

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-20427-WILLIAMS/TURNOFF

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.

HOTFILE CORP.,

Counterclaimant,

v.

WARNER BROS. ENTERTAINMENT INC.,

Counterdefendant.

PLAINTIFFS' REQUEST FOR EXPEDITED DISCOVERY HEARING

Plaintiffs request an expedited discovery hearing to cut through a procedural morass that is prejudicing Plaintiffs' ability to complete important discovery in this matter. As summary judgment motions are currently scheduled to be filed by next Friday, February 17, 2012, Plaintiffs require the requested discovery no later than next Monday, February 13, 2012, to meaningfully make use of it in their upcoming motion. Therefore, Plaintiffs seek (1) a short telephonic conference with the Court to resolve this issue, and (2) an order directing Hotfile to consent to a third-party document production. Plaintiffs believe that the discussion should require no more than twenty minutes of the Court's time.

On December 6, 2011, Plaintiffs had served a subpoena on a third party, Google Inc. (“Google”) that, after narrowing through the meet-and-confer process, requested production of a report that Google maintains identifying the websites that direct traffic to the Hotfile website (the “Google Analytics Report”). The production of the report was scheduled well in advance of the December 23, 2011 discovery cutoff in this case, and the report would be extremely easy to retrieve (as simple as pressing a button). Hotfile, however, has refused to consent to the production of the report, and Google will not produce the report absent Hotfile’s consent. As a practical matter, there is insufficient time for the Northern District of California (which issued the subpoena) to resolve a motion to compel against Google in time for Plaintiffs to obtain and make use of the Google Analytics Report in their upcoming motions for summary judgment, which are being filed Friday of next week.

Google has stated that it will not produce the report absent Hotfile’s consent. Defendants too could produce the Google Analytics Report with the push of a button, as the report is a pre-existing report format that Google makes available to Defendants in the ordinary course at Defendants’ request, based on Defendants’ data. Literally, Defendants merely would have to log into their Google Analytics account and select and print the report. Plaintiffs initially sought the report from Defendants, but Defendants objected. Plaintiffs did not move to compel against Defendants because Plaintiffs expected to receive functionally comparable data from Defendants following the Court’s order that Defendants produce certain data. Ultimately, however, Defendants claimed not to maintain the data Plaintiffs were expecting. Plaintiffs thereafter served a subpoena on Google seeking the Google Analytics Report.

Defendants have voiced no objections to the substance of the request, but have refused to consent to Google’s production of the Google Analytics Report on the basis that fact discovery in this matter has now closed – even though both the subpoena and its return date were several weeks before the close of discovery, and Plaintiffs have been in good faith negotiations with Google to try to resolve the matter. Plaintiffs request (1) a short call with the Court to resolve this impasse, and (2) an order directing Hotfile to consent to Google’s production of the requested report, or simply to produce the report itself.

Dated: February 6, 2011

Respectfully submitted,

By: /s/ Karen L. Stetson
Karen L. Stetson

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Attorneys for Plaintiffs

CERTIFICATE OF GOOD FAITH CONFERENCE

I HEREBY CERTIFY that, pursuant to Local Rule 7.1(a)(3), U.S. District Court for the Southern District of Florida, counsel for Plaintiffs have conferred with counsel for Defendants in a good-faith efforts to resolve the issues raised in this Request without court action, but have been unable to do so.

Dated: February 6, 2011

By: /s/ Karen L. Stetson
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_____ /

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th Day of February, 2012, I served the following documents on all counsel of record via the Court's ECF System:

Plaintiffs' Request For Expedited Hearing

I further certify that I am admitted to the United States Court for the Southern District of Florida and certify that this Certificate of Service was executed on this date.

By: /s/ Karen L. Stetson _____
Karen L. Stetson

SERVICE LIST

**Disney Enterprises, Inc., et al. v. Hotfile Corp. et al.
CASE NO. 11-CIV-20427-JORDAN**

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