

# EXHIBIT 11

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-20427-JORDAN

DISNEY ENTERPRISES, INC.,  
TWENTIETH CENTURY FOX FILM CORPORATION,  
UNIVERSAL CITY STUDIOS PRODUCTIONS LLLP,  
COLUMBIA PICTURES INDUSTRIES, INC., and  
WARNER BROS. ENTERTAINMENT INC.,

*Plaintiffs,*

v.

HOTFILE CORP., ANTON TITOV, and  
DOES 1-10.

*Defendants.*

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**DECLARATION OF STEVE KANG**

STEVE KANG declares as follows:

1. I am Vice President and Senior Counsel, Anti-Piracy Legal Affairs, at NBCUniversal (“NBCUniversal”). I make this declaration in support of Plaintiffs’ Motion for a Protective Order. Unless otherwise indicated, I have personal knowledge of all of the facts described herein.

2. As Vice President and Senior Counsel, Anti-Piracy Legal Affairs, I supervise many of NBCUniversal’s anti-piracy efforts, which include the protection of works belonging to Plaintiff Universal City Studios Productions LLLP on the Internet. NBCUniversal’s anti-piracy includes both lawyers and technical personnel. Among the activities of NBCUniversal’s anti-piracy team which I supervise, directly or indirectly, are NBCUniversal’s efforts to locate, identify and record online infringement of NBCUniversal copyrighted content, to send notices

regarding infringement to infringing individuals and websites and other entities, such as ISPs, and to formulate, devise and oversee NBCUniversal's strategies, including litigation strategies, for responding to the infringement of NBCUniversal copyrights and theft of its content.

3. NBCUniversal uses a combination of in-house employees and outside anti-piracy vendors to search for evidence and instances of online copyright infringement involving NBCUniversal copyrighted content and, in those instances in which NBCUniversal's anti-piracy strategies provide for it, to send notices regarding discovered infringements. These outside vendors are retained at the instruction of NBCUniversal's in-house lawyers, including myself, and they are supervised by, and report, either directly or indirectly, to me and other NBCUniversal attorneys.

4. NBCUniversal's internal anti-piracy personnel and outside anti-piracy vendors collect both general and specific information about the online infringement of NBCUniversal content, including how infringing content is distributed online, what methods are available to find, identify and respond to infringers, and general information about the scope of copyright infringement on the Internet. These activities are supervised, directly or indirectly, by NBCUniversal attorneys for the purpose of formulating anti-piracy strategies, including whether, when and to whom to send infringement notices, whether, when and whom to refer to criminal authorities, and whether, when, on what basis and against whom to pursue other legal action. Among the categories of infringers regularly investigated by NBCUniversal are so-called "linking" sites and "direct download hub" (sometimes called "cyberlocker") sites. Such sites include (but are not limited to) Hotfile and linking sites which organize and post links to infringing motion picture and television files hosted on Hotfile.

5. When NBCUniversal's anti-piracy personnel and vendors search for infringing NBCUniversal content online they do under supervision of NBCUniversal counsel. These

instructions may include instructions regarding, *inter alia*, the specific NBCUniversal titles to search for and the online locations (and types of online locations) on which to search. These instructions reflect NBCUniversal's strategic decisions regarding the prioritization of NBCUniversal's anti-piracy efforts.

6. As already stated, the services performed by NBCUniversal's anti-piracy vendors include sending notices to infringing Internet users or websites. NBCUniversal anti-piracy lawyers draft and provide NBCUniversal's vendors with templates to use when sending infringement notices. The infringement notices are sent pursuant to instructions from NBCUniversal counsel, and reflect NBCUniversal's legal and strategic judgments and choices regarding how best to protect NBCUniversal's copyrighted content.

7. NBCUniversal anti-piracy lawyers and in-house technology team use the information provided by vendors to devise, refine, and implement strategies and processes for locating, identifying and responding to infringers, to devise technical solutions and strategies to prevent and respond to infringement, and to determine what kinds of legal action to take, and against whom, to best protect NBCUniversal copyrighted content from infringement online. NBCUniversal anti-piracy lawyers and technical personnel have devoted and continue to devote significant time and resources to the development, refinement, and implementation of NBCUniversal's comprehensive anti-piracy activities and strategies, including the instructions to NBCUniversal's anti-piracy personnel and vendors described above.

8. NBCUniversal's anti-piracy strategies, as described above, include sensitive details regarding NBCUniversal's efforts to detect and respond to online infringement, including extremely sensitive details such as to whom and how often NBCUniversal sends infringement notices, how, where and when NBCUniversal scans the Internet for infringements, how

NBCUniversal locates and detects its content, how NBCUniversal prioritizes titles for anti-piracy protection, how NBCUniversal finds and deals with sites that link to infringing files hosted on download hub websites (including Hotfile), what proprietary systems NBCUniversal relies on in house to fight piracy, what anti-piracy metrics NBCUniversal requests vendors and in-house personnel to collect and report, and how this data informs NBCUniversal's strategic anti-piracy decisions. The disclosure to the public, and especially to flagrant infringers and content thieves, of such information would cause incalculable damage to NBCUniversal. Disclosure of such information would help infringers and content thieves to devise more effective counter-measures for evading detection and for hiding stolen content and infringing activity. For example, disclosure would help content thieves to NBCUniversal identify works that NBCUniversal has not prioritized for monitoring and enforcement, and would reveal what areas of the Internet NBCUniversal does not monitor for infringing content. It would, in short, give infringers and content thieves yet another unfair and unlawful competitive advantage over NBCUniversal. Not only would the foregoing greatly prejudice the effectiveness of NBCUniversal's existing anti-piracy measures, it would potentially eliminate the deterrent effect of NBCUniversal's anti-piracy enforcement efforts by showing content thieves exactly what steps NBCUniversal takes to identify and respond to infringement, including on linking and cyberlocker sites.

9. Due to the sensitivity of information about NBCUniversal's anti-piracy efforts, information about the details of those efforts, such as specific instructions to anti-piracy vendors and the details of NBCUniversal's workflow for investigating and responding to infringement online, are closely guarded within the . Vendors retained by NBCUniversal are instructed to keep the details of their work for NBCUniversal confidential, because doing so is not only critical to success, but is a condition of their continued retention by NBCUniversal. Indeed, such

information is not even freely shared within NBCUniversal itself but is limited to those individuals working on anti-piracy related matters.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in the State of California this 22nd day of July, 2011.

  
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Steve Kang