

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
)	

**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 Members¹ 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

¹ 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

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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:

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