

Exhibit 15

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 CASE NO. 11-20427-WILLIAMS/TURNOFF
4

5 DISNEY ENTERPRISES, INC.,
6 TWENTIETH CENTURY FOX FILM
7 CORPORATION; UNIVERSAL CITY
8 STUDIOS PRODUCTIONS LLP;
9 COLUMBIA PICTURES INDUSTRIES,
10 INC., and WARNER BROS.
11 ENTERTAINMENT, INC.,
12 Plaintiff,

13 vs.

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

16 Defendants.

17 _____/
18 AND RELATED CROSS-ACTIONS.
19 _____/

20 VIDEOTAPED DEPOSITION OF ANDREW S. CROMARTY, Ph.D.
21 SAN FRANCISCO, CALIFORNIA
22 FRIDAY, DECEMBER 16, 2011

23 BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR
24 CSR LICENSE NO. 9830
25 JOB NO. 44314

1 FRIDAY, DECEMBER 16, 2011

2 10:09 a.m.

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4
5
6 VIDEOTAPED DEPOSITION OF ANDREW S. CROMARTY,
7 Ph.D., taken at Farella Braun + Martel LLP
8 235 Montgomery Street, San Francisco,
9 Pursuant to Notice, before me,
10 ANDREA M. IGNACIO HOWARD, CLR, CCRR, RPR,
11 CSR License No. 9830.
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1 A P P E A R A N C E S :

2

3 FOR THE PLAINTIFFS:

4 JENNER & BLOCK

5 By: LUKE C. PLATZER, Esq.

6 1099 New York Avenue, NW

7 Washington, D.C. 20001

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11

12 FOR THE DEFENDANTS:

13 FARELLA BRAUN + MARTEL

14 By: TONY SCHOENBERG, Esq.

15 235 Montgomery Street

16 San Francisco, California 94104

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19

20 ALSO PRESENT: Sean McGrath, Videographer

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----oOo----

23

24

25

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

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■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[Redacted text block containing multiple lines of blacked-out content]

1 pen?

2 MR. PLATZER: Not at all.

3 Let's go off the record.

4 MR. SCHOENBERG: Yeah, we can go off the
5 record. I'm sorry about that.

6 THE VIDEOGRAPHER: The time is 11:34, and
7 we're off the record.

8 (Recess taken.)

9 THE VIDEOGRAPHER: The time is 11:35 a.m.,
10 and we are on the record.

11 MR. PLATZER: Okay.

12 Q Dr. Cromarty, that's a long answer. I
13 believe in the first part of your answer you discussed
14 things that you read in Warner's internal e-mails;
15 correct?

16 A That certainly was included in my answer,
17 yes.

18 Q Okay. And the summary that you gave there,
19 that wasn't -- that wasn't your expert opinion about
20 the e-mails. That was just you observing what you
21 understood the e-mails to mean; right?

22 A I'm not certain that's an accurate
23 characterization, for several reasons.

24 The first is the one I answered with, which
25 is there may be fine, legal distinctions between what

1 is and is not an expert opinion that I don't
2 appreciate as a nonattorney.

3 Whether I have the opinion that [REDACTED] isn't
4 capable of identifying infringing content as a
5 technical tool, or whether I'm citing the executive
6 director of anti-piracy for the plaintiff on that
7 matter is kind of a technical fine point of -- of law
8 that I don't claim to be expert on.

9 If I were speaking colloquially, not with
10 respect to expert obligations and rights and
11 responsibilities, and not with respect to that legal
12 question, at a minimum, I would say that the data
13 provided by plaintiffs support my own opinion, and it
14 may also rise to an opinion -- the level of an opinion
15 [REDACTED] has been, at a minimum, described by its own
16 users as incapable of being used, or more generally
17 that such tools are incapable of being used to
18 identify infringement.

19 Q Your expert report in this case does not
20 include an opinion as to the adequacy or accuracy of
21 [REDACTED]; does it?

22 A To answer that, I would want to have a copy
23 of my report to review, and that hasn't been provided
24 to me yet today.

25 Q Why don't we mark that as an exhibit.

1 Mark this as Cromarty 1.

2 (Document marked Cromarty Exhibit 1
3 for identification.)

4 THE WITNESS: Thank you.

5 And just for the record, I understand your
6 question to be pending; is that correct?

7 MR. PLATZER: That's correct.

8 Q And, for the record, the -- what's been
9 marked as Cromarty Exhibit 1 is a document, not Bates
10 numbered, but bears the -- the cover sheet saying
11 "Expert Report of Andrew S. Cromarty, Ph.D.," and is
12 dated November 18th.

13 A Right, and I would note also for the record
14 that this is not my complete report.

15 So what we have here, at most, is what I
16 refer to as the body of my report. It does not
17 include all of the attachments and appendices and
18 other material, and it does not include the referenced
19 materials, including the documents, the Bates numbered
20 documents that I just referred to.

21 So in that regard, at a minimum, it's
22 incomplete. But with your representation, I will
23 accept, for purposes of the deposition today, that it
24 is otherwise a true and accurate copy of the main body
25 of my report.

1 Q That's true.

2 Carrying three copies of the entire thing,
3 with appendices, on the plane to San Francisco would
4 have been rather heavy.

5 A I understand. 363 pages of documents plus
6 the Bates numbered documents, yes.

7 Q Why don't I withdraw the pending question --

8 A Okay.

9 Q -- and just ask a foundational one here.

10 Is -- is -- Cromarty Exhibit 1, is this a --
11 the body -- excluding appendices, is the body of the
12 report that you prepared?

13 A I'm accepting your representation that it is.
14 It appears to be, and I have no reason at present to
15 doubt that.

16 Q Okay. In this report, do you express an
17 expert opinion as to the accuracy of the [REDACTED]

18 [REDACTED]
19 MR. SCHOENBERG: Objection; vague and
20 ambiguous.

21 THE WITNESS: I think the best answer is yes.

22 MR. PLATZER: Okay.

23 Q Can you tell me where in the report that
24 opinion is located?

25 A Well, first let me tell you the nature of it,

1 and then I'll be happy to look for it.

2 The nature of it is that I have opined that
3 it is for structural and information theoretically not
4 possible, and also given the current state of the art,
5 for any such tool to reliably answer the question of
6 infringement. That a technical tool alone is not
7 capable of doing that, and I understand [REDACTED] to be
8 such a tool.

9 So, in this regard, I believe the answer is
10 yes, I've provided that opinion merely by virtue of
11 [REDACTED] falling in the category that I've identified as
12 not capable of providing those answers.

13 Now, I have a recollection that I did cite
14 [REDACTED] in here, and I'd like to take a look at it and
15 see if I need to augment my answer in any way.

16 Q Go ahead.

17 A If you -- if you believe you know the
18 reference, just for efficiency, I'm happy to have you
19 tell me where I cited. Otherwise, I'd have to look
20 through.

21 It's my recollection it's towards the end.

22 Q That is my recollection as well. And to the
23 extent it helps shorten your review of Cromarty
24 Exhibit 1, I believe you have discussion of Warner
25 beginning around paragraph 198.

1 matter and is noted in Appendix H. In any case, data
2 to support the technical decision are not part of the
3 Internet handling of files generally and file
4 transfers and file sharing services."

5 In particular, that's the last part of
6 paragraph 198. And so there and throughout I've
7 expressed the specific expert opinion that -- that
8 these tools, including the class of tools of which
9 [REDACTED] is a member, are not capable of answering the
10 question of infringement, and the Bates numbered
11 documents also, in my view, directly support that
12 finding.

13 Just so that we're absolutely clear and to
14 avoid a possible objection, therefore my answer is
15 yes, it is my view that I have included [REDACTED] in this.

16 Q Have you used the [REDACTED] software yourself?

17 A I have not used the [REDACTED] software, and in my
18 professional and expert judgment, it's not necessary
19 for me to use it in order to reach my opinion.

20 Q Can you tell me how it works?

21 A Probably not in considerable detail, because
22 the available data about all these systems is very
23 carefully kept secret for a variety of reasons by the
24 -- the sellers, the marketers of these systems, and
25 also by their users.

1 For example, you'll notice that even in the
2 produced material, information written about [REDACTED]
3 itself was redacted by the plaintiffs before
4 production. So it's highly secret, probably for trade
5 secret and a variety of other reasons.

6 So it's generally not going to be possible,
7 without a review of their source code software, to
8 understand all the details of their system, but
9 generally it's my understanding from the
10 correspondence of plaintiff that list of files is
11 provided to or through [REDACTED], and that as some
12 combination of service and tool, it's employed to
13 identify potentially infringing content and take it
14 down or request takedowns of that material.

15 And in one detailed Bates numbered e-mail
16 discussion between employees of plaintiff, there is a
17 specific roughly 12-point itemization of various
18 features of the analysis that [REDACTED] performs and that
19 other tools might perform, and a specific evaluation
20 of which of those might or might not be useful in
21 [REDACTED] versus a competing tool; and that list provides
22 some insight into what [REDACTED] may be doing based on the
23 beliefs of plaintiff.

24 Again, I would emphasize no one can really
25 know, outside of [REDACTED], what the tool does, and this

1 is a considerable difficulty in the industry as I've
2 already opined in my report.

3 Q And is it fair to say that the documents that
4 are listed in your appendix to your report constitute
5 the entire universe of documents that you reviewed
6 regarding ██████ in order to form your opinion
7 expressed in your report?

8 A With the proviso that it's always possible
9 that there is an additional document that was produced
10 to me that, for purely incidental or accidental
11 reasons that I neglected or through some editing
12 error, was not provided in my report.

13 And, of course, at any time we determine
14 that's the case, I would be delighted to provide any
15 additional information about any sources that I relied
16 on or referred to. But as I sit here today, to the
17 best of my ability to recall, my appendix list is
18 complete with respect to the ██████ documents that I
19 referred to or reviewed.

20 Q And other the -- other than the list of
21 appendix documents regarding ██████, is there anything
22 that you requested further regarding ██████ in order to
23 conduct your analysis and form your expert opinions
24 for this report?

25 A Generally, the answer is no, and this is, I

1 think, really the question you asked and I answered
2 earlier this morning with respect to having requested
3 additional documents. But I would also note, as I did
4 a moment ago, that in my judgment, there is more than
5 enough information already provided here to reach the
6 opinions that I have and that I have put into my
7 report.

8 Of course, in addition, I have my own
9 expertise, and as I've said before, I rely on that as
10 well.

11 Q I'd like to direct your attention to
12 paragraph 198 --

13 A Yes.

14 Q -- of your report here, and you note toward
15 the end of that paragraph that ownership and
16 permission is a nontechnical manner.

17 A Yes.

18 Q You'd agree that, leaving aside how the tools
19 work, it's not really a technical issue whether or not
20 a particular piece of content is authorized. That's
21 something that can be communicated through means other
22 than through technology?

23 MR. SCHOENBERG: Objection; incomplete
24 hypothetical; calls for a legal conclusion.

25 THE WITNESS: So one difficulty I have with

1 that question is that it is my perception, as a
2 practitioner in the field, that there are unresolved
3 questions of law alone as to this matter, so it may
4 not be a fact question whether or not authorization
5 has been granted. There may be, in addition, legal
6 questions that are currently unresolved with respect
7 to case law as to whether authorization has been
8 granted or is necessary or not required when one is in
9 possession of a digital asset.

10 So I think it's much broader than your
11 question implies.

12 MR. PLATZER: Q. Well, I'm going to give you
13 a hypothetical. I want you to assume that a copyright
14 owner is intentionally uploading a piece of their
15 content to Hotfile.

16 A Okay.

17 Q Wouldn't it be true, in that hypothetical,
18 that Hotfile could acquire awareness of the authorized
19 nature of the content through nontechnical means, such
20 as through cooperation with the copyright owner?

21 MR. SCHOENBERG: Objection; incomplete
22 hypothetical; lack of foundation; calls for
23 speculation.

24 THE WITNESS: I understand your question to
25 be, is it possible that -- to concretize this -- that,

1 for the sake of an example, Warner and Hotfile could
2 have a conversation in which Warner uploads data to
3 Hotfile servers and then Warner communicates their
4 opinion as to the authorization of that content.

5 Is it possible for a conversation to occur?
6 Yes, it's possible for a conversation to occur.

7 Is it -- is it determinative that that
8 provides authorization? I believe the answer is
9 almost certainly no, and the reason is that it is not
10 possible for Hotfile to independently vet the
11 allegation or assertion as to either infringement or
12 ownership and authorship of any particular asset.

13 Now, that is a -- a legal matter that depends
14 on a very complex web of interactions and ownership
15 and rights management that is well beyond the purview
16 of Hotfile to vet, and upon which the representation
17 of any one individual cannot be reliable.

18 And I will give you a specific example of
19 this, which is, when I was working as the CTO of the
20 principal file sharing company that was engaged by
21 substantially all the plaintiffs to share their own
22 content among themselves and between these companies,
23 that I came to learn that there's an extremely complex
24 rights management culture within the -- the
25 entertainment industry, specifically in the film

1 industry and probably also extending to TV and other
2 parts of the entertainment, the commercial
3 entertainment industry, an individual asset may have
4 as many as 20 to 30 individual rights into which it is
5 divided.

6 As a -- as a -- as an example, there might be
7 a right to show the film on Tuesdays in Hungary, and
8 the rights is -- is a -- an area where it is so
9 balkanized that there are companies in this industry
10 that specifically exist to manage just the rights or
11 to produce rights management systems and software.

12 And in that context, my answer is no, it is
13 not possible for a Hotfile to reliably vet and receive
14 and process information based simply on a claim from a
15 plaintiff in this suit or any other possible source of
16 information.

17 So on the one hand, yes, they can have a
18 conversation. On the other hand, it's not -- it's not
19 reliable source of information, even if it's a large
20 company of whom we have heard.

21 And I'll finally close this answer by saying,
22 again, I think on top of this there are additional
23 legal, open questions where there're, apparent to me,
24 unsettled matters of case law as to what constitutes
25 authorization. And as long as those are open, even if

1 all other questions could be answered, it's difficult
2 and impossible, probably impossible, for a company in
3 Hotfile's position to receive information and reliably
4 act on it.

5 Now, this is not to say that they don't
6 receive that information. It's not to say they don't
7 act on it, and I have given the opinion in my report
8 that they make what I judge, as a professional in this
9 field, are commercially reasonable best efforts to do
10 so.

11 But with this context, the answer to your
12 question, I think, is a resounding no as to a
13 hypothetical.

14 Q You're familiar with the YouTube website;
15 right?

16 A Generally, yes.

17 Q And you're aware that on YouTube there are
18 companies that posts content through their own
19 official company accounts; right?

20 A I'm aware that there has been reported in the
21 press an increasing set of relationships between
22 Google, the owner of YouTube, and entertainment
23 companies. Some of those appear to me to have been
24 with respect to establishing contractual
25 relationships, and others appear to have been lawsuits

1 So this goes to your question as well. So
2 even in the case of your hypothetical, I think, to
3 summarize, on the one hand we have that Warner is
4 responsible for the account and they've made
5 agreements with respect to it. But on the other hand,
6 it's not entirely reliable to a company in Hotfile's
7 position. And they have to, in the face of that
8 unreliability and uncertainty, to simply do the best
9 they can, and that includes under the DMCA Safe
10 Harbors, and also as a -- as an operating business.

11 Q Okay. Dr. Cromarty, you're using the term
12 re- -- terms "reliable" and "reliability" a lot in
13 your answers.

14 Can you explain to me what you mean when you
15 use those words?

16 A Well, there are probably several uses of
17 that, depending on the question one is faced with in
18 business. So I have used it with respect to some
19 scientific questions, and I've used it with respect to
20 some business practice questions.

21 I could try to give you several answers, or
22 perhaps you have a more specific question.

23 Q Well, it's precisely because the term has
24 some variety of meanings. I'm trying to understand
25 which meaning you intend in each answer that you give.

1 So let's first talk about the answer that you
2 just gave to my question about whether or not, in my
3 hypothetical, Hotfile could use the fact that the
4 Vampire Diaries files were uploaded from the official
5 Warner account as an indication that the files were
6 uploaded were -- were authorized to be there.

7 And I believe, and you can correct me if this
8 is an unfair characterization of your testimony, you
9 said that it would not be reliable for Hotfile to rely
10 upon the fact that an official account was used for
11 the uploads; is that a fair characterization?

12 A Well, I won't disagree with it for the
13 purpose of you allowing your question certainly.

14 Q In what sense did -- did you intend the
15 meaning of the word "reliable" in that answer?

16 A Well, it's, I think, an implication of your
17 having posed the hypothetical that you're inquiring
18 about possible business behavior that Hotfile might
19 engage in, and so Hotfile has to make decisions about
20 the business behavior that they will engage in based
21 on the information that's available to them, and there
22 becomes a question when they are working in this
23 complex domain where there are financial and legal
24 implications of any action they take and any choice
25 they make, what their sources of data are in their

1 decision-making process.

2 And so one form of the use of the word
3 "reliability," with respect to making decisions that
4 are fraught with legal and financial implications, and
5 certainly we see in the existence of this suit the --
6 the criticality of -- of those decisions and therefore
7 of the data sources.

8 And, in fact, to the extent that the
9 defendant's countersuit has merit, and I'm not making
10 a judgment on that, I'm assuming that's for a trier of
11 fact to do, but to the extent that it has merit and
12 even to the extent that the underlying data that have
13 been presented by the defendants as to -- again, I
14 believe it's plaintiff Warner -- to Warner's takedown
15 issuances of a content they did not own is correct.

16 What we have is that -- that the plaintiff,
17 this plaintiff, has, over time, taught Hotfile that
18 they are not a reliable partner with respect to what I
19 believe is their SRA account.


20 So one thing we learn from this is that when
21 one is in business and making decisions, that the
22 interactions one has with a partner teach whether or
23 not that partner is a good source of information, is a
24 good partner, is providing honest and true information
25 and so forth.

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ █ [REDACTED]
- █ [REDACTED]
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J U R A T

I, ANDREW S. CROMARTY, Ph.D., do hereby
 certify under penalty of perjury that I have
 read the foregoing transcript of my
 deposition taken on December 16, 2011; that I
 have made such corrections as appear noted
 herein in ink, ~~initialed by me,~~ that my ^{/on attached} testimony as contained herein, as corrected, ^{ERRATA SHEET}
^{Exhibit}
 is true and correct.

DATED this 20 day of JANUARY, ²⁰¹² ~~2011~~,
 at Palo Alto, California.



 SIGNATURE OF WITNESS

E R R A T A S H E E T

I, ANDREW S. CROMARTY, Ph.D., make the following changes to my deposition taken in the matter of Disney Enterprises, Inc., et al., vs. Hotfile, Corp., et al., taken on December 16, 2011:

DATE: _____

Signature of Witness

10	Page	Line	Change
11	_____	_____	SEE ATTACHED EXHIBIT,
12	_____	_____	"Transcript Errata - Cromarty
13	_____	_____	Hotfile Deposition Dec 16, 2011
14	_____	_____	ERRATA SHEET." <u>AC</u>
15	_____	_____	
16	_____	_____	
17	_____	_____	
18	_____	_____	
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25	_____	_____	

Transcript Errata - Cromarty Hotfile Deposition Dec 16, 2011

ERRATA SHEET

I, ANDREW S. CROMARTY, Ph.D., make the following changes to my deposition taken in the matter of Disney Enterprises, Inc., et al., vs. Hotfile, Corp., et al., taken on December 16, 2011:

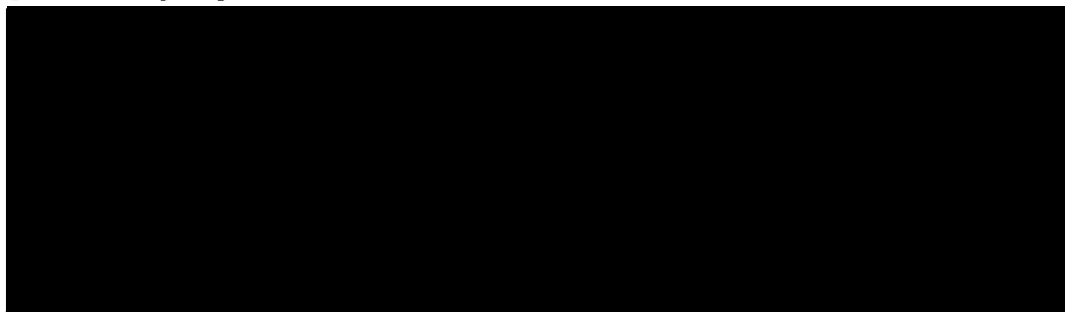
DATE: 20-Jan-2012


Signature of Witness

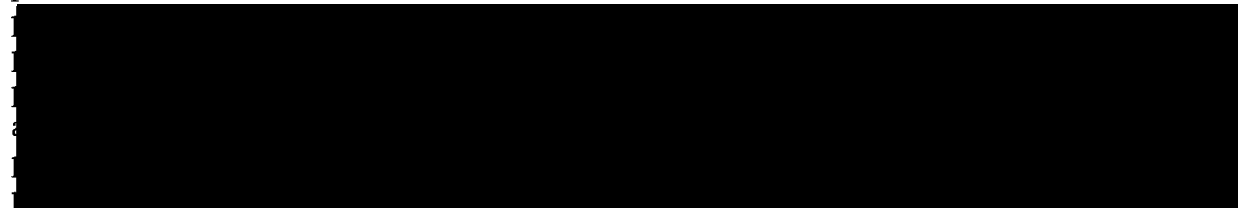
Page Line: Change ("a -> b" signifies "replace a with b")

- p.7 L.19: "JCPenny et al." -> "J. C. Penney, et al."
- p.8 L.8: "the Patent-in-Suit, and that" -> "the Patent-in-Suit that"
- p.11 L.24: "this" -> "is"
- p.12 L.7: "to my" -> "of my"
- p.15 L.23: "legally phrased" -> "legally freighted"
- p.21 L.6: "which" -> "in which"
- p.26 L.8: Strike "but"
- p.26 L.19: "For -- for example," -> "For, for example,"
- p.27 L.5: In Mr. Platzer's text, "your" should be "their" (changes meaning of my answer)
- p.27 L.19: "helpful" -> "helpfully"
- p.28 L.7: "experience" -> "experience is,"
- p.28 L.8: "sort of the" -> "the sort of"
- p.30 L.10: strike comma
- p.30 L.11: [REDACTED]
- p.31 L.23-24: "principals, and" -> "principals. And"
- p.33 L.4: "publication. It's" -> "publication--it's"
- p.33 L.5: "referee publication, for example, by one" -> "refereed publication, for example--by one"
- p.35 L.5: Delete paragraph indentation (changes meaning).
- p.34 L.7: "Google" -> "Google is"
- p.36 L.18: "report," -> "report"
- p.36 L.22-23: "domain name. [par] Some" -> "domain name, some"
- p.37 L.5 "mathematical" -> "mathematically"
- p.37 L.11: "my upload" -> "upload"
- p.38 L.17,22.: Mr Platzer's text refers to "Nutella", should be "Gnutella". [I am answering his questions about Gnutella, hence affects meaning of my answers.]
- p.38 L.25: "true. Generally for the 2P" -> "true generally for the P2P"
- p.39 L.15 & throughout: "Use Net" -> "Usenet"
- p. 39 L.17-19: "has not been use of it. It was a use of" - "has not been. Usenet was a use of"
- p.40 L.2: "much" -> "machine"
- p.40 L.3-4: "files. Almost inversely" -> "files, almost universally"
- p.40 L.9: "server hosted sites." -> "server hosting sites, or what have you."

p.41 L.16: "implicit of" -> "implicit about"
p.42 L.7: "testing. If" -> "testing, if"
p.42 L.8: "unaware and" -> "unaware, and"
p.46 L.6: "risky" -> "risk a"
p.46 L.23: "going to be" -> "in a"



p.52 L.15: [redacted]
p.52 L.17: "used" -> "used,"
p.52 L.22: "want to have" -> "want"
p.54 L.5: "of documents plus" -> "plus"
p.55 L.3: "information theoretically" -> "for information theoretic reasons"
p.55 L.11: "I've" -> "I have"
p.55 L.19: "cited." -> "cited it."



p.57 L.1: "matter and is noted in Appendix H. In any case," -> "matter, and as noted in Appendix I in any case"
p.57 L.2: "support the" -> "support a"
p.57 L.4: "transfers and file sharing services." -> "transfers to file sharing services in particular."
p.57 L.5: "In particular, that's" -> "That's"
p.58 L.2: "material" -> "materials"
p.58 L.2: [redacted]
p.58 L.10: "list" -> "a list"
p.63 L.19: "reliable" -> "a reliable"
p.63 L.23: "there're" -> "there are"
p.64 L.2: "and impossible, probably impossible," -> "or impossible, and probably impossible,"
p.65 L.15: "burn convention" -> "Berne Convention"
p.66 L.23: "have" -> "have to have"
p.67 L.17: "would" -> "will"
p.68 L.4: "service" -> "Internet service"
p.68 L.15: "consumer-generated" -> "consumer user-generated"
p.68 L.24-25: "two documents, that the two contractual documents that the user" -> "two documents that the--two contractual documents, that the user"



p.70 L.14: "service" -> "of service"

[REDACTED]

[REDACTED]

p.78 L.3: "reliability,' with" -> "reliability' is with"
p.78 L.10: "I'm assuming" -> "I assume"
p.78 L.15: "of a" -> for"
p.78 L.15-16: "correct. [par] What we" -> "correct, what we"

[REDACTED]

p.85 L.2: "as -- and" -> "as, and"
p.85 L.3: "as" -> "as,"
p.90 L.9: "as the one" -> "as one"
p.90 L.10: "answered" -> "answer"
p.90 L.22: "that" -> "as"
p.90 L.22: "report" -> "report,"
p.90 L.23: "there" -> "they're"
p.91 L.7.: "dispassionately." -> "and dispassionately."
p.91 L.11" "report" -> "report,"
p.94 L.2: "is for" -> "is: 'For"
p.94 L.3: "of those" -> "of"
p.94 L.4: "file sharing services server, this is 69, may" -> "file sharing service's server' -- this is 69 -- 'may"
p.94 L.7: "compliant computers connecting to it." -> "client computers connecting to it.' "
p.94 L.24: "server, at" -> "server at"
p.94 L.25: "instance" -> "instant"
p.95 L.15: "things. There" -> "things -- there"
p.96 L.18: "IPV for" -> "IPv4"
p.97 L.14: "Certain, MapQuest" -> "certain -- MapQuest"
p.97 L.15: "company, is" -> "company -- is"
p.97 L.16: "from" -> "in"
p.97 L.19: "technical" -> "technically"
p.98 L.1: "can trivially" -> "trivially can"
p.98 L.4: "outline" -> "outlined"
p.99 L.12: "intent. An induced intent" -> "intent, an induced intent, "
p.99 L.15: "elicit" -> "illicit"

p.125 L.8-9: "available. [par] One hopes," -> "available -- one hopes,"

p.125 L.22: "information theoretic" -> "information-theoretic"

p.130 L.22: "understanding. Similarly," -> "understanding, similarly,"

p.131 L.22: "is yes, when that's possible." -> "is, 'Yes when that's possible.' "

p.132 L.3: "information theoretic" -> "information-theoretic"

p. 133 L.18-19: "information, theoretic" -> "information-theoretic"

p.139 L.21: "information theoretic" -> "information-theoretic"

p.143 L.17: "small and feeling that it's a" -> "small 'n', treating it as a"

p.159 L.8: "protection" -> "protections"

p.161 L.2: "instance" -> "instant"

p.166 L.11: "the reason" -> "reasoned"

p.186 L.1: "justified?" -> "justified."

p.191 L.4: "the fingerprint" -> "the -- 'fingerprint' "

p.192 L.16: "plaintiffs" -> "plaintiffs"

[REDACTED]

p.200 L.25: "files, that" -> "files. That"

p.201 L.5: "that we're true" -> "it were true"

p.201 L.9-10: "servers, that" -> "servers. That"

p.209 L.22-23: "effect. [par] First," -> "effect -- first,"

p.210 L.22: "effect of" -> "effective"

p.212. L.2: "at, then" -> "at -- then"

p.215 L.15: "argument, if" -> "argument -- if"

p.215 L.16: "assets, and we know that just" -> "assets and we know that, just"

p.219 L.22: "one's" -> "ones"

p.220 L.13: "fact" -> "facts"

p.220 L.14 "that is produced during discovery that" -> " -- that is, produced during discovery -- that"

p.232 L.18: "network detached storage" -> "network-attached storage"

p.232 L.19: "de-duplications." -> "de-duplication."

p.233 L.7: "necessary" -> "necessarily"

p.233 L.10: strike "and"

p.235 L.25: "techniques first." -> "techniques, first."

p.236 L.18: "optimization -- for business optimization" -> "optimization, for business optimization, "

p.236 L.21: "satisfy -- let's call it the" -> "satisfy, let's call it, the"

p.238 L.4: "Oh, yes." -> "Yes."

p.239 L.20: "implemented with" -> "implemented -- with"

p.239 L.22: "requests that" -> "requests -- that"

p.240 L.11: "place, that" -> "place; that"

p.240 L.13: "physical, an asset -- file" -> "physical -- an asset, a file"

p.240 L.14: "asset -- that" -> "asset; that"

p.240 L.15: "file, and through one that has web" -> "file; and through one -- that is, web"

p.240 L.16: "you, names for it, and" -> "you -> names for it; and"

p.240 L.17: "link, and" -> "link; and"

p.240 L.20: "file; is" -> "file. Is"

p.242 L.20: "asking exactly, the Dax" -> "asking, exactly, the DAX"

p.252 L.8: "is -- and" -> "is, and"
p.252 L.9: "is an" -> "is, an"
p.253 L.17: "about, so I" -> "about -- so, I"
p.254 L.13: "say and" -> "say, and"
p.255 L.7: "enforced. It's" -> "enforced; it's"
p.255 L.8: "providers that -- it" -> "providers; that it"
p.256 L.8: "of technical or" -> "of 'technical' or"
p.256 L.9 "performance or technical operations involves" -> "'performance' or 'technical operations' involves"
p.256 L.18: "burden we've" -> "burden. We've"
p.278 L.25: "as we're all in this together, and" -> "as, 'We're all in this together', and"
p.282 L.2: "is the number" -> "is it's a number"
p.282 L.20: "inde" -> "indie"
p.283 L.1: "damages that" -> "damages, that"
p.285 L.20: "industries and have been for at least a decade" -> "industries, and have been for at least a decade, "

- END OF ERRATA -

CERTIFICATE OF REPORTER

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I, ANDREA M. IGNACIO HOWARD, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken in shorthand by me, a Certified Shorthand Reporter of the State of California, and was thereafter transcribed into typewriting, and that the foregoing transcript constitutes a full, true and correct report of said deposition and of the proceedings which took place;

That I am a disinterested person to the said action.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of December 2011.

ANDREA M. IGNACIO HOWARD, RPR, CCRR, CLR, CSR No. 9830