

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

UNITED STATES OF AMERICA,	)	
	)	
vs.	)	
	)	
KIM DOTCOM <i>et al.</i> ,	)	
	)	The Honorable Liam O’Grady
<i>Defendants.</i>	)	Criminal No. 1:12CR3
	)	

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**RESPONSE OF MPAA MEMBER STUDIOS TO INTERESTED PARTY KYLE  
GOODWIN’S MOTION FOR RETURN OF PROPERTY**

As one of the interested non-parties who have responded to the pending motion by Carpathia Hosting for a protective order to sort out preservation issues relating to the servers leased by Megaupload (“Mega Servers”), the MPAA Members<sup>1</sup> offer this brief response to Kyle Goodwin’s motion seeking access to those servers.

In the current motion, Mr. Goodwin asks the Court to exercise its equitable jurisdiction to allow him access to the Mega Servers to retrieve material he previously uploaded to Megaupload. The MPAA Members are sympathetic to legitimate users who may have relied on Megaupload to store their legitimately acquired or created data, although the Megaupload terms of use clearly disclaimed any guarantee of continued access to uploaded materials. However, the MPAA Members’ position continues to be that if the Court is willing to consider allowing access for users such as Mr. Goodwin to allow retrieval of files, it is essential that the mechanism include a procedure that ensures that any materials the users access and copy or download are not files that have been illegally uploaded to their accounts, given that MPAA Members and other

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<sup>1</sup> The MPAA Members are the following members of the Motion Picture Association of America: Paramount Pictures Corporation, Walt Disney Studios Motion Pictures, Twentieth Century Fox Film Corporation, Universal City Studios LLC, Sony Pictures Entertainment Inc., and Warner Bros. Entertainment Inc.

rights holders are certain to own the copyrights in many of the files stored on the servers. In addition, in no event should any Megaupload defendants or their representatives—who have not generally appeared in this proceeding, and who are not subject to the control and supervision of the Court—be allowed to access the Mega Servers under such a mechanism designed for the benefit of third party Megaupload users. Whether and under what conditions the Mega defendants should have access to the servers (again, assuming they are subject to the control of the Court) is a separate issue.

In short, the MPAA Members take no position on whether the Court should or should not exercise its equitable jurisdiction to respond to Mr. Goodwin's request. Our concern continues to be simply that if the Court were to allow such access, steps must be taken to ensure that the unauthorized copies of copyrighted content on the Mega Servers are not allowed to enter the stream of commerce.

Dated: June 5, 2012

By:     /s/ Julie M. Carpenter      
Julie M. Carpenter

JENNER & BLOCK LLP  
Julie Carpenter (Virginia Bar No. 30421)  
Paul M. Smith (*Pro Hac Vice*)  
1099 New York Ave., N.W.  
Suite 900  
Washington, DC 20001  
Phone: 202-639-6000  
Fax: 202-639-6066

*Attorneys for Interested Non-Party MPAA  
Members*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 5, 2012 the foregoing was filed and served electronically by the Court's CM/ECF system upon all registered users, as well as by first-class U.S. mail, postage pre-paid, upon the following:

Jay V. Prabhu  
Chief, Cybercrime Unit  
Assistant United States Attorney  
Eastern District of Virginia  
2100 Jamieson Avenue  
Alexandria, VA 22314

William A. Burck  
Derek L. Shaffer  
Heather H. Martin (VSB # 65694)  
QUINN EMANUEL URQUHART &  
SULLIVAN LLP  
1299 Pennsylvania Avenue N.W., Suite 825  
Washington, D.C. 20004  
*Counsel to Megaupload Limited*

Ira Rothken  
Rothken Law Firm  
3 Hamilton Landing, Suite 280  
Novato, CA 94949  
*Counsel to Megaupload Limited*

Cindy A. Cohn  
Legal Director and General Counsel  
Electronic Frontier Foundation  
454 Shotwell Street  
San Francisco, CA 94110  
*Counsel to Electronic Frontier Foundation*

Christopher L. Harlow  
SNR Denton US LLP  
1301 K St. NW, Suite 600, East Tower  
Washington, DC 20005  
(202) 408-6400 Telephone  
(202) 408-6399 Facsimile  
charlow@snrdenton.com  
*Counsel to Carpathia Hosting, Inc.*

Marc J. Zwillinger  
Robert F. Huff Jr.

ZwillGen PLLC  
1705 N Street, NW  
Washington, DC 20036  
(202) 296-3585  
*Counsel to Carpathia Hosting, Inc.*

Dated: June 5, 2012

By: /s/ Julie M. Carpenter  
Julie M. Carpenter  
JENNER & BLOCK LLP  
Julie Carpenter (Virginia Bar No. 30421)  
Paul M. Smith (*Pro Hac Vice*)  
1099 New York Ave., N.W.  
Suite 900  
Washington, DC 20001  
Phone: 202-639-6000  
Fax: 202-639-6066  
*Attorneys for Motion Picture Association of  
America Members*