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12 *Attorneys for Defendants Rightscorp, Inc., Christopher Sabec,*
13 *Robert Steele, Craig Harmon, Dennis J. Hawk*
14 *and Warner Bros. Entertainment Inc.*

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 John Blaha,* individually and on behalf
18 of others similarly situated,

19 Plaintiffs,

20 v.

21 Rightscorp, Inc., a Nevada Corporation,
22 formerly known as Stevia Agritech
23 Corp.; Rightscorp, Inc., a Delaware
24 Corporation; Christopher Sabec, an
25 individual; Robert Steele, an individual;
26 Craig Harmon, an individual; Dennis J.
27 Hawk, an individual; BMG Rights
28 Management (US) LLC; Warner Bros.
Entertainment Inc.; and John Does 1
to 10,

Defendants.

[*Previously captioned with Karen J.
Reif and Isaac Nesmith as lead plaintiffs]

Case No.: 2:14-cv-9032-DSF-(JCGx)

Assigned to: Hon. Dale S. Fischer
United States District Judge

**DEFENDANT WARNER BROS.
ENTERTAINMENT INC.'S
NOTICE OF MOTION AND
MOTION TO STRIKE SECOND
CAUSE OF ACTION PURSUANT
TO CAL. CIV. PROC. CODE §
425.16 AND TO DISMISS
PLAINTIFFS' SECOND CAUSE OF
ACTION PURSUANT TO FRCP
RULE 12(b)(6)**

Date: May 11, 2015
Time: 8:30 a.m.
Courtroom: 840

Complaint Filed: November 21, 2014
Trial Date: Not yet set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on May 11, 2015, at 8:30 a.m., or as soon
3 thereafter as the matter may be heard before Honorable Dale S. Fischer, located at
4 Courtroom 840, United States District Court, 255 East Temple Street, Los Angeles
5 California 90012-1565, Defendant Warner Bros. Entertainment Inc. (“Defendant”)
6 will and hereby does move for an Order striking Plaintiff’s Second Cause of
7 Action pursuant to California Code of Civil Procedure § 425.16, and dismissing
8 with prejudice Plaintiff’s Second Cause of Action for Abuse of Process pursuant to
9 Federal Rules of Civil Procedure 12(b)(6) on the ground that Plaintiff’s claim fails
10 as a matter of law.

11 Specifically, Plaintiff’s claim impermissibly challenges Defendant’s
12 petitioning conduct, which is protected under California’s anti-SLAPP statute. The
13 Second Cause of Action is further barred as a matter of law because: (1) the
14 subpoena complained of was used to identify a copyright infringer — which is the
15 express purpose of DMCA subpoenas as interpreted by the courts of this Circuit —
16 and therefore does not constitute an “abuse” of process; and (2) the conduct
17 complained of is protected under the litigation privilege under Cal. Civ. Code
18 §47(b). Accordingly, Plaintiff’s Second Cause of Action should be stricken or,
19 alternatively, dismissed.

20 This Motion is identical to “Defendants’ Notice of Motion and Motion to
21 Strike Second Cause of Action Pursuant to Cal. Civ. Proc. Code § 425.16 and to
22 Dismiss Plaintiffs’ Second Cause of Action in Their First Amended Complaint
23 Pursuant To FRCP Rule 12(b)(6)” filed on March 30, 2015 (Dkt. No. 30) (the
24 “Rightscorp Motion”) and seeks the same relief. Defendant hereby joins and
25 adopts as its own all arguments offered in support of the Rightscorp Motion, as set
26 forth in the memorandum of points and authorities filed in support of the
27 Rightscorp Motion (Dkt. No. 30-1).

28 This Motion is made following conference of counsel pursuant to L.R. 7-3,

1 which occurred on April 2, 2015.

2 This Motion is based on this Notice of Motion and Motion, the
3 accompanying Memorandum of Points and Authorities which incorporates by
4 reference all arguments asserted in the memorandum of points and authorities filed
5 in support of the Rightscorp Motion (Dkt. No. 30-1), the Declaration of Jesse
6 Contreras filed on March 30, 2015 (Dkt. No. 30-2), all pleadings, records and
7 papers filed in this action, the argument of counsel, any supplemental memoranda
8 that may be filed by the parties, and such further evidence as the Court may
9 consider at or before the hearing of this Motion.

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11 Dated: April 3, 2015

MICHELMAN & ROBINSON, LLP

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13 By: /S/ Jesse J. Contreras
14 Sanford L. Michelman, Esq.
15 Mona Z. Hanna, Esq.
16 Jesse J. Contreras, Esq.
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18 Attorneys for Defendants
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