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Judge smash: Prenda's porn-trolling days are over

Prenda lawyers take the Fifth. And a federal judge will assume the worst.

by Joe Mullin - Apr 2 2013, 3:35pm CDT

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Judge Wright gets angry, part three (artist's conception). [Story]

Aurich Lawson

The number of observers watching the spectacularly flailing copyright-trolling enterprise that was Prenda Law has been growing over the past few months. Today, fifteen minutes before the hearing was scheduled, there were already more than a dozen lawyers and observers outside US District Judge Otis Wright's courtroom in downtown Los Angeles. By the time the hearing began, there were more than 40 people in the courtroom.

The large group included the guests of honor, Paul Hansmeier and John Steele, the masterminds behind Prenda Law. Prenda is a law firm that has sued thousands for allegedly downloading pornography. Although Hansmeier and Steele **ditched a March 11 hearing**, they showed up for today's. The two sat close together in court, along with Prenda paralegal Angela Van Den Hemel and Mark Lutz, who has been named as an official at AF Holdings and Ingenuity 13, two Prenda-related companies. Paul Duffy, nominally the principal of Prenda Law, literally ran into court just before the hearing began, red-faced and sweating, before taking his place beside his colleagues.

Former Prenda attorney Brett Gibbs, who has distanced himself from the rest of the Prenda crew, was also present. He sat on the other side of the courtroom.

Wright had threatened all of the Prenda affiliates (besides Gibbs) with **sanctions** if they didn't show up this time, but he's likely to take some action in any case. Despite their appearance in court, their lawyers' refusal to answer any questions seemed to anger Wright further.

The trend of suing "John Does" over allegedly downloading porn movies began a few years ago, and Prenda Law has become perhaps the most vigorous—and certainly the most controversial—enforcer of such copyrights. Prenda's strategy has been to file lawsuits naming thousands of "John Does," push ISPs for subscriber information as fast as they can, and then push subscribers for quick settlements.

And for a few months now, Prenda's scheme has been unraveling.

The court's "focus has shifted... to attorney misconduct"

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The hearing began with introductions. "Is Alan Cooper here? Any Alan Cooper?" asked Wright, referring to the supposed head of one of Prenda's shell companies. He was not.

Philip Baker introduced himself as one of two lawyers representing Paul Hansmeier and said that Mr. Hansmeier was in court as well. "Where?" Wright asked, looking up from his papers. Hansmeier stood, and Wright extended an accusatory finger toward him. "Front row," he motioned. Hansmeier walked forward.

Steele was introduced by his lawyers next; he didn't need to be told where he'd sit. He walked forward and joined his old law school buddy.

"I am pleasantly surprised that we have everyone here," said Wright, in a tone that wasn't exactly pleasant.

"It should be clear by now that this court's focus has shifted from protecting intellectual property rights to attorney misconduct. Such misconduct brings discredit to the profession." At this stage in the game, that kind of misconduct is "of much more concern to the court" than protecting the copyrights of the porn producers that Steele and Hansmeier represent.

"I have questions for Mr. Steele," said Wright, in the understatement of the century. "Mr. Steele can choose to answer those questions or not. Same applies to Mr. Hansmeier."

Phil Baker, Steele's attorney, stepped forward to the lectern. "At this point in time, if Mr. Steele is called, he's going to invoke his Fifth Amendment right [to not incriminate himself]," Baker said. "The word 'fraud' was used [at the March 11 hearing] and appears on the transcript many times."

"It should have been!" said Wright. Baker mentioned some of the other Prenda shell companies that have filed copyright lawsuits, like Ingenuity 13 LLC and AF Holdings LLC, essentially saying there wouldn't be much forthcoming about those either.

"Do you think there's a *difference* between those clients and Mr. Steele?"

There is a difference, Baker said, without elaborating.

"Well if you say answering those kinds of questions would incriminate him, I'll take you at your word," said Wright.

"You leave my client with no alternative," said Baker.

Wright sputtered, amazed and again angered that he was faced with lawyers who wouldn't answer the most basic questions about who was profiting from their scheme to sue over porn copyrights. He wanted to know who was in control of the litigation, who was making the money, why the relationships among Prenda entities weren't disclosed, and why the proper procedures weren't followed.

"Let's cut to the chase," said Wright. "I want to know if some of my conjecture is accurate." If Steele and Hansmeier weren't going to talk, he was prepared to draw his own conclusions about what that meant. "This is an opportunity for him to protect and defend himself," said Wright. "I'm not going to go through the charade of asking him questions he's not going to answer."

"He's not going to answer your questions," said Baker.

Neither was Hansmeier, said another lawyer.

It was clear the hearing wasn't going to go very far, with the players Judge Wright was most interested in having clammed up and lawyered up, fearful of criminal charges.

At that point Heather Rosing (a lawyer representing Prenda Law), Prenda paralegal Angela Van Den Hemel, and Paul Duffy stood up. Rosing had a presentation for the court, she explained—several minutes of legal argument—and her clients had a right to be heard.

"Excuse me?" Wright shouted, incredulous. "They're giving up that right! I'm looking for facts here, I really am. Who directs the litigation here in California? Who decides if a case is settled? For how much money?"

Wright's barrage of unanswered questions came forth in a stream: "Do you know if there's another Alan Cooper? What happens to the settlement money? Why weren't notices of related cases filed? You have the same plaintiff, the same film, the same causes of action—and they're not related? Excuse me? And who decided not to disclose that the law firms have a financial interest?"

"There's not any interest—" began Rosing.

"Excuse me?" Wright interjected. "Did you read [Hansmeier's deposition](#)?"

She had.



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"This is a legal argument, with some objections—" Rosing started.

"We're done," said Wright. He stood up and walked out of court.

"The whole team showed up, and they refused to play."

Team Prenda began leaving the courtroom as quickly as they could. In a mission I knew would be in vain, I followed, telling Steele and his lawyer who I was and asking if they would say something about the proceedings today. Steele threw me a casual "no comment" without even turning around.

Morgan Pietz and Nick Ranallo, who are representing the same John Doe defendant in the Ingenuity 13 case before Wright, gathered with observers and allies in the hall afterward. "I was expecting to be here all day," said Pietz. "The whole team showed up, and they refused to play. Or, they forfeited the game."

It will be difficult, if not impossible, for Steele and Hansmeier to pursue any of their copyright cases. Their porn-trolling operation is likely coming to an end, and several questions remain: What will the repercussions be? And what will it mean for the next group of folks who decide that turning sleazy movies into copyright threats could mean an easy buck?

Ken White at Popehat [has a post](#) thoroughly running down all the types of sanctions that may be available here. Some of them would actually be tricky to use. But Steele and Hansmeier may well be referred to their state bar associations for investigation, or the US or Circuit Court Bar Associations. And Wright could sanction them under his own "inherent authority" as a federal judge.

In any case, Wright seems determined to get some of the basics answered. Who made the money, and what rules were broken? After dozens of lawsuits and perhaps thousands of victims, the public has a right to know as well.

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Joe Mullin / Joe Mullin has covered the intersection of law and technology — including the world's biggest copyright and patent battles — for a number of years, mostly at The American Lawyer.
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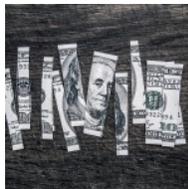
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