

1 Leemore Kushner (SBN 221969)  
KUSHNER LAW GROUP  
2 801 North Citrus Avenue  
Los Angeles, California 90038  
3 Telephone: (323) 515-7894  
Facsimile: (323) 544-8170  
4 Email: lkushner@kushnerlawgroup.com

5 Attorneys for Plaintiff Malibu Media, LLC

6

7

8

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

9

10

11 Malibu Media, LLC, a California  
corporation,

12

Plaintiff,

13

v.

14

John Does 1 through 10,

15

Defendants.

16

17

18

19

20

21

22

23

24

25

26

27

28

Case No. 2:12-cv-03614-GHK-E

**DECLARATION OF TOBIAS  
FIESER FOR JOHN DOE #5**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF TOBIAS FIESER**

I, Tobias Fieser, declare as follows:

1. My name is Tobias Fieser.

2. I am over the age of 18 and am otherwise competent to make this declaration.

3. This declaration is based on my personal knowledge and, if called upon to do so, I will testify that the facts stated herein are true and accurate.

4. I am employed by IPP, Limited (“IPP”), a company organized and existing under the laws of Germany, in its litigation support department.

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

6. As part of my duties for IPP, I routinely identify the Internet Protocol (“IP”) addresses that are being used by those people that are using the BitTorrent protocol to reproduce, distribute, display or perform copyrighted Works.

7. An IP address is a unique numerical identifier that is automatically assigned to an internet user by the user’s Internet Service Provider (“ISP”).

8. ISPs keep track of the IP addresses assigned to their subscribers.

9. Only the ISP to whom a particular IP address has been assigned for use by its subscribers can correlate the IP address to a real person, the subscriber of the internet service.

10. From time to time, a subscriber of internet services may be assigned different IP addresses from their ISP. Accordingly, to correlate a person with an IP address the ISP also needs to know when the IP address was being used.

11. Many ISPs only retain the information sufficient to correlate an IP address to a person at a given time for a very limited amount of time.

12. Plaintiff retained IPP to identify the IP addresses that are being used by those people that are using the BitTorrent protocol and the internet to reproduce, distribute, display or perform Plaintiff’s copyrighted works.

1 13. IPP tasked me with implementing, monitoring, analyzing, reviewing  
2 and attesting to the results of the investigation.

3 14. During the performance of my duties, I used forensic software named  
4 INTERNATIONAL IPTRACKER v1.2.1 and related technology enabling the  
5 scanning of peer-to-peer networks for the presence of infringing transactions.

6 15. INTERNATIONAL IPTRACKER v1.2.1 was correctly installed and  
7 initiated on a computer server.

8 16. I personally extracted the resulting data emanating from the  
9 investigation.

10 17. After reviewing the evidence logs, I isolated the transactions and the IP  
11 addresses being used on the BitTorrent peer-to-peer network to reproduce,  
12 distribute, display or perform Plaintiff's copyrighted work associated with the  
13 Unique Hash numbers.

14 18. The IP addresses, Unique Hash numbers and hit dates on the evidence  
15 logs show that John Doe 5's IP address, 68.6.124.183, had copied pieces of  
16 Plaintiff's Works and was distributing them to other peers in a BitTorrent swarm on  
17 the dates and times detailed below:

- 18 a. "Carlie Beautiful Blowjob" on April 3, 2012 at 01:27:54 UTC;
- 19 b. "Carlie Big Toy Orgasm" on April 3, 2012 at 01:27:54 UTC;
- 20 c. "Carlie Leila Strawberries and Wine" on April 3, 2012 at 01:27:54  
21 UTC;
- 22 d. "Daddy's Office" on April 3, 2012 at 01:27:54 UTC;
- 23 e. "Deep Inside Caprice" on April 3, 2012 at 01:27:54 UTC;
- 24 f. "Faye Prelude to an Orgy" on April 3, 2012 at 01:27:54 UTC;
- 25 g. "Hayden Pink and Tight" on April 3, 2012 at 01:27:54 UTC;
- 26 h. "Just Married" on April 3, 2012 at 01:27:54 UTC;
- 27 i. "Just the Two of Us" on April 3, 2012 at 01:27:54 UTC;
- 28 j. "Kat Translucence" on April 3, 2012 at 01:27:54 UTC;

- 1 k. "Katka Cum Like Crazy" on April 3, 2012 at 01:27:54 UTC;
- 2 l. "Katka Sweet Surprise" on April 3, 2012 at 01:27:54 UTC;
- 3 m. "Kristen Girl Next Door" on April 3, 2012 at 01:27:54 UTC;
- 4 n. "Leila Faye Awesome Threesome" on April 3, 2012 at 01:27:54
- 5 UTC;
- 6 o. "Leila Naked in the Hot Sun" on April 3, 2012 at 01:27:54 UTC;
- 7 p. "Leila Sex on the Beach" on April 3, 2012 at 01:27:54 UTC;
- 8 q. "MaryJane Young Love" on April 3, 2012 at 01:27:54 UTC;
- 9 r. "Megan Morning Bath" on April 3, 2012 at 01:27:54 UTC;
- 10 s. "Mina's Fantasy" on April 3, 2012 at 01:27:54 UTC;
- 11 t. "Tatiana The Voyeur" on April 3, 2012 at 01:27:54 UTC;
- 12 u. "The Ultimate Blowjob" on April 3, 2012 at 01:27:54 UTC;
- 13 v. "Tiffany Sex with a Supermodel" on April 3, 2012 at 01:27:54
- 14 UTC;
- 15 w. "Tiffany Teenagers in Love" on April 3, 2012 at 01:27:54 UTC;
- 16 x. "Tori The Endless Orgasm" on April 3, 2012 at 01:27:54 UTC;
- 17 y. "The Girl in My Shower" on April 3, 2012 at 01:27:54 UTC;
- 18 z. "The Art of Anal Sex" on April 3, 2012 at 01:27:54 UTC;

19 19. Indeed, a computer using the subject IP address connected to the  
20 investigative server in order to transmit a full copy, or a portion thereof, of a digital  
21 media file identified by the Unique Hash numbers.

22 20. Our software analyzed each BitTorrent "piece" distributed by  
23 Defendant's IP address and verified that reassembling the piece(s) using a  
24 specialized BitTorrent Client results in fully playable digital motion pictures.

25 21. I was provided with control copies of the copyrighted Works. I viewed  
26 the Works side-by-side with the digital media files identified by the Unique Hash  
27 numbers and determined that they were identical, striking similar or substantially  
28 similar.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

22. Once provided with the IP address, plus the dates and times of the detected and documented infringing activity, ISPs can use their subscriber logs to identify the name, address, email address, phone number and Media Access Control number of the Defendant subscriber.

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 21st day of June, 2012.

  
\_\_\_\_\_  
Tobias Fieser