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FLOOR64, INC. C/O
7 MICHAEL DAVID MASNICK

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 SAN DIEGO COMIC CONVENTION, a
California non-profit corporation,

12 Plaintiff,

13 v.

14 DAN FARR PRODUCTIONS, a Utah
15 limited liability company, et al.,

16 Defendants.

Case No.: 14-cv-1865 AJB (JMA)

Judge: Judge

**NON-PARTY FLOOR64, INC.
OBJECTIONS AND RESPONSES
TO PLAINTIFF SAN DIEGO
COMIC CONVENTION'S
SUBPOENA TO PRODUCE
DOCUMENTS, INFORMATION,
OR OBJECTS OR TO PERMIT
INSPECTION OF PREMISES IN A
CIVIL ACTION**

Date: March 17, 2017

Time: 10:00 a.m.

Place: Vanguard Legal Solutions
370 Convention Way,
Redwood City, CA 94063

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23 TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

24 PLEASE TAKE NOTICE THAT non-party Floor64, Inc. c/o Michael David
25 Masnick ("Masnick") objects to Plaintiff San Diego Comic Convention's ("SDCC")
26 Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of
27 Premises in a Civil Action as follows:
28

1 **RESPONSES AND OBJECTIONS TO SUBPOENA**

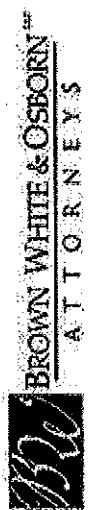
2 Non-party witness Floor64, Inc. (“Witness”) hereby objects and responds to
3 Plaintiff’s subpoena.

4 Witness objects to the subpoena to the extent it calls for attorney-client
5 privileged communications or attorney work product. Based on that objection,
6 Witness will not produce any of its communications with its undersigned counsel
7 regarding the subpoena, nor its counsel’s work product concerning the subpoena.

8 With respect to requests 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
9 19, 20, 21, 22, 23, 24, and 25, Witness responds that Witness has no responsive
10 documents in its care, custody, and control, and to Witnesses’ knowledge no
11 responsive documents have ever existed.

12 With respect to request 7, seeking “All documents concerning SDCC or any
13 SDCC convention,” Witness responds that the request is overbroad, burdensome,
14 harassing, not reasonably calculated to lead to production of admissible evidence, and
15 seeks documents equally available to Plaintiff. Witness operates a popular blog,
16 Techdirt.com, that has covered legal issues surrounding technology and internet
17 culture since 1997. Plaintiff has served this subpoena because Witness has published
18 two posts critical of Plaintiff’s case. The public posts Witness has published about
19 SDCC or mentioning SDCC are equally available to Plaintiff at

20 <https://www.techdirt.com/blog/?tag=comic+con> or [https://www.techdirt.com/search-](https://www.techdirt.com/search-g.php?q=comicon)
21 [g.php?q=comicon](https://www.techdirt.com/search-g.php?q=comicon). It would be extremely burdensome and expensive for Witness to
22 review 20 years of records of reporting to determine if it has any document
23 mentioning SDCC or any SDCC convention, whether or not those documents have
24 any relationship to this case. Moreover, Plaintiff’s motive to seek such a wide range
25 of documents unrelated to this case is clearly to harass and retaliate against Witness
26 for critical coverage of Plaintiff’s case. Moreover, Witness objects pursuant to
27 California Evidence Code § 1070 that the subpoena seeks unpublished information
28 from a publisher. *O’Grady v. Superior Court*, 139 Cal. App.4th 1423 (Cal. Ct. App.



1 2006) [Section 1070 protects online news magazine]. Witness stands on its objections
2 and will not produce documents in response to this request.

3 Witness objects to Request No. 26 to the extent it seeks more than is required
4 by Federal Rule of Civil Procedure 45.

5 DATED: February 28, 2017

Respectfully submitted,

6 BROWN WHITE & OSBORN LLP

7
8 By 

9 THOMAS M. BROWN
10 KENNETH P. WHITE
11 Attorneys for Non-Party
12 FLOOR64, INC. C/O
13 MICHAEL DAVID MASNICK
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BROWN WHITE & OSBORN
ATTORNEYS

