



**FEDERAL COURT**

**BETWEEN:**

**VOLTAGE PICTURES LLC**

Plaintiff

**and**

**JOHN DOE and JANE DOE**

Defendants

**AFFIDAVIT OF MATHIAS GÄRTNER**

(Sworn on May 22st, 2013)

I, **MATHIAS GÄRTNER**, of the City of Darmstadt, in the country of Germany, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am currently employed by the German public service as a government-controlled and quality-assured expert witness for information technology. The chamber of commerce in Darmstadt, Germany serves as my supervising agency on behalf of the German government. I have been in this role since March of 2000. In this capacity, I provide technical expertise for courts, public prosecuting offices, and private organizations. I am also currently employed as a data privacy officer for several companies. A copy of my curriculum vitae is attached to Exhibit "B", below.

2. On April 5, 2013, I was sent a letter via email from John Philpott, an associate at the law firm of Brauti Thorning Zibarras LLP. The purpose of the letter was to confirm my retainer to act for Voltage Picture LLC as an expert on information technology in a copyright

infringement case. The letter included instructions detailing the issues to address in my expert report. A copy of the letter is attached as **Exhibit "A"**.

3. On May 18th, 2013 I completed my expert report. A copy of my expert report is attached as **Exhibit "B"**.

4. A copy of my Certificate Concerning the Code of Conduct for Expert Witnesses in the Federal Court of Canada is attached as **Exhibit "C"**.

SWORN BEFORE ME at the City of )  
Darmstadt, in Germany )  
this 22st day of May, 2013 )  
)  
)  
)  
)  
)

  
\_\_\_\_\_  
**MATHIAS GÄRTNER**

A Commissioner of Oaths, etc.

Die vor mir vollzogene /anerkannte Unterschrift  
des/der sich durch Personalausweis/ausweisende  
**Herrn Mathias Gärtner**  
geb. am: **23.05.1965**  
wohnhaft: **Heinheimer Straße 38**  
**64289 Darmstadt**  
wird hiermit öffentlich beglaubigt.  
Darmstadt, den 22.05.2013

Begl. Tgb. Nr. 4580/2013  
Geb.Ord.Nr. 1  
Gebühr: 6.-€

Ortsgericht Darmstadt I  
  
Horst Janda  
Ortsgerichtsvorsteher



Die Echtheit der umstehenden Unterschrift des Ortsgerichtsvorstehers Horst Janda und die Echtheit des dem Beglaubigungsvermerk vom 22.05.2013 begedrückten Dienststempels werden hiermit bestätigt. Zugleich wird bestätigt, dass Herr Horst Janda zur Beglaubigung umstehender Unterschrift zuständig und berechtigt ist.

Darmstadt, den 22.05.2013  
Der Präsident des Amtsgerichts  
In Vertretung

  
Möller



-910 E 2k-

Die Echtheit vorstehender Unterschrift der/des  
Vizepräsidenten Möller als  
Vizepräs. des Amtsgerichts  
Darmstadt  
und die Echtheit des begedrückten Dienststempels/  
-siegels werden hiermit bestätigt. Zugleich wird be-  
scheinigt, dass die/der Vorgenannte zur Vornahme  
der Amtshandlung befugt war.  
Geb.Verz.Nr. 1a) aa) bbf JVKostO: EUR 10,-

22. MAI 2013

Darmstadt, den  
Der Präsident des Landgerichts



  
Präsident

FEDERAL COURT

BETWEEN:

VOLTAGE PICTURES LLC

Plaintiff

and

JOHN DOE and JANE DOE

Defendants

FORM 52.2


Rule 52.2

CERTIFICATE CONCERNING CODE OF CONDUCT FOR EXPERT WITNESSES

(General Heading — Use Form 66)

CERTIFICATE CONCERNING CODE OF CONDUCT FOR EXPERT WITNESSES

I, Mathias Gartner, having been named as an expert witness by Voltage Pictures LLC, certify that I have read the Code of Conduct for Expert Witnesses set out in the schedule to the Federal Courts Rules and agree to be bound by it.

(Date) 18th of May 2013 

(Signature of expert witness)

(Name, address, telephone and fax number of expert witness)

Mathias Gartner, Heinheimer Str 38,  
D-64289 Darmstadt, Germany

Tel: +49-6151-9712640

Fax: +49-6151-9712641



SCHEDULE

(Rule 52.2)

CODE OF CONDUCT FOR EXPERT WITNESSES

GENERAL DUTY TO THE COURT

- **1.** An expert witness named to provide a report for use as evidence, or to testify in a proceeding, has an overriding duty to assist the Court impartially on matters relevant to his or her area of expertise.
- **2.** This duty overrides any duty to a party to the proceeding, including the person retaining the expert witness. An expert is to be independent and objective. An expert is not an advocate for a party.

EXPERTS' REPORTS

- **3.** An expert's report submitted as an affidavit or statement referred to in rule 52.2 of the *Federal Courts Rules* shall include
  - o (a) a statement of the issues addressed in the report;
  - o (b) a description of the qualifications of the expert on the issues addressed in the report;
  - o (c) the expert's current *curriculum vitae* attached to the report as a schedule;
  - o (d) the facts and assumptions on which the opinions in the report are based; in that regard, a letter of instructions, if any, may be attached to the report as a schedule;
  - o (e) a summary of the opinions expressed;
  - o (f) in the case of a report that is provided in response to another expert's report, an indication of the points of agreement and of disagreement with the other expert's opinions;
  - o (g) the reasons for each opinion expressed;
  - o (h) any literature or other materials specifically relied on in support of the opinions;
  - o (i) a summary of the methodology used, including any examinations, tests or other investigations on which the expert has relied, including details of the qualifications of the person who carried them out, and whether a representative of any other party was present;
  - o (j) any caveats or qualifications necessary to render the report complete and accurate, including those relating to any insufficiency of data or research and an indication of any matters that fall outside the expert's field of expertise; and
  - o (k) particulars of any aspect of the expert's relationship with a party to the proceeding or the subject matter of his or her proposed evidence that might affect his or her duty to the Court.

- **4.** An expert witness must report without delay to persons in receipt of the report any material changes affecting the expert's qualifications or the opinions expressed or the data contained in the report.

#### EXPERT CONFERENCES

- **5.** An expert witness who is ordered by the Court to confer with another expert witness
  - o (a) must exercise independent, impartial and objective judgment on the issues addressed; and
  - o (b) must endeavour to clarify with the other expert witness the points on which they agree and the points on which their views differ.
- SOR/2010-176, s. 13.

A handwritten signature in black ink, appearing to be 'J. Lee', is located in the lower right quadrant of the page.