## UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

UNITED STATES OF AMERICA,	)
VS.	)
KIM DOTCOM et al.,	)
Defendants.	<ul><li>The Honorable Liam O'Grady</li><li>Criminal No. 1:12CR3</li></ul>
v	,

## MPAA MEMBERS' RESPONSE TO COURT ORDER CONCERNING HEARING ON CRIMINAL RULE OF CIVIL PROCEDURE 41(G)

As a non-party participant in proceedings in this Court about the question of preservation and disposition of the servers leased by Carpathia to defendant Megaupload, the MPAA Members<sup>1</sup> respectfully submit this brief response to the Court's October 2 Order for briefing about the suggested format and breadth of a hearing relating to non-party Kyle Goodwin's motion seeking access to those servers.

As we have indicated in our previous filings, the MPAA Members' interest in this hearing, and in any resolution of Mr. Goodwin's motion, is simply to ensure that if the Court decides to craft a remedy for third-party Megaupload users, any such remedy include safeguards to prevent retrieval of infringing materials.

Again, the MPAA Members are sympathetic to any users who may have lost their only copy of material that they had lawfully copied onto Megaupload for legitimate purposes. And the MPAA Members continue to take no position on whether the Court should or should not exercise its equitable jurisdiction to respond to Mr. Goodwin's request. But any remedy granted

<sup>&</sup>lt;sup>1</sup> The MPAA Members are the six members of the Motion Picture Association of America, Inc.: 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.

should not compound the massive infringing conduct already at issue in this criminal litigation.

To that end, to the extent the Court intends to hear argument and/or evidence at the upcoming

Rule 41(g) hearing regarding a potential retrieval process, the MPAA Members respectfully

request the opportunity to participate. Additionally, if it would be helpful to the Court to consider

evidence from the MPAA or its members on such issues as the lack of authorization for the

reproduction and/or distribution of their works via Megaupload, or the overwhelming amount of

infringement of the MPAA members' copyrighted work on Megaupload, they will of course

cooperate.

Dated: October 30, 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 October 30, 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

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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: October 30, 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