

EXHIBIT 12

Leibnitz, Andrew (21) x4932

From: Fabrizio, Steven B [SFabrizio@jenner.com]
Sent: Saturday, November 19, 2011 5:53 PM
To: Leibnitz, Andrew (21) x4932
Cc: Thompson, Rod (27) x4445; Pozza, Duane; Schoenberg, Tony (28) x4963; Platzer, Luke C
Subject: Re: Disney Enterprises, Inc. v. Hotfile Corp. - deposition notices

Andy - will all due respect, you are full of it. Yes, for weeks - ever since we told you we wanted more time, in part, because of the language barrier - you have been telling us Titov will testify without a translator. But at every instance prior to that moment, you have been saying we proceed at our own risk if we do not have a translator for Titov. In fact, you said as much when we spoke about the logistics for the settlement conference. Even then you were studiously coy about my question of whether we should have a translator for the settlement conference. We ultimately opted against it on the theory that the lawyers would be doing most of the talking. I don't believe you are correct to say we have not spoken by phone on this issue. But, if you are correct, then you will be able to produce emails because we know we have asked you several times about translators for Titov. If you ever told us no (other than after we asked for more time), then produce an email. If I'm wrong, I'll withdraw the statement. Otherwise I am sticking with my very clear memory of what you have said more than once, and will have no problem submitting a sworn declaration in response to yours if you deny having said it.

SBF

From: Andrew Leibnitz <aleibnitz@fbm.com<mailto:aleibnitz@fbm.com>>
Date: Sat, 19 Nov 2011 19:43:13 -0600
To: Steven Fabrizio <sfabrizio@jenner.com<mailto:sfabrizio@jenner.com>>
Cc: "Roderick M. Thompson" <rthompson@fbm.com<mailto:rthompson@fbm.com>>, Duane Pozza <DPozza@jenner.com<mailto:DPozza@jenner.com>>, "Anthony P. Schoenberg" <tschoenberg@fbm.com<mailto:tschoenberg@fbm.com>>, Luke Platzer <LPlatzer@jenner.com<mailto:LPlatzer@jenner.com>>
Subject: Re: Disney Enterprises, Inc. v. Hotfile Corp. - deposition notices

Steve:

You have completely made up the statements you attribute to me. I do not know how else to state it. I initially requested a translator, but have made clear for weeks that Mr. Titov does not need a translator. You appear to be persevering in making a representation to the Court about our repeated insistence on translators that is demonstrably false. Of course, if you have any factual support for Plaintiffs' current representation to the Court, we would appreciate receiving it. You need not rely on your "very clear memories" of this topic since you and I have never spoken by phone on this issue, and indeed have not communicated except by email since well before this issue arose.

Regards,

Andrew Leibnitz
Farella Braun + Martel LLP

On Nov 19, 2011, at 5:07 PM, "Fabrizio, Steven B" <SFabrizio@jenner.com<mailto:SFabrizio@jenner.com>> wrote:

In short, no. Both you and, mostly, Andy, have been telling us every time we ask that we proceed with Titov without a translator at our own risk. I have very clear memories of that

and stand by it. Titov's deposition did not convince me otherwise. We will stand on each of those statements. Defendants should oppose any way you see fit.

SBF

From: "Roderick M. Thompson"
<rthompson@fbm.com<mailto:rthompson@fbm.com><<mailto:rthompson@fbm.com>mailto:rthompson@fbm.com>>>
Date: Sat, 19 Nov 2011 18:32:39 -0600
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Subject: RE: Disney Enterprises, Inc. v. Hotfile Corp. - deposition notices

Duane, will the Studios be withdrawing the inaccurate statement that because "English is not the primary language of Mr. Titov . . . Plaintiffs will need to have translators present and available to translate both questions and answers." See pp. 6-7. Further it is simply not true that "defendants have repeatedly insisted that plaintiffs would need translators for Mr. Titov." At p. 7.

You, Steve and I meet and conferred on this subject on Nov. 4 at length. I confirmed then what we had told you (and emailed you) repeatedly before, Mr. Titov does not require a translator. I am at loss to understand how you and Steve could make such an inaccurate statement to the Court.

Further, now that Steve has had almost 2 and 1/2 hours of examination of Mr. Titov, all without a single translated question or answer, there can be no colorable basis to continue to make this argument of a stated need for a translator to the Court. It is not true. We respectfully request that Plaintiffs withdraw these inaccurate statements, if not the entire motion.

Thanks.

Rod

From: Pozza, Duane [<mailto:DPozza@jenner.com>mailto:DPozza@jenner.com]
Sent: Friday, November 18, 2011 7:58 AM
To: Thompson, Rod (27) x4445; Leibnitz, Andrew (21) x4932; Schoenberg, Tony (28) x4963
Cc: Fabrizio, Steven B; Platzer, Luke C
Subject: RE: Disney Enterprises, Inc. v. Hotfile Corp. - deposition notices

Rod, in light of the time constraints and our request for expedited briefing on the Motion for One Additional Examination Day for the 30(b)(6) of Hotfile Corporation (Dkt # 165), please let us know whether you intend to respond to the motion (or that request) on or before November 22nd.

Thanks,

Duane

From:

RThompson@fbm.com<mailto:RThompson@fbm.com><<mailto:RThompson@fbm.com>mailto:RThompson@fbm.com> [<mailto:RThompson@fbm.com>mailto:RThompson@fbm.com]

Sent: Wednesday, November 16, 2011 7:09 PM

To: Pozza, Duane;

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Cc: Fabrizio, Steven B; Platzer, Luke C

Subject: RE: Disney Enterprises, Inc. v. Hotfile Corp. - deposition notices

Duane, notwithstanding the remarkable over-breadth and unreasonableness of the 61 additional Rule 30b6 topics addressed to Hotfile Corp., these three new notices do not alter our view of the number of hours to which the Plaintiffs are entitled for the depositions under the Federal Rules.

To reiterate what we offered almost two weeks ago, Defendants will make available three witnesses in their individual capacities and in response to the now three Rule 30(b)(6) notices directed to Hotfile as follows:

1. A witnesses tomorrow for up to two hours by video-conference, on shortened time to accommodate Plaintiffs' special request, to address the "ESI Deposition" Rule 30b6 topics. (As a compromise, if Plaintiffs agree to the proposal below on the total hours, we would agree that these two hours are in addition to the week in Sophia; if there is not agreement and a motion is filed these hours will be subtracted to reduce the overall time with Mr. Titov as the Hotfile Rule 30(b)(6) witness.)
2. Five, seven-hour days of deposition in Sofia:
 1. December 5 and 6 Mr. Titov (no translation)
 2. December 7 and 8 (1 1/2 day) Mr. Vangelov (some translation of questions may be necessary.)
 3. December 8 (1 1/2 day) and 9 Mr. Stoyanov (translation of questions and most likely answers.)
3. While it is contemplated that Mr. Titov will cover most of the 61 topics in the new Rule 30b6 deposition notices, to the extent they are not objectionable, it is possible that Mr. Vangelov and/or Mr. Stoyanov may be designated for some topic(s). (Despite our repeated requests that you provide the topics sooner, we just received the notices last night and are still evaluating them.) Notwithstanding how the topics may be divided up, the time limitations for each witness remain—that is Mr. Titov will provide no more than a total of 14 hours of testimony no matter how topics he may be designated on and Mr. Vangelov will provide not more than 10 and 1 1/2 hours, again regardless of whether he is designated for four topics or none.

Let me or Andy know if you have any questions.

Rod

From: Pozza, Duane [<mailto:DPozza@jenner.com>mailto:DPozza@jenner.com]

Sent: Tuesday, November 15, 2011 6:53 PM
To: Thompson, Rod (27) x4445; Leibnitz, Andrew (21) x4932; Schoenberg, Tony (28) x4963; Gupta, Deepak (22) x4419; Thamkul, Janel (28) x4467; jmunnn@rascoklock.com<mailto:jmunnn@rascoklock.com><<mailto:jmunnn@rascoklock.com>mailto:jmunnn@rascoklock.com>; vgvurvits@bostonlawgroup.com<mailto:vgurvits@bostonlawgroup.com><<mailto:vgurvits@bostonlawgroup.com>mailto:vgurvits@bostonlawgroup.com> Cc: Fabrizio, Steven B; Platzer, Luke C
Subject: Disney Enterprises, Inc. v. Hotfile Corp. - deposition notices

Counsel,

Please see attached deposition notices. Rod, please review these, and let us know if they alter your objection to the plaintiffs having 2 days for Hotfile Corp., in addition to 1 day for Warner's deposition on the counterclaims, and one day for Titov's individual deposition. If so, please let us know by tomorrow morning. We are available for a call if necessary.

Regards,

Duane

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Farella Braun + Martel LLP