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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 **San Francisco**

11 MALIBU MEDIA, LLC,

Case Number: 5:15-cv-04243-WHA

12 Plaintiff,

13 vs.

**DECLARATION OF TOBIAS FIESER IN
SUPPORT OF PLAINTIFF'S MOTION
FOR LEAVE TO SERVE A THIRD
PARTY SUBPOENA PRIOR TO A RULE
26(f) CONFERENCE**

14 JOHN DOE subscriber assigned IP address
15 24.130.53.150,

16 Defendant.

17 **I, TOBIAS FIESER, HEREBY DECLARE:**

- 18 1. My name is Tobias Fieser.
- 19 2. I am over the age of 18 and am otherwise competent to make this declaration.
- 20 3. This declaration is based on my personal knowledge and, if called upon to do so,

21 I will testify that the facts stated herein are true and accurate.

22 4. I am employed by IPP International UG ("IPP"), a company organized and
23 existing under the laws of Germany, in its litigation support department.

24 5. Among other things, IPP is in the business of providing forensic investigation
25 services to copyright owners.

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1 6. As part of my duties for IPP, I routinely monitor the BitTorrent file distribution
2 network for the presence of copyrighted works, and I identify the Internet Protocol (“IP”)
3 addresses that are being used by infringers to distribute these copyrighted works.

4 7. Plaintiff retained IPP to monitor the BitTorrent file distribution network in order
5 to identify IP addresses that are being used by to distribute Plaintiff’s copyrighted works
6 without authorization.

7 8. IPP tasked me with effectuating, analyzing, reviewing and attesting to the results
8 of this investigation.

9 9. During the performance of my duties, I used forensic software named
10 INTERNATIONAL IPTRACKER v 1.5 and related technology enabling the scanning of the
11 BitTorrent file distribution network for the presence of infringing transactions involving
12 Plaintiff’s movies.

13 10. INTERNATIONAL IPTRACKER v 1.5 was correctly installed and initiated on a
14 server.

15 11. I personally extracted the resulting data emanating from the investigation.

16 12. After reviewing the evidence logs, I isolated the transactions and the IP
17 addresses being used on the BitTorrent file distribution network to distribute Plaintiff’s
18 copyrighted works.

19 13. Computer(s) using the IP address identified on Exhibit A to the Complaint¹
20 (“Exhibit A”) connected to IPP’s investigative server in order to transmit a full copy, or a
21 portion thereof, of each digital media file as identified by the hash values as set forth on Exhibit
22 A to the Complaint. At no point did IPP distribute any of Plaintiff’s copyrighted works.
23 INTERNATIONAL IPTRACKER v 1.5 is designed in such a way so that it is incapable of
24 distributing any content.

25
26
27 ¹ For the avoidance of doubt, each Exhibit referenced herein refers to the corresponding Complaint Exhibit.

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1 14. The IP address, hash values and hit dates contained on Exhibit A correctly reflect
2 what is contained in the evidence logs.

3 15. Our software analyzed each bit downloaded from the IP address identified on
4 Exhibit A. Our software further verified that each of these bits was a portion of the file hash as
5 listed on Exhibit A. Each file hash listed on Exhibit A was verified to be a digital media file
6 containing a motion picture as enumerated in Exhibit A. Our software downloaded one or more
7 bits of each file hash listed on Exhibit A from the IP address referenced on Exhibit A.

8 16. The siterip files downloaded, copied and distributed by Defendant are
9 enumerated in Exhibit C. Each siterip is a digital media file containing a zip folder with several
10 of Malibu Media's audiovisual works, each of which is identical (or alternatively, strikingly
11 similar or substantially) to the original works listed on Exhibit B.

12 17. IPP was provided with a control copy of each copyrighted work identified on
13 Exhibit B. IPP reviews each copyrighted work side-by-side with the corresponding digital
14 copies contained within the digital media files identified by their file hash values as set forth on
15 Exhibit A. IPP verified that each digital media file, as identified by its hash value on Exhibit A,
16 contained a digital copy that was identical, strikingly similar or substantially similar to the
17 original copyrighted work listed on Exhibit B.

18 **FURTHER DECLARANT SAYETH NAUGHT.**

19 **DECLARATION**

20 **PURSUANT TO 28 U.S.C. § 1746**, I hereby declare under penalty of perjury under the
21 laws of the United States of America that the foregoing is true and correct.

22 Executed on this 15th day of October, 2015.

23 **TOBIAS FIESER**

24 By: [Signature]