which can be accessed via the hyperlink https://imageshack.com/contact/report), identifying the Infringing Content on ImageShack's system and providing the information required by 17 U.S.C. § 512(c)(3)(A). Attached hereto as Exhibit 1 is a copy of the information submitted through ImageShack's online form. Mr. Miller was authorized to act on behalf of Lucasfilm in submitting this notification.
- 4. The purpose for which the DMCA Subpoena is sought is to obtain the identity of an alleged infringer (or infringers) and such information will only be used for the purpose of protecting Lucasfilm's rights under title 17 U.S.C. §§ 100, et seq.

1	I declare under penalty of perjury under the laws of the State of California
2	and United States of America that the foregoing is true and correct.
3	Executed on January 30, 2015 at San Francisco, California
4	2////
5	Kevin Clark
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Exhibit 1

From:

Corp SharePoint Premium on behalf of Internet Enforcement

To:

Internet Enforcement

Cc:

Internet Enforcement

Subject:

imageshack.com Infringing Content [Notice ID: 39985] (PM)

Date:

Friday, January 30, 2015 1:21:25 PM

Importance:

Hiah

Friday, January 30, 2015

Notice ID:39985 Via Contact Form

imageshack.com

Re: Unauthorized Use of Copyrighted and/or Trademark Properties

To Whom It May Concern:

I believe the information in this notification to be accurate and state under penalty of perjury that I am authorized to act on behalf of the owner of exclusive rights. I am sending this notice on the basis of a good faith belief that the pages identified below include infringing material and/or links to infringing material that are not authorized by the copyright owner, its agents, or the law. This access was present on Friday, January 30, 2015. Please act expeditiously to remove or disable all access to the infringing materials described below and confirm by return e-mail when the infringing content has been removed.

Owner of exclusive rights:

Lucasfilm Ltd. LLC ("Lucasfilm")

Copyrighted works infringed upon:

Visual works, including without limitation, Star Wars Episode VII Costume Design and Photograph

Location of infringing material:

Star Wars Episode VII Costume Design and Photograph

http://imageshack.com/i/f06NkZBXp

Should you have any questions, please contact:

Lance R. Griffin Principal Counsel The Walt Disney Company 500 S. Buena Vista Street Burbank, CA 91521-0641 Telephone: (818) 560-1000

Facsimile: (818) 841-1329

e-mail: internet.enforcement@disney.com

This letter is not a complete statement of Lucasfilm's rights in connection with this

matter, and nothing contained herein constitutes an express or implied waiver of any rights, remedies, or defenses of Lucasfilm in connection with this matter, all of which are expressly reserved.

Very truly yours,

// Patrick Miller //

Patrick Miller Antipiracy Paralegal The Walt Disney Company 500 S. Buena Vista Street Burbank, CA 91521-0641

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Latham & Watkins LLP, 355 South Grand Avenue, Los Angeles, CA 90071-1560.

On January 30, 2015, I served the following documents described as:

DECLARATION OF KEVIN CLARK IN SUPPORT OF PETITIONER LUCASFILM LTD., LLC'S REQUEST FOR ISSUANCE OF SUBPOENA, PURSUANT TO 17 U.S.C. §512(h),TO IDENTIFY ALLEGED INFRINGERS

in the following manner:

BY U.S. MAIL

I am familiar with the office practice of Latham & Watkins LLP for collecting and processing documents for mailing with the United States Postal Service. Under that practice, documents are deposited with the Latham & Watkins LLP personnel responsible for depositing documents with the United States Postal Service; such documents are delivered to the United States Postal Service on that same day in the ordinary course of business, with postage thereon fully prepaid. I deposited in Latham & Watkins LLP's interoffice mail a sealed envelope or package containing the above-described document and addressed as set forth below in accordance with the office practice of Latham & Watkins LLP for collecting and processing documents for mailing with the United States Postal Service:

ImageShack Corp. 236 N. Santa Cruz Ave., Suite 100 Los Gatos, CA 95030

I affirm that I am employed in the office of a member of the Bar of, or permitted to practice before, this Court at whose direction the service was made and affirm under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Colleen M. Rico

Executed on January 30, 2015, at Los Angeles, California.