

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 DUANE C. POZZA IN SUPPORT OF  
PLAINTIFFS' MOTION TO COMPEL RESPONSES TO REQUESTS FOR  
PRODUCTION OF DOCUMENTS AND INTERROGATORIES**

I, Duane C. Pozza, hereby declare as follows:

1. I am a partner at the law firm of Jenner & Block LLP, and counsel to the plaintiffs Disney Enterprises, Inc., Twentieth Century Fox Film Corporation, Universal City Studios Productions LLLP, Columbia Pictures Industries, Inc., and Warner Bros. Entertainment Inc. ("plaintiffs"). I submit this declaration in support of Plaintiffs' Motion to Compel Responses to Requests for Production of Documents and Interrogatories from defendants. The statements made in this declaration are based on my personal knowledge including on information provided to me by colleagues or other personnel working under my supervision on this case. If called to testify as a witness, I would testify as follows:

2. The parties have met and conferred extensively regarding certain of plaintiffs' document requests and interrogatories to the defendants Hotfile Corp. and Anton Titov ("defendants"). Plaintiffs served an initial set of document requests and interrogatories on April 1, 2011, and defendants served their objections and responses on May 5, 2011. During the parties' meet and confer discussions, defendants' counsel has indicated that defendants are standing on the objections and limitations on production indicated in their responses to the following requests: Requests For Production Nos. 5(i), 17, 28, and 31, and Interrogatory Nos. 4 and 10. For Request No. 31, defendants have indicated that they will provide, at most, a limited number of documents specifically in response to this request – agreements between Hotfile Entities and documents sufficient to show that Hotfile, Ltd. is a wholly owned subsidiary of Hotfile Corp. – which are insufficient to fully disclose the extent to which each Hotfile Entity is involved in the operation of Hotfile. Additionally, as to Request No. 28, though not indicated in their written responses, defendants' counsel stated in the meet and confer discussions that defendants would not produce content files uploaded to Hotfile. The parties have conferred as to all these requests and made a good faith effort to resolve the issues between the parties, but have been unable to reach a resolution.

3. Attached hereto as Exhibit A is a redacted copy of an excerpt of Defendants' Supplemental Response to Plaintiffs' Interrogatory No. 1, dated July 19, 2011, identifying the contractors and employees of Hotfile Corp., which defendants have designated as Highly Confidential. Plaintiffs have met and conferred with defendants regarding the redaction of information contained in the response, and have agreed to redact names of individuals, as well as other information not relevant to the purpose for which plaintiffs are submitting this exhibit,

without waiving objections to the redaction of this information in other contexts. Exhibit A indicates the Hotfile User Identification Number of 431206 for one of Hotfile's contractors.

4. Attached hereto as Exhibit B is a redacted copy of an excerpt of Defendants' Responses to Plaintiffs' First Set of Interrogatories, dated May 5, 2011, excerpted to show defendants' response to plaintiffs' Interrogatory No. 9, which defendants have designated as Highly Confidential. Interrogatory No. 9 requests identification of the 500 participants in the Hotfile "Affiliate" programs that have received the largest cumulative payments from Hotfile, and Hotfile User ID 431206 is included in the response. Plaintiffs have met and conferred with defendants regarding the redactions to this exhibit, and have redacted the portions indicated here at defendants' request. Plaintiffs previously filed an unredacted version of this document under seal at Docket #75.

5. Attached hereto as Exhibit C are redacted excerpts of a spreadsheet produced by defendants at bates numbers HF00000048 – HF00000330, which defendants have designated as Highly Confidential, and which plaintiffs understand as purporting to show users that have been terminated or suspended. Plaintiffs have met and conferred with defendants regarding the redactions to this exhibit, and have redacted the User Identification Numbers here at defendants' request. Persons under my supervision have analyzed the User Identification Numbers corresponding to the top 500 highest paid Affiliates provided in defendants' response to plaintiffs' Interrogatory No. 9 (Exhibit B) and the data in HF00000048 – HF00000330. This analysis reveals that approximately 65% of individuals indicated in response to Interrogatory No. 9 are listed as being terminated for reasons indicating repeat copyright infringement, all on dates after February 8, 2011, the date of the filing of the Complaint. (I have not included every

redacted page in HF00000048 – HF000000330 listing users that appear to have been terminated for repeat infringement, but such documentation may be provided at the Court’s request.).

6. Attached hereto as Exhibit D are excerpts of printouts of publicly available posts from the website forums.digitalpoint.com, at the URL indicated on the printouts, indicating that some users have received payments from Hotfile, Ltd. (The printout has been edited to box the relevant posts.)

7. Attached hereto as Exhibit E is a true and correct copy of the Declaration of Anton Titov in Support of Lemuria Communications Inc.’s Motion to Dismiss filed by Lemuria Communications Inc. on December 20, 2010 in *Perfect 10, Inc. v. Hotfile Corp. et al.*, No. 3:10-cv-02031-MMA-POR (S.D. Cal.).

8. Attached hereto as Exhibit F are redacted copies of email communications produced by defendants at bates numbers HF00034459, HF00034587, and HF00034686, and designated Confidential by defendants. Plaintiffs have met and conferred with defendants regarding the redactions to this exhibit, and have redacted this exhibit as requested by defendants.

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

Executed on August 3, 2011, at Washington, D.C.

  
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Duane C. Pozza