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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Liberty Media Holdings, LLC, a California Corporation)
Plaintiff,)
vs.)
FF Magnat Limited d/b/a Oron.com; Maxim Bochenko a/k/a Roman Romanov; and John Does 1-500,)
Defendants.)

Case No.: 2:12-cv-01057

**DECLARATION OF PETER PHINNEY IN
OPPOSITION TO DEFENDANTS'
EMERGENCY MOTION FOR
DISBURSEMENT OF FUNDS**

**DECLARATION OF PETER PHINNEY IN OPPOSITION TO DEFENDANTS'
EMERGENCY MOTION FOR DISBURSEMENT OF FUNDS**

I, Peter K. Phinney, being over 18 years of age, having personal knowledge of the matters set forth herein, and being competent to testify about them if called to do so at trial, state as follows:

1. I am an owner and principal of Piracy Stops Here LLC, d/b/a Porn Guardian, a New Mexico limited-liability company that identifies online copyright infringements and sends take-down notices pursuant to the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 512(c)(3)(A).

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1 2. I have sent at least hundreds of thousands of take-down notices pursuant to 17
2 U.S.C. § 512(c)(3)(A) (hereinafter, “DMCA notices”) to sites that host or provide access to
3 copyright infringing files.

4 3. One site that Porn Guardian has sent thousands of DMCA notices to is Oron.com,
5 operated by defendant FF Magnat Limited.

6 4. The defendant has been difficult and inconsistent with its response to and
7 compliance with DMCA notices. Its contentious relationship with rights holders and their agents,
8 such as my company, is emboldened by their hosting company, Leaseweb B.V., and its sister
9 companies, Leaseweb Germany and Leaseweb USA (collectively, “Leaseweb”).

10 5. Leaseweb, whether based in the Netherlands, in Germany or the USA, is the hosting
11 company of choice for sites trafficking in pirated, copyright infringing files.

12 6. I have sent a significant number of DMCA notices – easily in the thousands – to the
13 following websites that are hosted by Leaseweb: Oron.com, Extabit, mediafiledir, daddyfiledir, and
14 others.

15 7. In my experience sending over two million DMCA notices, many of the most
16 egregious piracy sites I send DMCA notices to are hosted by Leaseweb.

17 8. When DMCA notices sent to a website and its operator are ineffective, I have found
18 that sending them to the hosting company can be effective in getting the infringing content
19 removed.

20 9. This is infrequently the case with Leaseweb, which in my experience vigorously
21 defends its customers’ hosting of copyright infringing materials and acts as a hindrance to rights
22 enforcement, citing Dutch Law and noting that the Netherlands takes a much more *laissez faire*
23 approach to theft of intellectual property.

24 10. For example, Leaseweb USA will respond to my DMCA notices to it, after its
25 relevant customers have refused to remove infringing content on their own, with references to
26 Dutch copyright laws requiring notice to be given to the site operator – despite these sites being
27 hosted in the United States.

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1 11. Similarly, when I have reported that a non-responsive site such as Extabit is
2 blocking our IP Address, making it impossible for us to notice infringing content, Leaseweb B.V.'s
3 Security Officer replies that he will look into the matter – but there is then no further
4 communication from him, and Leaseweb B.V. takes no action to halt the infringement.

5 12. In my dealings with Leaseweb B.V., the company has refused to take action on
6 DMCA notices unless the customer is also provided notice of the infringement.

7 13. Relative to other hosting companies I have dealt with, including Camelhost, Google,
8 GoDaddy and others, Leaseweb is the very worst at remedying copyright infringement as required
9 by law – in particular, the DMCA.

10 14. LeaseWeb's reputation as a facilitator and its evasive practices, it is well known
11 within the piracy community that illicit files tend to last indefinitely on sites hosted by Leaseweb.

12 15. I can testify to this because I daily scan piracy groups, trading blogs, forums and
13 websites devoted to illegal file sharing seeking content produced and distributed by PornGuardian's
14 clients, and the participants in these groups frequently cite lockers and blogs hosted by Leaseweb
15 as the most effective venues for file promotion and storage because stolen files promoted and
16 stored on those sites are rarely disturbed.

17 16. The most efficient monetization of stolen content results when files remain active
18 for days and weeks at a time, as based on my observation of numerous file locker affiliate programs
19 like Oron's, the funds disbursed to pirates are based on the number of downloads accrued and the
20 number of premium memberships sold.

21 17. Pirates gravitate toward sites that are non-responsive to DMCA notices because
22 their stolen materials reside there undisturbed for longer periods of time, and they reap greater
23 financial rewards for others downloading the infringing works they uploaded as a result.

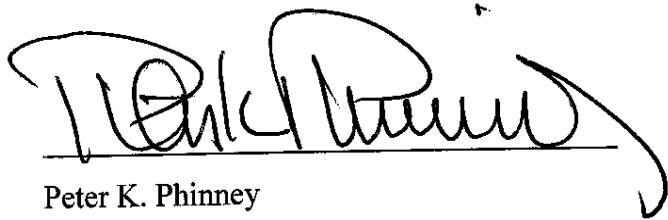
24 18. The sites hosted by Leaseweb B.V., Leaseweb Germany and Leaseweb USA are
25 well known among pirate and infringer circles I have observed, as venues that yield among the
26 highest return because the files remain active and repeat infringers are rarely pursued.

27 19. As seen from the significant number of websites dedicated to copyright
28 infringement for which Leaseweb provides hosting, it appears to me that a significant amount of

1 Leaseweb's customer base and revenue accrues from sites dedicated to committing, facilitating and
2 monetizing the theft of intellectual property, the promotion and storage of stolen content and digital
3 piracy of copyrighted material.

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5 I declare under penalty of perjury that the foregoing is true and correct to the best of my
6 knowledge.

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8 Dated: June 29, 2012 in Seattle, Washington

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12 Peter K. Phinney

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