

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 11-20427-CIV-JORDAN

DISNEY ENTERPRISES, INC. et al.,)
)
Plaintiffs)
)
vs.)
)
HOTFILE CORP. et al.,)
)
Defendants)
_____)

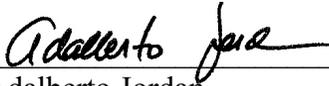
ORDER ON MOTION TO AUTHORIZE USE OF CATEGORICAL PRIVILEGE LOGS

Disney Enterprises, Inc.’s, Twentieth Century Fox Film Corporation’s, Universal City Studios Productions LLLP’s, Columbia Pictures Industries, Inc.’s, Warner Bros. Entertainment Inc.’s, and non-party Motion Pictures Association of America, Inc.’s motions to authorize use of categorical privilege logs [D.E. 91 & 97] are GRANTED.

The movie studios claim to have over 5000 privileged documents. Instead of producing detailed privilege logs containing all 5000 documents, the movie studios request that they be allowed to produce privilege logs containing categories of privileged documents. Usually, when a party claims that a document is privileged, that party must “describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.” FED. R. CIV. P. 26(b)(5)(A)(ii). Nonetheless, the Advisory Committee Notes recognize that this is not a strict, inflexible rule. “Details concerning time, persons, general subject matter, etc., may be appropriate if only a few items are withheld, but may be unduly burdensome when voluminous documents are claimed to be privileged or protected, particularly if the items can be described by categories.” FED. R. CIV. P. 26 1993 amend. advisory committee’s note 1993 amend. I use my discretion to allow the movie studios to provide privilege logs containing categories of privileged documents. *See Republic Servs. v. Am. Int’l Specialty Lines Ins.*, No. 07-cv-21991, 2008 WL 4691836, at *2–3 (S.D. Fla. Oct. 21, 2008) (McAliley, Mag.) (allowing categories of privileged documents where party had 2500 privileged documents).

The movie studios are instructed to provide categorical logs with categories detailed enough to allow Hotfile, Inc. and Anton Titov to evaluate the claims of privilege. The categories should include the number of documents withheld. If, after receiving the detailed categories, Hotfile and Mr. Titov still believe they cannot intelligently evaluate the privilege logs, they may move for more detailed privileged logs.

DONE and ORDERED in chambers in Miami, Florida, this 26th day of August, 2011.



Adalberto Jordan
United States District Judge

Copy to: All counsel of record