

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.)	
_____)	

**DECLARATION OF PATRICK PAIGE IN SUPPORT OF PLAINTIFF’S RESPONSE IN
OPPOSITION TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

1. My name is Patrick Paige.
2. I am over the age of 18 and competent to make this declaration. The facts stated in this declaration are based upon my personal knowledge.
3. I reviewed Defendant’s Motion for Summary Judgment (CM/ECF 132) (“Defendant’s Motion”) and Defendant’s affidavit in support thereof.
4. Defendant’s Motion and affidavit argues that if Defendant had infringed Plaintiff’s works, I would have found evidence of the works or deletions. *See* CM/ECF 132 & CM/ECF 132-2. This is an untrue statement.
5. First, no computer forensic expert can recover *every* file ever deleted from a hard drive, particularly when the files were deleted over a year prior to production of the hard drive. Further, the continued use of a computer prior to production of the hard drive automatically alters any electronic content contained therein. To explain, the overall continued use of a computer device (e.g., turning the computer on or off, creating documents, deleting documents, downloading files, installing or uninstalling programs) permanently alters and compromises the evidence within the drive. Indeed, such actions may overwrite data within the unallocated space

of the hard drive. When data in the unallocated space of a drive is overwritten, it is permanently removed from the drive and any evidence contained therein is unrecoverable.

6. In addition, the contents of the Western Digital predating December 17, 2013 have been permanently deleted.

7. Accordingly, just because the movie files were not located on the hard drives I examined does not mean that the movies never existed on the hard drives examined or do not exist on an unproduced hard drive.

FURTHER DECLARANT SAYETH NAUGHT.

DECLARATION

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

Executed on this 11th day of March, 2016.

PATRICK PAIGE

By:  _____