

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.

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HOTFILE CORP.,

Counterclaimant,

v.

WARNER BROS. ENTERTAINMENT INC.,

Counterdefendant.

_____ /

**DECLARATION OF KERRY HOPKINS IN SUPPORT OF WARNER BROS.
ENTERTAINMENT’S MOTION FOR SUMMARY JUDGMENT**

PUBLIC REDACTED VERSION

I, Kerry Hopkins, declare as follows:

1. I am the Senior Director of Intellectual Property at Electronic Arts Inc. (“EA”). I have personal knowledge of the facts attested to in this declaration and, if called upon to do so, could and would testify to them.

2. EA is a leading global interactive entertainment software company. EA develops, publishes, and distributes interactive software worldwide for video game systems, personal computers, wireless devices and the Internet. EA holds copyrights in each of the works identified in Schedule A hereto.

3. Warner Bros. Entertainment, Inc. and/or its affiliates (“Warner”) are licensed to distribute certain EA works in defined territories.

4. In the February 2011 timeframe, EA was working with Warner on antipiracy matters. Specifically, EA and Warner were involved in a joint process of using Warner’s system to identify infringing copies of selected EA works online. Warner was of course fully authorized to be searching for and identifying EA works using its system.

5. While the joint antipiracy activities were not designed to result in takedown notices being sent to www.hotfile.com (“Hotfile”) for removal of EA works, EA has come to learn that Warner did in fact send some notices to Hotfile seeking the removal of infringing copies of EA works. I am informed that the files identified on Schedule A hereto are files on which Warner sent takedown notices to Hotfile.

6. I understand that Plaintiffs have identified each of the content files available at the URLs listed on Schedule A as containing a copy of an EA work, as indicated in Exhibit A. In addition, EA has also itself confirmed that the files listed on Schedule A appear to contain copies of works (either the entire work or material parts of the work) in which EA owns or

controls copyrights. Where the actual content file was accessible, EA has reviewed the file itself to conduct this confirmation. Where the content file itself was inaccessible (whether because a file was corrupt, could not be opened without an unavailable password, represented an incomplete series, and/or where only a non-operative version of the software could be reconstructed from the file), EA's review and confirmation is based on other data, such as information that could be extracted from the file, file names and file sizes, surrounding metadata, review of other files in the series, and/or information contained on publicly available post pages linking to and describing the files.

7. Some of the files contain the word "demo" in the file name. I am informed that Hotfile has suggested that the fact that an EA work is denominated as a "demo" version means that the work is authorized for free viral Internet distribution. That is not correct. EA makes "demo" versions of its games available only from its own website and other specifically authorized locations, and does not authorize further reproduction or distribution of such works. Distribution of "demo" versions of EA games through the Hotfile website would infringe EA's copyrights.

8. EA did not authorize any of the works in Schedule A for distribution through the Hotfile website, and has not authorized any of them for viral Internet distribution at all. Therefore, any distribution through Hotfile of the EA works listed in Schedule A constitutes infringement of EA's copyrights.

9. EA approves of Warner having sent Hotfile takedown notices for the EA works identified on Schedule A hereto. These works were infringing copies of EA works and EA did not want them copied to or distributed through Hotfile. To the extent necessary, EA ratifies and

retroactively authorizes Warner having sent takedown notices for the Schedule A files on EA's behalf.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 9, 2012.

Kerry Hopkins
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