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EXHIBIT A

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7 IN THE UNITED STATES DISTRICT COURT FOR THE
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9 NORTHERN DISTRICT OF CALIFORNIA
10
11 SAN FRANCISCO DIVISION

10 AF HOLDINGS LLC,)
11)
12 Plaintiff,)
13 v.)
14 DOES 1-96,)
15 Defendant.)

No. C-11-03335 JSC
SUPPLEMENTAL DECLARATION OF
PETER HANSMEIER ADDRESSING
THE COURT’S JULY 27, 2011 ORDER
FOR FURTHER DECLARATION

16 **SUPPLEMENTAL DECLARATION OF PETER HANSMEIER ADDRESSING THE**
17 **COURT’S JULY 27, 2011 ORDER FOR FURTHER DECLARATION**

18 I, Peter Hansmeier, declare under penalty of perjury as true and correct that:

19 1. I am a technician at Media Copyright Group, LLC (“MCG”). On behalf of its clients,
20 MCG monitors and documents Internet-based piracy of our clients’ copyrighted creative works. I
21 submit this supplemental declaration in response to the Court’s July 27, 2011 Order Requesting
22 Further Declaration from Plaintiff relating to its *Ex Parte* Application for Leave to Take Expedited
23 Discovery, and, specifically, on three technical questions.

24 2. This declaration is based on my personal knowledge, and if called upon to do so I
25 would be prepared to testify as to its truth and accuracy.
26
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QUESTION 1:

The Complaint states that “each defendant knew, should have known, or had some constructive knowledge that their acts constituted copyright infringement.” (Dkt. No. 1 Pg. 7). What facts, specifically related to each Doe Defendant one through ninety-six, support this conclusory assertion? In particular, how might a Doe Defendant distinguish between the non-copyrighted work legitimately available through BitTorrent and Plaintiff’s copyrighted work?

3. The Doe Defendants knew or should have known that Plaintiff’s work was not legally redistributable for multiple independently sufficient reasons. First, the torrent files that the Doe Defendants downloaded to access Plaintiff’s work contained the name of Plaintiff’s work, “Sexual Obsession.” A simple Google search for “Sexual Obsession DVD” reveals that Sexual Obsession is a copyrighted DVD retailing for approximately \$24.99.

4. Second, the torrent sites that the Doe Defendants downloaded the torrent files from are notorious digital piracy sites. For example, one of the sites used by the Doe Defendants to enter the swarm related to this suit was the aptly-named, “Pirate Bay” (pirate, of course, is an Internet colloquialism for someone who uses the Internet to unlawfully access files). An individual would have to be thoughtful in order to *avoid* downloading a copyrighted work via one of these sites. In contrast to torrent sites notorious for this nefarious behavior, there are other legitimate websites, such as Mininova.org, that aim to only allow legally redistributable media. Individuals downloading Plaintiff’s video on “Pirate Bay,” understand the connotations of their actions.

5. Third, the torrent file download page, which would have been viewed by the individuals who opted to download this particular file, contained a description of the work for download. It read, in part¹, “Sexual Obsession – Heartbreaker Films. Featuring Sophia Santi in her first XXX boy girl DVD!...” The description also contained the names of all of the actors and actresses in the video. Among the listed names were Sophia Santi and Nina Mercedez—adult

¹ Out of respect for the decorum of this Court, I refrain from repeating the description in its entirety as certain parts of the description are quite explicit in nature and not relevant to whether the work would have been perceived as copyrighted. Needless to say, it was a full description of the exact video the individual intended to download.

1 Plaintiff ultimately named in its complaint.² The reason for this is that capturing the BitTorrent-
2 protocol messages allows us to validate that the IP addresses we log in the swarm are actual peers in
3 the same, single swarm, uploading/downloading the same exact file amongst themselves, and allows
4 us to understand what type of activity each peer was engaged in.

5
6 11. By way of background, BitTorrent-protocol messages are messages that BitTorrent
7 software communicates to other peers in a swarm. By analyzing the BitTorrent protocol messages
8 broadcast by a given peer, we can discern some or all of the following (depending on the type of
9 messages received): 1) what pieces of the file the peer had downloaded; 2) how much of the file the
10 peer had downloaded; 3) what pieces the peer was offering to share; and 4) what pieces the peer was
11 requesting from our software. We can discern other information as well, but the foregoing categories
12 of information go most directly to the Court's area of interest.

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16 Executed on August 12, 2011, in Minneapolis, MN.

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20 _____
21 Peter Hansmeier
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24 _____
25 ² In this manner I believe that our software *may* differ from the software used by other piracy-monitoring organizations.
26 Although I do not have personal knowledge of the mechanics of the software used by other monitoring organizations,
27 media reports have suggested that the software used by other organizations captures only lists of IP addresses. Although
28 merely capturing IP addresses may allow a Plaintiff to name more defendants in a given suit, it also introduces the risk of
false positives. For a variety of technical reasons, capturing BitTorrent-protocol messages from peers provides a high
degree of validation of presence in the swarm. While relying on high levels of validation may not allow Plaintiff to name
thousands of peers in a single suit, such validation does give Plaintiff a high degree of confidence that an IP address
identified as participating in the swarm was indeed engaged in infringing activity.