

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 11-CIV-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.,

*Counter-Defendant.***REPLY OF DEFENDANTS IN SUPPORT OF DEFENDANTS' REQUEST FOR
HEARING ON DEFENDANTS' OBJECTIONS TO THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION REGARDING TITOV EXHIBIT 27**

As part of its *de novo* review, Defendants respectfully request that this Court hear argument regarding exclusion of Titov Exhibit 27 from evidence. By opposing a hearing, Warner understandably seeks to avoid scrutiny of its counsel's multiple overlapping violations of the Protective Order and of Rule 4-4.4(b) of the Florida Rules of Professional Responsibility. However, Warner's attempt to direct attention elsewhere should be rejected. Although the Magistrate Judge held two hearings on Plaintiffs' two motions regarding Exhibit 27, no ruling

has yet analyzed the four Protective Order violations and the ethical rule violation identified in Hotfile's Objections. Additionally, a hearing will allow participants to explore how Warner came to base its position on the wrong subsection of Federal Rule of Evidence 502. A hearing will also permit counsel to address the impact of Plaintiffs' statement for the first time twelve days ago – after a year of discovery and hundreds of thousands of dollars spent addressing the entire time span of Hotfile's operations – that Plaintiffs are not making any claim regarding Hotfile's post-Complaint operations. *See* Pls.' Opp. Defs.' Mot. Partial Summ. J Regarding DMCA Safe Harbor at 4 (asserting that Hotfile's motion for partial summary judgment regarding post-Complaint liability seeks an "advisory opinion" because "Plaintiffs sued Hotfile based on its system and business model as they existed pre-complaint."). Exhibit 27 is a *post-Complaint* work-product document. Given that oral argument on Plaintiffs' improper evidentiary submissions in support of summary judgment logically will arise in the context of any hearing on summary judgment, Hotfile respectfully requests oral argument regarding exclusion of Exhibit 27 from the pending summary judgment motions or trial.

DATED: March 19, 2012

Respectfully submitted,

s/ Janet T. Munn

Janet T. Munn, Esq. Fla. Bar No. 501281

Email: jmunn@rascoklock.com

RASCO KLOCK

283 Catalonia Avenue, Suite 200

Coral Gables, Fl 33134

Telephone: 305.476.7101

Telecopy: 305.476.7102

And

s/ Roderick M. Thompson

Roderick M. Thompson, Esq. (admitted *pro hac vice*)

Email: rthompson@fbm.com

Andrew Leibnitz, Esq. (admitted *pro hac vice*)

Email: aleibnitz@fbm.com

Anthony P. Schoenberg, Esq. (admitted *pro hac vice*)

Email: tschoenberg@fbm.com

Deepak Gupta, Esq. (admitted *pro hac vice*)

Email: dgupta@fbm.com

Janel Thamkul, Esq. (admitted *pro hac vice*)

Email: jthamkul@fbm.com

FARELLA BRAUN + MARTEL LLP

235 Montgomery St.

San Francisco, CA 94104

Telephone: 415.954.4400

Telecopy: 415.954.4480

And

Valentin Gurvits, Esq. (admitted *pro hac vice*)

Email: vgurvits@bostonlawgroup.com

BOSTON LAW GROUP

825 Beacon Street, Suite 20

Newton Center, MA 02459

Telephone: 617.928.1800

Telecopy: 617.928.1802

*Counsel for Defendants Hotfile Corporation
and Anton Titov*

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2012, a true and correct copy of the foregoing document was served on all counsel of record or pro se parties identified below either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Karen L. Stetson, Esq.
GRAY-ROBINSON, P.A.
Email: Karen.Stetson@gray-robinson.com
1221 Brickell Avenue
Suite 1600
Miami, FL 33131
Telephone: 305.416.6880
Telecopy: 305.416.6887

Karen R. Thorland, Esq. (admitted *pro hac vice*)
Senior Content Protection Counsel
Email: Karen_Thorland@mpaa.org
Motion Picture Association of America, Inc.
15301 Ventura Boulevard, Building E
Sherman Oaks, CA 91403-5885
Telephone: 818.935.5812

Steven B. Fabrizio, Esq. (admitted *pro hac vice*)

Email: sfabrizio@jenner.com

Duane C. Pozza, Esq. (admitted *pro hac vice*)

Email: dpozza@jenner.com

Luke C. Platzer, Esq. (admitted *pro hac vice*)

Email: lplatzer@jenner.com

JENNER AND BLOCK, LLP

1099 New York Ave, N.W.

Suite 900

Washington, DC 20001

Telephone: 202.639.6000

Telecopy: 202.639.6066

By: s/ Janet T. Munn

Janet T. Munn