

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	
v.)	Civil Action No.
)	0:14-cv-61957-JIC
ROBERT DARE,)	
)	
Defendant.)	
_____)	

Declaration of Robert Dare

1. My name is Robert Dare and I am the Defendant in this matter.

2. I have personal knowledge of the facts attested to herein.

3. I did not download Plaintiff's videos as alleged in the amended complaint.

4. I did not make copies of or distribute Plaintiff's videos via BitTorrent.

5. In Plaintiff's request for production No. 1, Plaintiff sought copies of documents resulting from a search of all computers I had used during the alleged download period for the titles of Plaintiff's works as listed in Exhibit B to the Amended Complaint as well as terms "X-Art," "Malibu Media," or "torrent."

6. Of the computers I had used within the alleged download period, only iPhones and iPads remained within my possession, custody, or control. I brought these devices to NextDoorGeeks, LLC to have the search performed and was told that the search revealed no documents. These devices have no copies of Plaintiff's videos on them.

7. I also own an old computer, which I did not use

R/D

during the alleged period that Plaintiff's videos were allegedly downloaded. Other than turning on the computer recently just so I could to determine the last time that it had been used, the last time I used that old computer was in November 2013. Plaintiff's videos are not contained within that computer, and I did not use that computer throughout 2014.

8. I live in Unit 3 of a six-unit condominium structure. I live with my wife and two infant children (aged 1 and 2).

9. My unit shares a wall with Units 2 and 4.

10. The people, a couple, who resided in Unit 2 in 2014 no longer live there. They resided in the unit for the duration of a one-year lease, from about January 2014 through to early 2015. I have not kept in contact with either of them. The gentleman's first name was Emanuel, and he lived with his girlfriend. I believe she had a niece and nephew. I think that his occupation was a mechanic and that she was a student. She may have also worked at an animal clinic. When they lived in Unit 2, Emanuel had a wifi network. I knew it was his because the signal was "E-Man," which was Emanuel's nickname. I recall several times seeing Emanuel working on cars in his garage. I recall seeing his girlfriend sitting in the garage with a laptop computer while Emanuel worked on cars. Emanuel and his girlfriend resided in Unit 2 during the period when the alleged downloads occurred (March through June 2014).

11. People also reside in Unit 4 and resided there in 2014, when the alleged downloads occurred. However, as various people seem to come and go, and as I do not know them well, I am unsure as to exactly who resides there. I believe that the owner rents out the unit to his brother-

in-law, who resides there, as well as a college-age female and a woman maybe in her 30s and possibly another woman maybe in her 50s. They have a lot of visitors, so I am unsure as to whom the actual residents are.

12. I believe that Unit 1 has a family residing there, including a man probably in his 50s, his wife, and a daughter who may be about 12.

13. I believe that Unit 5 had some people who no longer reside there. During 2014 the residents of Unit 5 were a couple, whom I recall being in their mid-20s, and who had dogs.

14. I believe that Unit 6 has a gentleman who is probably in his 50s and his wife, and I believe they were also there in 2014.

15. Because I live in such close proximity to other neighbors, wifi signals pass through the walls. Within my own unit, I made observations to detect if other wifi signals could be detected. While I was in various rooms of my unit, including my kitchen, living room, and upstairs (and not next to a window or open door), I viewed the network preferences of my computer and noticed that about a dozen wifi signals other than my own were visible. These signals were not generated from within my own unit but rather came from neighboring units. Therefore, the walls of my condominium structure are such that wifi signals can pass through them.

16. I still have installed in my home the same Netgear N600 wireless router that was installed during the alleged download period (March through June 2014). In an effort to determine whether the signal from that router could be detected from outside the walls of my condominium unit, I carried my laptop computer outside and took it to

various access points in front of, beside, and behind my unit, and at each point examined my computer's network preferences. By doing this, I determined that the signal from my wifi was accessible from various access points outside my home including when I ventured to the edge of the six-unit building as well as open space behind my unit. By making these observations, it is clear that my wifi signal would also be accessible from within the units directly adjacent to my home.

17. I even went as far as to download an application called NetSpot, which is used to test WiFi signal strengths. I used NetSpot to measure the signal strength for various access points, including where I had physically carried my laptop and been able to obtain a signal. The signal strength is measured in decibel-milliwatts (abbreviated "dBm"). I corroborated the signal strength by looking at my computer's own network preferences. On an Apple computer (with OS X 10.10.x or greater), which I have, when you select "alt" and click on the wifi icon, it provides the "dBm" measurements for the signal in the network preferences. Exhibit "A" to this declaration includes a map of my unit along with various access points and the signal strength to my router's signal from each access point. The greater the numeric value, the stronger the signal strength, note that numbers are negative and a "good" dBm value of around -80 (for negative numbers, closer to zero is better). My laptop reports signal strength of -40 dBm for my Netgear N600 while sitting within a 10-foot radius with no obstructions. I noticed that the signal was particularly strong not just around my neighbors but also in the back of my condominium unit where security guards from the neighboring golf course sometimes

sit in their cars. (The security guards are employed to work through the night.) Exhibit "B" to this declaration is a screenshot of my computer's own network preferences taken while I was outside my unit, and in this particular screenshot it shows a received signal strength indication (RSSI) of -88dBm. When I made these observations, I was surprised as to the sheer number of signals throughout the area, and that I could even see the Clubhouse signal.

18. As stated above, I did not download Plaintiff's videos as alleged in the amended complaint. I did not make copies of or distribute Plaintiff's videos. I know that, during the alleged download period, my wifi was accessible by anyone who was within the range of my router because the wifi's guest network was open and did not require a password. Therefore, any neighbor(s) within range could have downloaded Plaintiff's pornography. However, the downloader was not I, and I have been wrongly accused.

19. This lawsuit has caused me immense stress, frustration, and inconvenience. I did not download Plaintiff's videos and I do not want to be associated with Plaintiff's pornography.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct.

Robert Dare

ROBERT DARE

10 / 20 / 2015

(date)

TITLE	Declaration of Robert Dare
FILE NAME	Exh 4 - edited De...are-dare-edit.pdf
DOCUMENT ID	fd1896e6f49a15b38542c20d13be627026622fff
STATUS	● Completed

Document History



SENT

10/20/15

18:56:12 UTC-5

Sent for signature to Robert Dare (Robert.dare@gmail.com)

IP: 107.146.20.21



VIEWED

10/20/15

19:14:06 UTC-5

Viewed by Robert Dare (robert.dare@gmail.com)

IP: 166.172.190.34



VIEWED

10/20/15

19:21:26 UTC-5

Viewed by Robert Dare (robert.dare@gmail.com)

IP: 166.172.190.34



SIGNED

10/20/15

19:21:30 UTC-5

Signed by Robert Dare (robert.dare@gmail.com)

IP: 166.172.190.34



COMPLETED

10/20/15

19:21:30 UTC-5

The document has been completed.



EXHIBIT "A"

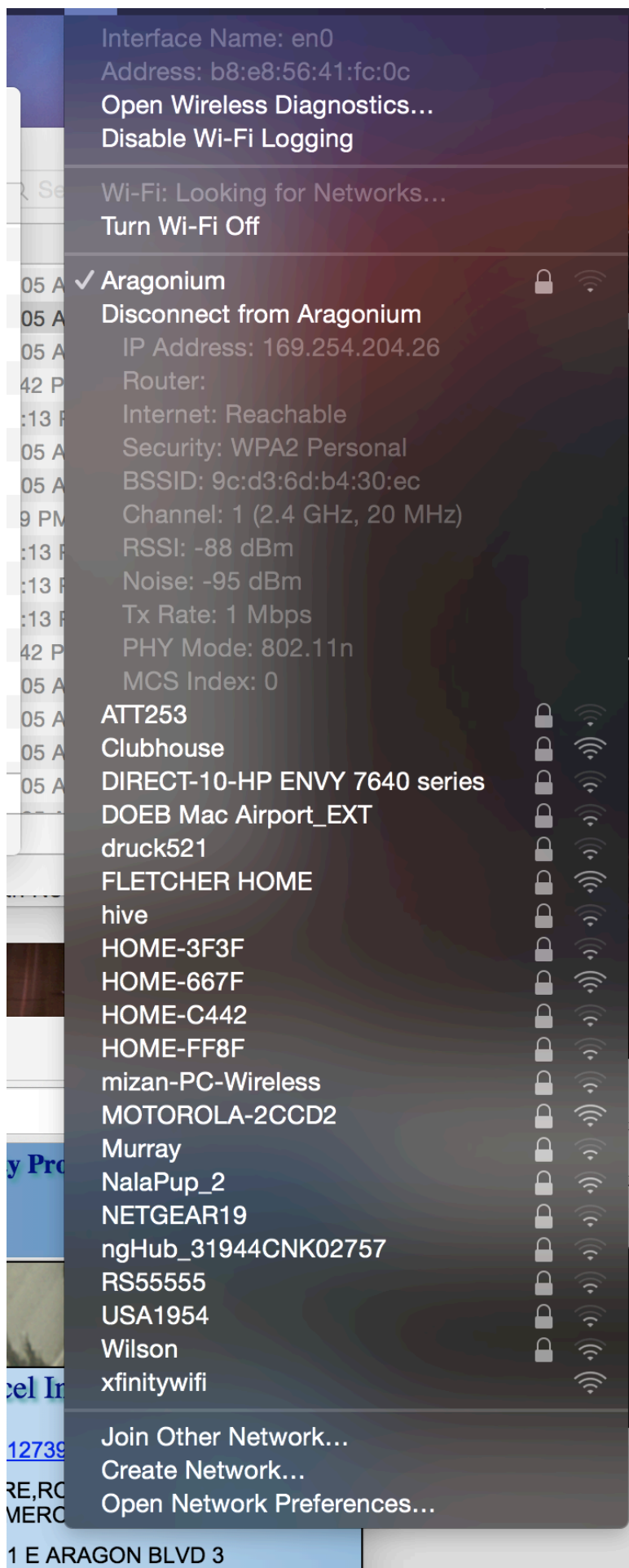


EXHIBIT "B"