



**ELECTRONIC FRONTIER FOUNDATION**  
Protecting Rights and Promoting Freedom on the Electronic Frontier

July 9, 2013

The Honorable Liam O'Grady  
United States District Court Judge  
United States District Court for the Eastern District of Virginia  
Albert V. Bryan U.S. Courthouse  
401 Courthouse Square  
Alexandria, VA 22314

**Re: *United States v. Kim Dotcom, et al., Case No. 1: 12-cr-3***

Dear Judge O'Grady:

We write in reference to Megaupload's July 3, 2013, letter to this Court, specifically addressed to Magistrate Judge Anderson. Dkt. No. 175. That letter detailed the "wholesale destruction of millions of Megaupload users' personal files" from servers owned by LeaseWeb. To be clear, we understand that our client's data does *not* reside on those particular servers.

As the Court and the parties are aware, our client, Kyle Goodwin, lost access to property he had stored on Megaupload's cloud service when that the Government caused that service to be taken offline on January 19, 2012. He first requested his property returned on March 30, 2012. Dkt. No. 52. Despite several additional requests (*see, e.g.*, Dkt. Nos. 51, 91, 135) and attempts at mediation, Mr. Goodwin appears no closer to having his data returned than he was in January 2012.

We believe that Mr. Goodwin's data reside on Carpathia servers that, to the best of our knowledge, remain intact. While we are encouraged that Mr. Goodwin's data have not been destroyed, each day he is without it causes more harm to his business. For this reason and in light of recent revelations regarding LeaseWeb, Mr. Goodwin requests that this Court hold a hearing under Rule 41(g) of the Federal Rules of Criminal Procedure as laid out in Mr. Goodwin's October 30, 2012 proposal. Dkt. No. 135. In the alternative, Mr. Goodwin supports Megaupload's request that this Court reconvene the interested stakeholders to renew negotiations.

Sincerely,

A handwritten signature in black ink that reads "Julie P. Samuels".

Julie P. Samuels

Encl

cc: The Honorable John F. Anderson, United States District Judge  
Jay V. Prabhu, Assistant United States Attorney, counsel for the United States  
Marc J. Zwillinger, counsel for Carpathia Hosting, Inc.  
Paul M. Smith & Julie M. Carpenter, counsel for Motion Picture Association of  
America  
W. Clifton Holmes, counsel for Valcom, Inc. and Microhits, Inc.