

# **EXHIBIT A**

**PUBLIC VERSION**

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.*

---

**[REDACTED] DECLARATION OF ANDREW LEIBNITZ IN SUPPORT  
OF DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT AND EXHIBITS THERETO**

I, Andrew Leibnitz, declare as follows:

1. I am an attorney at Farella Braun + Martel LLP, counsel for defendant Hotfile Corporation and Anton Titov. I have personal knowledge of the matters stated herein and, if called and sworn as a witness, I could and would competently testify to the facts set forth herein.

2. Attached hereto as Exhibit 1 is a true and correct copy of [REDACTED]

3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts of the deposition of defendant Anton Titov, in his personal capacity and as Fed. R. Civ. P. 30(b)(6) representative of defendant Hotfile Corp., taken from December 5 to December 8, 2011 in the above-captioned case.

4. Attached hereto as Exhibit 3 is a true and correct copy of [REDACTED]

5. Attached hereto as Exhibit 4 is a true and correct listing of the subset of files in the Waterman sample that Mr. Zebrak, in his expert report dated November 18, 2011, categorized as "Noninfringing." I have highlighted instances of iREB, sn0wbreeze and Jdownloader in this listing. This was generated by performing a sort on the "category" column of an Excel spreadsheet produced by Mr. Zebrak in discovery summarizing his analysis.

6. Attached hereto as Exhibit 5 is a true and correct copy of excerpts of the deposition of Dr. Andrew Cromarty, taken on December 16, 2011 in the above-captioned case.

7. Attached hereto as Exhibit 6 is a true and correct copy of the Expert Report of Scott Zebrak dated November 18, 2011. This document is Exhibit C to the Expert Report of Richard Waterman.

8. Attached hereto as Exhibit 7 is a true and correct copy of Hotfiles' Fourth Set of Interrogatories to Plaintiffs dated November 23, 2011.

9. Attached hereto as Exhibit 8 is a true and correct copy of Plaintiffs' Response and Objections to Hotfile's Fourth Set of Interrogatories, dated January 3, 2012.

10. Attached hereto as Exhibit 9 is a true and correct copy of the hearing transcript related to Plaintiff's Motion Prohibiting Spoliation And To Preserve Evidence, dated March 7, 2011.

11. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from Viacom's Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment, in *Viacom International, Inc., et al v. YouTube Inc., et al*, Case No. 1:07-cv-02103 (LLS) (N.Y.S.D. May 21, 2010).

12. Attached hereto as Exhibit 11 is a true and correct copy of excerpts of the deposition of David Kaplan, taken on October 12, 2011 and December 13, 2011 in the above-captioned case.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Court Order Denying Plaintiff's Motion for Preliminary Injunction in *Perfect 10, Inc. v. Rapidshare, A.G., et al.*, Case No. 09-CV-2596 H (WMC) (S.D. Cal. May 18, 2010).

14. Attached hereto as Exhibit 13 is a true and correct copy of excerpts of the deposition of Scott Zebrak, taken on January 20, 2010 in the above-captioned case.

15. Attached hereto as Exhibit 14 is a true and correct copy of Amici Curiae brief of Public Knowledge, Electronic Frontier Foundation, Consumer Electronics Association, and Home Recording Rights Coalition in Support of Defendants, in *Capitol Records, Inc., et al v. MP3Tunes, et al.*, Case No. 07 Civ. 9931 (WHP) (S.D.N.Y. November 16, 2010).

16. Attached hereto as Exhibit 15 is a true and correct copy of *Arista Records, et al., v Myxer Inc.*, 2011 U.S. Dist. LEXIS 109688 (C.D. Cal. April 1, 2011).

17. Attached hereto as Exhibit 16 is a true and correct copy of a screenshot of a file located at the URL <http://hotfile.com/dl/87916770/8c81640/Salt.Water.Aquarium.HD-1080->

Rapid4all.org.wmv.html. Columbia identified this file, which is a video of fish in a salt water aquarium and does not bear a copyright notice, as infringing Columbia's copyrights in the Angelina Jolie and Brad Pitt movie "Salt," apparently only because the URL contains the word "salt".

18. Attached hereto as Exhibit 17 is a true and correct copy of excerpts of the deposition of Kevin Suh taken on December 20, 2011 in the above-captioned case.

19. Attached hereto as Exhibit 18 is a true and correct copy of excerpts of the deposition of Yangbin Wang taken on December 22, 2011 in the above-captioned case.

20. Attached hereto as Exhibit 19 is a true and correct copy of excerpts of the deposition of Braxton Perkins taken on December 16, 2011 in the above-captioned case.

21. Attached hereto as Exhibit 20 is a true and correct copy of excerpts of the deposition of Vicki Solmon taken on December 9, 2011 in the above-captioned case.

22. Attached hereto as Exhibit 21 is a true and correct copy of excerpts of the deposition of Matthew Lynde taken on December 16, 2011 in the above-captioned case.

23. Attached hereto as Exhibit 22 is a true and correct copy of excerpts of the deposition of Constantin Luchian taken on December 15, 2011 in the above-captioned case.

24. Attached hereto as Exhibit 23 is a true and correct copy of excerpts of the deposition of Betsy Zedek taken on December 13, 2011 in the above-captioned case.

25. Attached hereto as Exhibit 24 is a true and correct copy of excerpts of the deposition of Steve Kang taken on December 20, 2011 in the above-captioned case.

26. Attached hereto as Exhibit 25 is a true and correct copy of excerpts of the deposition of Michael Bentkover taken on December 13, 2011 in the above-captioned case.

27. Attached hereto as Exhibit 26 is a true and correct copy of excerpts of the deposition of Lance Griffin taken on December 22, 2011 in the above-captioned case.

28. Attached hereto as Exhibit 27 is a true and correct copy of excerpts of the deposition of defendant Anton Titov, as Fed. R. Civ. P. 30(b)(6) representative of defendant Hotfile Corp., taken on November 17, 2011 in the above-captioned case.

29. Attached hereto as Exhibit 28 is a true and correct copy of an email from Michael Bentkover to Ethan Applen and David Kaplan, dated August 26, 2009. (WARNER025866-72)

30. Attached hereto as Exhibit 29 is a true and correct copy an email chain between Natasha Starodub and Hotfile Abuse, dated September-October, 2009. (HFO2835776-82)

31. Attached hereto as Exhibit 30 is a true and correct copy of an email chain between Michael Bentkover and Hotfile Support, dated September 1-3, 2009. (HF02835643-45)

32. Attached hereto as Exhibit 31 is a true and correct copy of an email from Michael Bentkover to Hotfile Support, dated April 14, 2010. (HF02835679-80)

33. Attached hereto as Exhibit 32 is a true and correct copy of an email from Natasha Lakeman to Hotfile Support, dated April 2, 2010. (HFO2868300-01)

34. Attached hereto as Exhibit 33 is a true and correct copy of an email chain between Dave Worth and Hotfile Abuse, dated September 20-22, 2010. (PM-WB000115-18)

35. Attached hereto as Exhibit 34 is a true and correct copy of an email from Michael Bentkover to Hotfile, dated September 15, 2010. (WARNER025830)

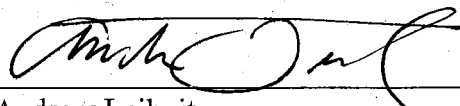
36. Attached hereto as Exhibit 35 is a true and correct copy of an email from Justin Haines to Hotfile Abuse, dated April 26, 2011. (HF00089228-89)

37. Attached hereto as Exhibit 36 is a true and correct copy of the Federal Register, Vol. 6, No. 78, Proposed Rules, dated September 28, 2011.

38. Attached hereto as Exhibit 37 is a true and correct copy of excerpts of the deposition of Richard Waterman taken on November 29, 2011 in the above-captioned case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 7th day of March 2012, at San Francisco, California.

A handwritten signature in black ink, appearing to read "Andrew Leibnitz", written over a horizontal line.

Andrew Leibnitz