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February 19, 2020

Via ECF

The Honorable Sarah Netburn
U.S. District Court for the Southern District of New York
40 Foley Square, Room 430
New York, NY 10007

Re: ***Shueisha Inc. et al v. Does 1-100, Case No. 1:19-cv-08227***

Dear Judge Netburn:

Pursuant to the Court's February 13, 2020 Order (Dkt. 19), Plaintiffs hereby provide a status update for the above-captioned matter and request a 90-day extension to complete service of process.

The Plaintiffs are four major Japanese publishers that have sued the operators of a now defunct pirate website, Hoshinoromi.org. The site was a massive repository of illegal content, which offered an estimated 20 million pages of copyrighted content for free. Dkt. 1 ¶ 26. Not only were Defendants aware that their activities were illegal, they actively bragged about them and the harm caused to the Publishers on social media. *Id.* ¶ 35.

As explained in previous filings, Defendants have gone to considerable lengths to conceal their identities and avoid legal process. Dkts. 8, 10-12. Accordingly, the Publishers filed a motion requesting service by email and expedited discovery on the identity of the Defendants. Dkt. 10. But after emailing the Defendants a courtesy copy of a letter relating to that motion, and before the Publishers had an opportunity to formally serve the complaint, the Defendants closed their email account. Dkt. 16.

The Publishers informed the Court of this development and, on November 20, 2019, the Court granted the Publishers' request for expedited discovery on the identity of the Defendants. Dkt. 17. Following the Court's order, the Publishers diligently pursued that discovery. On November 25, 2019, they served subpoenas on four internet companies that

provided services to the Defendants in connection with Hoshinoromi.org and its backend servers.

Over the next several weeks, the Publishers received productions in response to these subpoenas. The productions consisted of dozens of different files, including detailed technical logs with approximately 1000 unique records, for nearly 100 unique IP addresses, spanning a 16-month period. Following the holidays, the Publishers determined that an outside consulting company was needed to perform a forensic analysis of this data.

After receiving a preliminary report on January 17, 2020, the Publishers learned that none of the discovery obtained personally identifies the Defendants. Nevertheless, it does identify three new email addresses associated with them. While the Publishers sent copies of the Complaint to these addresses with the intention of reasserting their motion for service by email, all three returned an undeliverable response.

The Publishers are currently pursuing two additional leads in their attempt to identify the Defendants. *First*, based on the forensic analysis, they have identified Japanese internet service providers that may have relevant information regarding the Defendants, which they are seeking through the Japanese legal system. *Second*, the Publishers intend to return to one of the subpoena recipients for clarification as to certain technical terms and log entries, which may also help in identifying the Defendants.

Under FED. R. CIV. P. 4(m), the deadline for service of process was December 3, 2019 (if the exemption for Rule 4(f) service is inapplicable). However, given Defendants efforts to conceal their identities and avoid service, the Publishers respectfully request that the Court grant an extension until May 20, 2020. This is the Publishers first request for an extension of time and they currently have no means of contacting the Defendants to obtain their consent to this request.

The Publishers urge the Court not to dismiss this case for failure to prosecute. Although the Publishers have diligently pursued this litigation, the delay in serving the Defendants is a result of their efforts to avoid it. Moreover, the Defendants have actual notice of this matter. Not only did they actively close at least one email account after receiving a filing in this case, there have also been numerous news reports and social media postings regarding the case. Dkt. 12 ¶ 17-18.

Should the Court grant an extension, and unless directed otherwise, the Publishers will provide a further status update when there are substantive developments and, in any event, no later than 48 hours prior to the date of the extension.

Thank you for considering this matter.

Sincerely,

/s/ Michael Druckman
Michael Druckman