

EXHIBIT 23

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,

vs.

HOTFILE CORP., ANTON TITOV,
and DOES 1-10,

Defendants.

AND RELATED CROSS-ACTION.

HIGHLY CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

VIDEOTAPED DEPOSITION OF BETSY ZEDEK, ESQUIRE

PURSUANT TO FEDERAL RULE 30(b)(6)

Los Angeles, California

Tuesday, December 13, 2011

Reported by:
CHERYL R. KAMALSKI
CSR No. 7113

Job No. 179149

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 CASE NO. 11-20427-WILLIAMS-TURNOFF

4 DISNEY ENTERPRISES, INC.,
5 TWENTIETH CENTURY FOX FILM
6 CORPORATION, UNIVERSAL CITY
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9 INC., and WARNER BROS.
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18 Videotaped Deposition of BETSY ZEDEK, ESQUIRE,
19 pursuant to Federal Rule 30(b)(6), taken on behalf of
20 Defendants and Counterclaimant, at 633 West Fifth
21 Street, Suite 3600, Los Angeles, California, beginning
22 at 9:37 a.m. and ending at 5:27 p.m. on Tuesday,
23 December 13, 2011, before CHERYL R. KAMALSKI, Certified
24 Shorthand Reporter No. 7113.
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1 APPEARANCES:

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3 For Plaintiffs:

4 JENNER & BLOCK LLP
5 BY: DUANE POZZA
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7 1099 New York Avenue, NW, Suite 900
8 Washington, D.C. 20001-4412
9 202.639.6000

7

For Defendants and Counterclaimant:

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9 FARELLA BRAUN + MARTEL LLP
10 BY: JANEL THAMKUL
11 Attorney at Law
12 235 Montgomery Street
13 San Francisco, California 94104
14 415.954.4400

12 Also Present:

13 ELIZABETH VALENTINA

14 Videographer:

15 CHRIS JORDAN
16 SARNOFF, a Veritext Company

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1 commenced sending notifications of
2 infringement to Hotfile on Fox's
3 behalf."

4 Do you know who that antipiracy vendor, that's
09:59 5 referred to in this paragraph, who that is?

6 A Yes.

7 Q Who is that?

8 A DtecNet.

9 Q Have you produced documents relating to when
10:00 10 DtecNet first identified infringing activity on Hotfile?

11 A Yes.

12 Q What were those documents?

13 A We've produced the notification from DtecNet to
14 us that a response had not been received from Hotfile to
10:00 15 a takedown notice that was sent and we produced a
16 spreadsheet of takedown notices submitted on Fox's
17 behalf by DtecNet to Hotfile, including the dates of all
18 such notices.

19 Q Do you remember approximately when in March
10:01 20 DtecNet found the infringing materials?

21 A I believe it was March -- around March 19th,
22 2009.

23 MS. THAMKUL: I'd like to mark this as the next
24 exhibit. Just for the record, this document is
10:01 25 Bates-labeled Fox 026175 through Fox 026176.

1 know what it's looking for does that require, to some
2 extent, communication from the rightsholder about what
3 content the rightsholder owns?

4 MR. POZZA: Objection; ambiguous.

10:34 5 THE WITNESS: It generally requires the
6 rightsholder to provide metadata identifying the content
7 and describing the business role it wishes to be applied
8 that generally travels attached to the fingerprint
9 itself, so communication may not be required.

10:34 10 BY MS. THAMKUL:

11 Q Did Fox ever provide Hotfile with the content
12 identification files for Fox's content?

13 A I don't think so.

14 Q Did Fox ever communicate to Hotfile that
10:35 15 Hotfile should implement fingerprinting technology?

16 A Yes, I believe so.

17 Q When did Fox do this?

18 A I'm fairly certain that it's happened in the
19 context of this litigation.

10:35 20 Q Prior to this litigation did Fox ever
21 communicate to Hotfile that Hotfile should implement
22 fingerprinting technology?

23 A I don't believe that we did.

24 Q Is Vobile one of the fingerprinting services
10:35 25 that Fox recommends?

1 content file is discovered to the time that the file is
2 taken down, the number of views of that -- that content
3 file.

4 Does Fox have a gauge for an appropriate amount
11:31 5 of views that a file could be -- does Fox have a gauge
6 for an appropriate amount of time that a file could be
7 downloaded before it gets taken down?

8 MR. POZZA: I'm going to object as ambiguous as
9 to what "viewed" means in this context.

11:31 10 THE WITNESS: In the context of a site like
11 Hotfile it's our expectation that the site would be
12 filtering for unauthorized uploads of our content, so
13 essentially the answer is zero, that zero views would be
14 acceptable.

11:31 15 BY MS. THAMKUL:

16 Q Is there content protection technology that
17 could -- I'll withdraw the question.

18 Is there content-filtering technology that is
19 100 percent guaranteed to catch all unauthorized
11:32 20 content?

21 MR. POZZA: I will object to the extent that
22 the witness is not testifying in a technical capacity
23 and not providing expert testimony on filtering
24 technologies.

11:32 25 THE WITNESS: My experience is that filtering

1 technologies are mostly effective, but imperfect. The
2 robustness of those technologies is constantly being
3 improved. But I don't believe any one to be absolutely
4 100 percent effective in all instances, particularly
11:32 5 given that, in their implementation, there are a number
6 of policy rules that can be applied by the site
7 implementing the technology.

8 BY MS. THAMKUL:

9 Q So is it possible that some files will slip
11:32 10 through even if a site is implementing content-filtering
11 technology?

12 A Yes.

13 MR. POZZA: Same objection.

14 BY MS. THAMKUL:

11:33 15 Q So if -- in the instance where a file slips
16 through and isn't caught by content-filtering
17 technology, is there an amount of downloads that is
18 appropriate before a file gets taken down?

19 MR. POZZA: Objection; ambiguous, incomplete
11:33 20 hypothetical.

21 THE WITNESS: I don't believe there's any
22 number of downloads that's appropriate. It's not a
23 gauge by which we generally conceive of these things
24 because, generally, it's information that's not
11:33 25 available to us, the rightsholder, on the outside of the

1 BY MS. THAMKUL:

2 Q Do you have any idea as to how Hotfile would
3 know what fingerprinting technology software was
4 acceptable to Fox?

03:38 5 MR. POZZA: Objection; calls for speculation.

6 THE WITNESS: I can't think of all the ways
7 that it would know, but certainly it wouldn't be hard to
8 find out what content tech- -- content-recognition
9 technology providers have Fox fingerprints in their
03:39 10 databases.

11 BY MS. THAMKUL:

12 Q What are some of those content-recognition
13 services?

14 A It includes Vobile.

03:39 15 Q Is Vobile 100 percent guaranteed to flag
16 infringing content?

17 MR. POZZA: Objection to the extent it's
18 ambiguous and an incomplete hypothetical.

19 THE WITNESS: No. And it's also dependent how
03:39 20 the technology is implemented by the service provider.

21 BY MS. THAMKUL:

22 Q How would the service provider know the method
23 of implementation of its technology that Fox would
24 approve of?

03:39 25 MR. POZZA: Objection; it's ambiguous.

**BETSY ZEDEK, ESQUIRE
HIGHLY CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER**

12/13/2011

ERRATA SHEET

<u>Page/Line</u>	<u>Corrections</u>
7/6	Change from: Fox Film Corp. Change to: Twentieth Century Fox Film Corporation
8/21	Change from: Fox Film Entertainment Change to: Fox Filmed Entertainment
16/17	Change from: WebControl Change to: WebKontrol
22/4	Change from: WebControl Change to: WebKontrol
32/23	Change from: WebControl Change to: WebKontrol
44/11	Change from: audio, video Change to: audio/video
46/7	Change from: business role Change to: business rule
50/8	Change from: takedown statute describes Change to: takedown under the statute describes
109/2	Change from: owned and controlled Change to: owned or controlled
143/17	Change from: shear volume Change to: sheer volume
209/3	Change from: list may include Change to: list may also include
209/11	Change from: valuable inside Change to: valuable insight
209/11	Change from: sites of other nature Change to: sites of another nature

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I, BETSY ZEDEK, ESQUIRE, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this 12th day of February,
2012, at LOS Angeles, California.
(City) (State)



BETSY ZEDEK, ESQUIRE

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby certify:

3 That the foregoing proceedings were taken
4 before me at the time and place herein set forth; that
5 any witnesses in the foregoing proceedings, prior to
6 testifying, were duly sworn; that a record of the
7 proceedings was made by me using machine shorthand
8 which was thereafter transcribed under my direction;
9 that the foregoing transcript is a true record of the
10 testimony given.

11 Further, that if the foregoing pertains to
12 the original transcript of a deposition in a Federal
13 Case, before completion of the proceedings, review of
14 the transcript [] was [] was not requested

15 I further certify I am neither financially
16 interested in the action nor a relative or employee
17 of any attorney or any party to this action.

18 IN WITNESS WHEREOF, I have this date subscribed
19 my name.

20
21 Dated: 12/12/2011



22
23 Cheryl R. Kamalski
24 CHERYL R. KAMALSKI
25 CSR No. 7113