EXHBIT

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UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT MICHIGAN

MALIBU MEDIA, LLC,)
Plaintiff,) Civil Action Case No. 1:13-CV-360-RJJ
v.	
JESSE RALEIGH,)
Defendant.)))

AFFIDAVIT OF JESSE RALEIGH

STATE OF MICHIGAN)	
)	:§:
COUNTY OF OAKLANI))	

I, JESSE RALEIGH, being of sound mind and body, being first duly sworn under oath, deposes and states that if called upon to testify in the above-captioned case, I could competently testify to the following statements based on my personal knowledge because I am familiar with the facts and circumstances of this case and testify as follows:

- I am over 18 years of age, and am submitting this Affidavit in support of Defendant's Motion for Summary Judgment.
- 2. My name is Jesse Raleigh. In late 2012-early 2013, I lived in Petoskey with my wife, Heather, and our two young (an infant and a pre-schooler) sons.
- 3. In January of 2013 I accepted the position of Lead Technologist for Agent X Marketing LLC in Grand Rapids Michigan. I was hired by Derek Stagner, an owner of Agent X at the time. This position was not remote, and required that I relocate to Grand Rapids.

- 4. When information is "Deleted" from a computer hard drive, it is initially marked as deleted, but the contents of the file are not immediately removed or overwritten.
- 5. Rather, the blocks which formerly contained File A are no longer reserved, and may be overwritten by subsequent writes to the drive.
- 6. In a drive with a spinning magnetic platter for storage, the drive typically attempts to optimize writes such that a file is written in a single contiguous series of blocks.
- 7. This increases the efficiency by which they can be read back and reduces seek times in accessing the files.
- 8. As a result, deleted files are often wholly or partly recoverable and detectable long after having been erased.
- 9. On Flash based storage devices, such as those found in iPads and high end computers, the drive optimizes to avoid wearing out a single cell of memory, which has a limited number of useable write cycles.
- 10. To facilitate this, an SSD drive controller will mark a deleted file in a similar fashion to a spinning drive, however it will not be until it's written to most of the available cells that it will then begin to overwrite previously deleted information.
- 11. As cells reach their maximum life cycle, the drive will mark them as bad, effectively decaying the storage capacity over time.
- 12. In order to effectively remove any traces of infringing files, software similar to that which was used to detect infringement must be employed.
- 13. Where the forensics software is designed to identify and catalog specific types of files, cleanup software is designed to identify and delete those types of files.

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- Also similarly, it would be indiscriminate in its approach to removing 14. offensive files, such that there would be all or nothing remaining on the computer it had been employed on.
- This would have removed all of the fingerprints and metadata accumulated from years of housekeeping neglect.

Further Affiant saith not.

JESSE RALEIGH

Subscribed and sworn to before me this 12+4 day of February, 2016.

Notary Public, MARONB COUNTY MICHIGAN
ACTING IN DAKLAND COUNTY, WICHIGAN

My Commission Expires: 11/07/2017