

[ F ]  
[ G-K ]

Our Ref:

Your Ref:

Date: 2012

Telephone:: 0871 990 6500  
Email: [info@goldeneyeint.com](mailto:info@goldeneyeint.com)  
Web: [www.goldeneyeint.com](http://www.goldeneyeint.com)

Dear

**GOLDEN EYE (INTERNATIONAL) LIMITED (“GEIL”) AND BEN DOVER PRODUCTIONS (“BDP”)**

**GEIL’s and BDP’s rights**

It is with regret that we are writing this letter to you. However, GEIL and BDP are very concerned at the illicit distribution of films over the internet.

BDP is the owner and GEIL is the exclusive licensee of the copyright in the film sold under the name ‘[E]’ (“the Work”). The Work has been made available for sale in the United Kingdom.

This letter will set out claims made against you by GEIL and BDP. We invite you to provide a full written response as soon as is reasonably possible. Should this matter ultimately be heard and determined by a court, adverse costs consequences against you could follow from a failure constructively to respond to this letter.

**Our evidence**

We have obtained the services of a forensic computer analyst to search for and identify internet addresses from which our copyright works (including the Work) are being made available on so called “peer to peer” (P2P) internet sites for the purposes of making them available for download by third parties without our client’s consent or licence.

Our forensic computer analyst has provided us with evidence that on the following UK date and time, [B] [C], all or part of the Work was made available from the internet protocol (or IP) address [A], specifically for the purpose of downloading by third parties. We attach a copy of his report.

**Court Order**

We showed this evidence to your internet service provider Telefonica UK Limited

("O2") who would not supply us with any information without a Court order. We therefore made an application to Court asking for an Order against O2 that they disclose the names and addresses associated with the IP address on the date and at the time in question. On 31 May 2012 Mr Justice Arnold, sitting in the High Court, ordered O2 to give us disclosure of your name and address for the purposes of enabling us to send you this letter and if necessary bringing legal proceedings against you. We should make it clear that the High Court has not yet considered the merits of our claim against you. For your information we enclose a copy of the Order. The Court's full reasons for making the Order are freely available at the following internet address: <http://www.bailii.org/ew/cases/EWHC/Ch/2012/723.html>.

In accordance with that Order, O2 identified you as the subscriber noted in their systems as on their network associated with the IP address on the date and at the time in question. Please be assured that we have stringent security measures in force to ensure that, so far as is humanly possible, the data we hold is fully protected.

### **Infringing acts**

This letter assumes that you, as the internet account holder at your address, were the user of the relevant computer on the day and time in question. We have set out below the infringing acts that we believe that you are liable for:

1. copying the Work onto the hard drive of your personal (or office) computer ("PC") (pursuant to sections 16(1)(a) and 17 of the Copyright Designs and Patents Act 1988) ("the Act"); and/or
2. making the Work available to third parties for downloading (pursuant to sections 16(1)(d) and 20 of the Act).

In the event that you were not responsible for the infringing acts outlined above because, for example, another member of your household was the user of the computer, you should make full disclosure to us of the other parties at your residence using your internet connection to make the Work available for download. A failure to make such disclosure may lead to a claim being made against you with the court being asked to conclude, on the balance of probabilities, that you were the user of the computer.

### **Legal consequences**

In the event that that this matter cannot be resolved, it may become necessary for GEIL and BDP to bring a claim against you for copyright infringement. This claim would be brought in the civil court, where liability is determined on the balance of probabilities. In that event, we must make you aware that if successful, we will be entitled to recover from you damages and possibly a contribution towards the legal costs of bringing the claim to court. You may also incur your own legal costs if you choose to instruct lawyers (which may be recoverable in the event that our claim does not succeed). If GEIL and BDP secure a judgment, and in the event that you were not able to pay whatever sums the court may order you to pay, we would have no option but to take steps to enforce the debt against you.

### **Our claim for damages**

The act of file sharing the Work without the consent of GEIL or BDP has caused

damage to our business. We contend that every copy of the Work that is downloaded represents a potential lost sale. Whenever the Work is made available for download to other parties there is the opportunity for multiple downloads to take place resulting in lost revenue. In addition to GEIL selling direct, we also enter into licensing agreements for third party organisations to distribute our content. File sharing also results in lost royalty revenue and weakening of the Ben Dover brand. The court has power in such circumstances to award GEIL and BDP damages for our loss and, in appropriate circumstances, additional damages where the unlawful file sharing has been flagrant.

The level of damages we claim will depend on the extent to which you have downloaded the Work and/or made it available for download by others.

### **Proposed settlement**

Once your response to this letter is received, GEIL and BDP will be prepared if we believe that you have behaved unlawfully to give you the opportunity to avoid legal action by proposing a settlement out of court. That settlement offer will include the following elements:

1. you will be required to promise in a written undertaking not to upload, download, make available or otherwise share the Work or any of GEIL and BDP's other works and/or permit others to do the same using your internet connection, at any time in the future, either from the above IP address or any other;
2. you will be required to agree to delete any copies of the Work (and any other intellectual property of GEIL or BDP from your hard drive and/or operating system and/or any copies saved to disk (or other media), other than those that were purchased by you from a legitimate source; and
3. you will be required to pay a sum of money as compensation to GEIL and BDP for its losses. We will propose an appropriate figure to you in the subsequent letter after we have received your response to this letter and carefully considered its contents. It is therefore in your interests to respond to this letter, because a failure to do so may lead GEIL and BDP to invite you to pay a figure which is higher than the amount that it might ask for if it is persuaded that any unlawful conduct has been inadvertent or minor.

### **Next Steps**

Please state whether you admit that you have downloaded the Work and/or made it available for download by others, and if so the extent to which you have done so and whether you are prepared in principle to enter into a settlement of the kind outlined above. If you deny that you have downloaded the Work or made it available for download by others, please explain the basis upon which you deny it, and provide the information we have requested above about other users of the computer.

We invite you to respond to this letter at the latest within 28 days of the date in the top right hand corner of the first page. We will then respond to that letter with our proposals for the settlement of this matter. In the event that no response is received, GEIL and BDP reserve the right to take further action which could include the commencement of proceedings without further notice to you.

All responses from you must be in writing. You may contact us by post, by email at [info@goldeneyeint.com](mailto:info@goldeneyeint.com) (quoting the reference at the top of this letter) or by fax on 0871 990 6510.

### **Legal Advice**

If you are in any doubt about the contents of this letter and its seriousness, we would recommend that you seek legal advice as a matter of urgency. Citizens Advice consumer service provides free, confidential and impartial advice on consumer issues. Visit [www.adviceguide.org.uk](http://www.adviceguide.org.uk) or call 08454 04 05 06 from 9am to 5pm Monday to Friday. Alternatively visit your local Citizens Advice Bureau - find the details online at [www.adviceguide.org.uk](http://www.adviceguide.org.uk) or look under C in the phone book.

Yours faithfully

Copyright Infringement Department  
Golden Eye (International) Limited  
[www.goldeneyeint.com](http://www.goldeneyeint.com)

STATEMENT REPORT RELATING TO [ F ]

File Name: [E]

Client IP: [A]

Date: [B]

Time: [C]

EXTRACT FROM ISP (BT) [F]

File Name: [E]

Client IP: [A]

Date: [B]

Time: [C]

Name: [F]

Address: [G-K]