

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

LIBERTY MEDIA HOLDINGS, LLC,

Plaintiff,

v.

SWARM SHARING HASH FILE AE3 et al.,

Defendants.

Civil Action No. 11-cv-10802-WGY

**DECLARATION OF MALTE DINKELA IN SUPPORT OF PLAINTIFFS MOTION FOR  
A DEFAULT JUDGEMENT AGAINST MICHAEL RAPISARDA FOR WILLFUL  
COPYRIGHT INFRINGEMENT**

I, Malte Dinkela, declare:

1. I am the Vice President of Excubitor USA, Inc. Excubitor is a provider of online antipiracy services for the motion picture industry. I am the head of the department at Excubitor that carries out evidence collection and provides litigation support services. I work closely with our research team to create a credible process to scan for, detect, and document copyright infringement over the internet.
2. Liberty Media retained Excubitor to monitor the infringement of its motion picture, Corbin Fisher Amateur College Men Down on the Farm (the "Motion Picture"). Excubitor identified multiple BitTorrent swarms trafficking in this motion picture, including the swarm sharing the file identified by the unique hash code AE340D0560129AFEE8D78CE07F2394C7B5BC9C05 (the "AE3 Hash").
3. On November 17, 2010 at 5:03:22 UTC, Excubitor monitored a distribution of the AE3 Hash from IP address 71.192.242.221.

4. I understand that this infringer who used this IP address at this time was initial dubbed John Doe 7 in the lawsuit entitled *Liberty Media Holdings, LLC v. Swarm Sharing Hash File AE3 et al.*, Civ. No. 11-cv-10802-WGY. I also understand that the subscriber assigned this IP address at the time of infringement was the defendant, Mr. Rapisarda.


5. Attached as Exhibit 1 is a true and correct copy of the evidence file that Excubitor collected, documenting Mr. Rapisarda's infringement. I have reviewed the file downloaded from Mr. Rapisarda's IP address, and confirm that it is an identical copy of Liberty's Motion Picture.

6. By participating in the AE3 swarm, Mr. Rapisarda published an unauthorized copy of Liberty's Motion Picture to the general public. When Excubitor requested a copy of the file from Mr. Rapisarda's IP address, he transferred the file without requiring any authentication or asking who the recipient was or whether the recipient had any legal right to acquire the file. Given the nature of BitTorrent, the fact that Excubitor was able to obtain the infringing file means that he necessarily made unauthorized distributions of the work to other members of the swarm.

7. Moreover, the fact that Mr. Rapisarda possessed not just a copy of Liberty's Motion Picture, but the copy associated with the unique AE3 Hash, necessarily means that he illegally obtained the Motion Picture by making an unauthorized download of the AE3 Hash.

8. To date, Excubitor has documented at least 991 IP addresses that have infringed Liberty's copyright through the AE3 Swarm. 741 of those infringements occurred after Mr. Rapisarda's infringement.

I declare under penalty of perjury that the foregoing is true and correct. Executed on 3/28/12, at my offices in Bochum, Germany.

  
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MALTE DINKELA

**CERTIFICATE OF SERVICE**

I hereby certify that on March 28, 2012, the foregoing document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, and paper copies will be served via first-class mail to those indicated as non-registered participants.

/s/Aaron Silverstein