UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DISH NETWORK L.L.C., Plaintiff, v. VIRTUAL SYSTEMS, LLC and VYACHESLAV SMYRNOV, Defendants.	No. 2:24-cv-01683-BJR **PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR RELIEF FROM JUDGMENT**

Plaintiff DISH Network L.L.C.'s motion for default judgment was granted on November 12, 2025, in which the Court held that DISH stated claims against Defendants Virtual Systems, LLC and Vyacheslav Smyrnov for willful secondary copyright infringement. (Doc. 23 "Judg.")[1] Following an unsuccessful appeal by Smyrnov, Defendants now move under Federal Rule of Civil Procedure 60(b) to vacate the Court's judgment and restart the case. (Doc. 41 "Mot.") Defendants' motion is untimely and fails to establish any of the narrow circumstances required to relieve them from the Court's judgment.

I. INTRODUCTION

The United States recognizes Defendants as a key player in the most notorious markets that

[1]Smyrnov was found personally liable as owner, CEO, and director of Virtual Systems. (Judg. at 10.) The motion refers to them collectively as "Defendants" and this response does the same.

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"engage in, facilitate, turn a blind eye to, or benefit from substantial piracy."[2] Defendants are identified in the Notorious Markets report as "a popular bulletproof hosting provider that provides services to upwards of five thousand infringing websites and IPTV services, . . . advertises 'DMCA Ignored' hosting services, . . . ignore[s] thousands of takedown notices, . . . does not respond to any communications, and frequently . . . avoid[s] enforcement actions."[3] That is exactly what this case is about – Defendants' intentional acts that facilitated massive copyright infringement.

The Court's default judgment lays out the background on this dispute. DISH filed this case on October 15, 2024, asserting three claims for willful secondary copyright infringement. (Judg. at 3.) Pirate streaming services directly infringed DISH's copyrighted works by transmitting them, without DISH's authorization, to users in the United States. (*Id.* at 2, 8.) Defendants intended for this infringement: Defendants provided the servers and network the pirate streaming services used to transmit DISH's works and induced that infringement by advertising they ignore DMCA notices and by encouraging pirates to keep their identities anonymous and undiscoverable. (*Id.* at 2-3, 9.) Defendants knew that these pirate streaming services were infringing DISH's works because, on hundreds of occasions, DISH asked Defendants to stop this specific infringement. (*Id.* at 2-3, 8-9.) Defendants could have easily shut down this infringement taking place on its servers and network, but refused to stop it and elected to continue profiting from that infringement. (*Id.* at 2-3, 10.)

The Court granted default judgment against Defendants on November 12, 2025, holding that DISH stated claims for contributory infringement under material contribution and inducement theories and a third claim for vicarious infringement. (*Id.* at 7-10, 14.) Smyrnov's untimely appeal was dismissed on January 27, 2026. (Doc. 31.) Defendants now bring their Rule 60(b) motion in an attempt to raise arguments the Ninth Circuit determined it could not consider because the time for Defendants to make those arguments had passed.

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[2]U.S. Trade Rep., 2025 Review of Notorious Markets for Counterfeiting and Piracy, at pp. 1, 39, https://ustr.gov/sites/default/files/files/Press/Releases/2026/2025%20Notorious%20Markets%20List%20(final).pdf (last visited April 30, 2026).

[3]*Id.* at 39.

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Defendants' motion should be denied as untimely. And even if Defendants' arguments are considered, Defendants fail to demonstrate the Court's judgment should be vacated. Rule 60(b)(1) does not provide for relief because Defendants' default was the result of their culpable conduct. Defendants admit being served in court proceedings that the Ukraine Central Authority initiated in Ukraine to effect service of process under the Hague Convention.[4] Defendants' argument that their Ukrainian counsel in those court proceedings made an "informal notice of appearance" and "informal answers" shows that Defendants knew what had to be done to appear and answer in this Court and elected to not do it. Defendants submitted the "informal answers" to sway the Ukrainian courts to avoid being served, and when that failed, Defendants chose not to defend this case.

In addition, Defendants cannot vacate the judgment under Rule 60(b)(3) because there was no misrepresentation regarding the Seattle servers, much less a misrepresentation that both caused the Court to enter the judgment and prevented Defendants from mounting a defense. DISH alleged that Defendants' Seattle servers were used in the pirate streaming services' infringement because the evidence supports that finding. Defendants were aware that DISH made this allegation in the complaint and nothing prevented them from challenging it by filing a proper response in this case prior to the Court entering judgment against them. In the end, Defendants' argument regarding the Seattle servers – even if considered – does not warrant reopening the judgment because the Court's finding of personal jurisdiction was not dependent on these Seattle servers and the Court identified an alternative basis for jurisdiction based on Defendants' nationwide contacts, under Federal Rule of Civil Procedure 4(k)(2), that Defendants do not dispute.

Finally, Defendants fail to show extraordinary circumstances to vacate the judgment under Rule 60(b)(6). The recent Supreme Court decision in *Cox*[5] that Defendants rely upon addresses, at best, only one of DISH's three claims supporting the Court's judgment. *Cox* is not dispositive to the outcome of this case and thus is not a basis to reconsider the judgment. Moreover, the Court's

[4]Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Nov. 15, 1965, 20 U.S.T. 361, 658 U.N.T.S. 163.

[5]*Cox Commc'ns Inc. v. Sony Music Entm't*, 146 S.Ct. 959 (2026).

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judgment was consistent with then-prevailing Supreme Court and Ninth Circuit precedent, which separately supports denying Defendants' motion to vacate under Rule 60(b)(6).

The Court's judgment against Defendants should stand. Defendants did not misunderstand their obligations in having to defend this case to prevent the judgment from being entered against them. Defendants are serial copyright infringers that do not respect United States law, so much so they have drawn the attention of the United States government. Defendants ignored more than 500 DMCA infringement notices concerning DISH's copyrighted works and multiple court orders that enjoined Defendants from providing their servers and network to pirate streaming services. (Judg. at 3, 6, 12.) Defendants are treating this Court's judgment as equally unimportant to them because, when asked to confirm their compliance with the permanent injunction, Defendants responded that they had no intention of complying. (Frank Decl. Ex. 2; *see* Ex. 3, identifying at least 176 instances where Defendants did not comply.) Simply put, Defendants act as if they are above the laws of the United States and untouchable in the United States courts. This Court correctly found otherwise.

II. ARGUMENT

"Federal Rule of Civil Procedure 60(b) permits 'a party to seek relief from a final judgment, and request reopening of his case, under a limited set of circumstances.'" *Kemp v. United States*, 596 U.S. 528, 533 (2022) (quoting *Gonazlez v. Crosby*, 545 U.S. 524, 528 (2005)). The narrow reach of Rule 60(b) reflects the "strong public interest in the timeliness and finality of judgments." *Phelps v. Alamedia*, 569 F.3d 1120, 1135 (9th Cir. 2009) (quotations omitted). Defendants' motion is untimely and fails to establish that this is an exceptional case warranting relief under Rule 60(b).

A. Defendants' Motion Was Not Filed Within A Reasonable Time.

Rule 60(b) motions, under any subsection of that Rule, "must be filed 'within a reasonable time.'" *Kemp*, 596 U.S. at 533 (quoting Fed. R. Civ. P. 60(c)(1) and noting certain subsections of Rule 60(b) have an "additional 1-year constraint" requiring the motion to be filed within one year). "What constitutes 'reasonable time' depends upon the facts of each case, taking into consideration the interest in finality, the reason for delay, the practical ability of the litigant to learn earlier of the

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grounds relied upon, and prejudice to other parties." *Ashford v. Steuart*, 657 F.2d 1053, 1055 (9th Cir. 1981). Where "the time for appeal ha[s] passed . . . , the interest in finality must be given great weight." *Id.* "Motions to vacate under Rule 60(b) are not a substitute for appeal." *Gould v. Mut. Life Ins. Co. of New York*, 790 F.2d 769, 771 (9th Cir. 1986).

Defendants' motion to vacate the Court's judgment comes after an unsuccessful appeal by Smyrnov. (Doc. 28.) Smyrnov's appeal was dismissed for lack of jurisdiction because it was not timely filed. (*Id.*) Defendants then filed their Rule 60(b) motion attempting to vacate the judgment the Ninth Circuit found could no longer be appealed. The Ninth Circuit has rejected this attempted use of Rule 60(b) to bypass timely appellate review:

> Rule 60(b) was not intended to be resorted to as an alternative to review by appeal, nor as a means of enlarging by indirection the time for appeal except in compelling circumstances where justice requires that course. . . . Appellants had opportunity to obtain appellate review of the very rulings of which they now complain but failed to take advantage of the opportunity within the time prescribed . . . . Having in consequence of their own lack of diligence been turned away at the front door they now seek entry at the rear. Certainly Rule 60(b) was not designed to afford machinery whereby an aggrieved party may circumvent the policy evidenced by the rule limiting the time for appeal.

Perrin v. Aluminum Co. of Am., 197 F.2d 254, 255 (9th Cir. 1952) (noting that, as here, the prior appeal was dismissed "for want of jurisdiction because notice thereof had not been filed within the time prescribed by law") (emphasis added).

For Defendants' motion to be considered filed within a reasonable time, Defendants must "establish the existence of extraordinary circumstances which prevented or rendered [the]m unable to prosecute an appeal." *Plotkin v. Pac. Tel. & Tel. Co.*, 688 F.2d 1291, 1293 (9th Cir. 1982); *see Ashford*, 657 F.2d at 1055 (affirming denial of Rule 60(b) motion as untimely where "[n]o reason [wa]s suggested for the failure to timely challenge the ruling by direct appeal or 60(b) motion" and [n]othing impeded appellant's awareness of the court's ruling"). Defendants do not identify when they became aware of the Court's default judgment, but it was certainly no later than November 30, 2025, when their counsel confirmed receipt. (Frank Decl. Ex. 2.) Defendants fail to establish any extraordinary circumstances that prevented them from filing a timely appeal by the December

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12, 2025 deadline. Defendants are attempting to use Rule 60(b) as a substitute for a timely appeal and therefore their motion should be denied. *Perrin*, 197 F.2d at 255; *Plotkin*, 688 F.2d at 1293.

Additional considerations support denying Defendants' motion as not being filed within a reasonable time. Defendants' motion was filed 290 days (9.5 months) after the Clerk entered their defaults. (Doc. 18.) And the motion came 156 days (5 months) after the Court entered its judgment. (Doc. 23.) Defendants made a strategic decision to have Smyrnov appeal the Court's judgment, in lieu of filing a motion under Rule 60(b) within the prescribed reasonable time. (Frank Decl. Ex. 2 [Defendants' counsel stating on November 30, 2025, that they were considering an appeal and "a Motion for Relief from a Final Judgment under Federal Rule of Civil Procedure 60(b)"].) Relief from judgment has been denied in similar circumstances. *Plotkin*, 688 F.2d at 1293 n.2 (affirming that Rule 60(b) motion filed 48 days after judgment was untimely); *Million (Far E.) Ltd. v. Lincoln Provisions Inc. USA*, 581 F. App'x 679, 681 (9th Cir. 2014) (affirming denial of Rule 60(b) motion by pro se defendant as untimely where it was filed 8 months after default judgment entered, without explanation for the delay, and the grounds for the motion were known months prior to filing).

B. Defendants Are Not Entitled To Relief Under Rule 60(b)(1).

Even if Defendants' attempt to bypass the appellate deadline is permitted and their motion is treated as timely, Defendants fail to demonstrate that the Court's judgment should be vacated under any provision of Rule 60(b). Defendants "bear[ ] the burden of proving the existence of a justification for Rule 60(b) relief." *Cassidy v. Tenorio*, 856 F.2d 1412, 1415 (9th Cir. 1988).

Rule 60(b)(1) requires "mistake, inadvertence, surprise, or excusable neglect." Fed. R. Civ. P. 60(b)(1). In the context of vacating a default judgment, factors considered are "the defendant's culpability, the presence of a meritorious defense, and potential prejudice to the plaintiff." *Brandt v. Am. Bankers Ins. Co. of Fla.*, 653 F.3d 1108, 1112 (9th Cir. 2011). Rule 60(b)(1) relief may be denied "solely upon a finding of defendant's culpability." *Id.* "[A] defendant's conduct is culpable if he has received actual or constructive notice of the filing of the action and *intentionally* failed to answer." *United States v. Signed Personal Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1092

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(9th Cir. 2010). For a "legally sophisticated party[ ], . . . an understanding of the consequences of its actions may be assumed, and with it, intentionality." *Id.* at 1093.

"There is no dispute as to whether [Defendants] have been served." (Doc. 44, "Dementiev Decl." ¶ 3; Doc. 45, "Smyrnov Decl." ¶ 29 ["we were served"].) There is also no genuine dispute that Defendants failed to file any response to the complaint until after judgment was entered against them. (Docs. 1-25.) Defendants instead rely upon what they themselves characterize as "informal answers" that were included in a group of documents that DISH received from the Ukraine Central Authority and subsequently filed in this case as part of its status report on service under the Hague Convention. (Doc. 13 at 51-64, 354-367.) Defendants' counsel submitted the "informal answers" to the Ukraine courts overseeing service of process on Defendants. (*Id.*) The "informal answers" show Defendants' default was culpable.

First, Defendants incorrectly argue that the "informal answers" should have served as an "informal notice of appearance" by Defendants' Ukrainian counsel, entitling him to receive notice of the default pleadings in this case. (Mot. at 11; Dementiev Decl. ¶ 17.) Counsel concedes that he could not appear because he is not "admitted to practice in [this Court]." (Dementiev Decl. ¶ 17.) LCR 83.2(a) ("An attorney *eligible* to appear may enter an appearance in a civil case by properly *signing* in accordance with the ECF Filing Procedures and *filing* a Notice of Appearance . . . .") (emphasis added). The Local Rules are clear that "[a] motion for entry of default need not be served on the defaulting party" unless it "has entered an appearance." LCR 55(a). The Federal Rules also plainly state that a party in default is not entitled to be served with court filings, including a motion for default judgment. Fed. R. Civ. P. 5(a)(2), 55(b)(2). Therefore, Defendants' Ukrainian counsel was not entitled to receive notice of pleadings filed in this action and could not reasonably believe that he would be notified. Indeed, the "informal answers" that counsel claims should have afforded him notice do not even identify him. (Doc. 13 at 51-64, 354-367.)[6]

[6]Defendants do not state when they were notified of the Clerk's entry of default; Defendants simply complain that DISH did not notify them. (Mot. at 4.) Defendants' argument that DISH was required to engage with their Ukrainian counsel because he appeared for Defendants in the Ukraine courts

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Second, Defendants did not file their "informal answers" with this Court prior to judgment being entered against them. The summons from this Court specifically informed Defendants that "[i]f you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court." (*Id.* at 145, 269) (emphasis added). Not only did Defendants fail to file their "informal answers," those documents were not signed and for Virtual Systems the document is also deficient because the entity was not represented by counsel licensed in this Court. (*Id.* at 51-64, 354-367.) The "informal answers" did not prevent default from being entered against Defendants. (*Id.* ¶¶ 12-13, citing cases.)

Moreover, it does not appear that preventing default was even the purpose of the "informal answers." The "informal answers" instead appear to have been submitted to the Ukraine courts in an attempt to influence their decisions on whether to find Defendants were served under the Hague Convention. (Mot. at 4; Dementiev Decl. ¶¶ 31-32 [claiming Ukraine court overseeing service on Smyrnov should have "take[n] into account the Defendants' explanations and arguments" and then conducted an additional hearing as a "guaranty of due process"].) Whatever motivation was behind the "informal answers," Defendants are bound by their counsel's decision to not file appropriate answers in this Court. *Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097, 1101 (9th Cir. 2006) ("For purposes of subsection (b)(1), parties should be bound by and accountable for the deliberate actions of themselves and their chosen counsel. This includes not only an innocent, albeit careless or negligent, attorney mistake, but also intentional attorney misconduct. Such mistakes are more appropriately addressed through malpractice claims."); *Allmerica Fin. Life Ins. & Annuity Co. v. Llewellyn*, 139 F.3d 664, 666 (9th Cir. 1997) ("Neither ignorance nor carelessness on the part of the litigant or his attorney provide grounds for relief under Rule 60(b)(1).") (quotations omitted).

Third, Defendants provide no support for their argument that DISH, by not participating in a hearing in the Ukraine court handling service on Smyrnov, induced them to believe the "informal

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to accept service of process is also incorrect: that was strictly between Defendants and the Ukraine courts handling service under the Hague Convention and did not involve DISH. (Mot. at 11-12.)

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answers" were "conclusive on the issue, and resulted in a dismissal of the instant action." (Mot. at 4.) DISH was never summoned or otherwise asked to participate in any Ukraine court hearing; in fact, DISH only became aware of the Ukraine case involving service on Smyrnov when it received the proof of service from the Ukraine Central Authority. (Frank Decl. ¶ 2; Doc. 10 ¶ 3.) Defendants do not show why they could have reasonably believed DISH would participate in a hearing that DISH was never notified about and that served the limited purpose of effecting service on Smyrnov under the Hague Convention. The portions of counsel's declaration cited in the motion do not even argue that DISH should have participated in the hearing. (Mot. at 4; Dementiev Decl. ¶¶ 29-31.) Defendants' counsel instead argues the Ukraine court proceedings were not completed because a due process hearing was not held to consider Defendants' "informal answers." (Dementiev Decl. ¶¶ 31-32.) That too is incorrect as the referenced February 11, 2025 hearing was held; "Smyrnov and his lawyer T. Dementiev did not appear in court." (Doc. 11-1 at 5.)[7]

Fourth, Defendants' argument that DISH concealed the "informal answers" from the Court is contradicted by the record. (Mot. at 11.) DISH not only filed the "informal answers" in this case, but called them out specifically in the status report to which they were attached. (Doc. 13 ¶ 12, Ex. 1.) DISH showed that the "informal answers" were improper and advised that it intended to apply for entry of default unless instructed otherwise. (*Id.* ¶¶ 12-14.) After nearly seven weeks passed, DISH filed its application for entry of default. (Doc. 16.) DISH was completely forthcoming.[8]

Finally, Defendants incorrectly argue that their defaults can only be considered culpable if they acted in bad faith or intended to manipulate the legal process. (Mot. at 11.) *Mesle* made clear this heightened standard only applies to laypersons that are not represented by counsel; for legally sophisticated parties, having notice of the case and failing to respond is grounds to find culpability. 615 F.3d at 1092; *see Vistancia Dev. LLC v. DBD, LLC*, No. 22-16024, 2023 WL 7411533, at *1

[7]Counsel's claim that DISH "had not paid for expenses of the court" is confusing as DISH was not notified of the case or asked to pay any expenses. (Dementiev Decl. ¶ 3; Frank Decl. ¶¶ 2-3.)

[8]Defendants complain that the "informal answers" were filed as part of a single document attached to the status report, but that is how the materials were received from the Ukraine Central Authority.

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(9th Cir. Nov. 9, 2023). Defendants are sophisticated, acted under the advice of their chosen legal counsel, and they all profess to understand United States law. (Mot. at 3-4; Dementiev Decl. ¶ 18; Smyrnov Decl. ¶¶ 6-28 [arguing why Defendants ignore DMCA notices].) Defendants cannot take advantage of the more forgiving standard in *Mesle* that applies to unexperienced, pro se defendants.

In sum, Defendant's default was culpable because they received actual notice of this action and intentionally failed to answer. *Mesle*, 615. F3d. at 1092-93; *Meadows v. Dominican Republic*, 817 F.2d 517, 522 (9th Cir. 1987) (affirming denial of Rule 60(b)(1) motion and upholding default judgment where international defendant had notice of the case, was sophisticated and experienced in United States law, and claimed to act on the advice of counsel in not responding); *United States v. Brander*, 707 F. App'x 920, 921 (9th Cir. 2017) (same where defendant "was properly served, understood the nature of the case and the claims he faced, and acted upon the advice of counsel").

Because Defendants' default was culpable, the remaining two factors that look at whether Defendants might have a meritorious defense and whether DISH would be prejudiced need not be examined to deny Defendants' motion under Rule 60(b)(1). *Brandt*, 653 F.3d at 1112; *Meadows*, 817 F.2d at 522 (affirming denial of Rule 60(b)(1) motion based on culpability alone).[9]

C. Defendants Are Not Entitled To Relief Under Rule 60(b)(3).

Rule 60(b)(3) requires "the moving party [to] prove by clear and convincing evidence that the verdict was obtained through fraud, misrepresentation, or other misconduct and the conduct complained of prevented the losing party from fully and fairly presenting the defense." *Casey v. Albertson's Inc.*, 362 F.3d 1254, 1260 (9th Cir. 2004) (quotations omitted). Defendants argue the judgment was obtained through misrepresentations that infringing material resided on the Seattle servers and that in turn caused the Court to erroneously find personal jurisdiction. (Mot. at 10-11.) Defendants fail to provide clear and convincing evidence of any misrepresentation, and certainly

[9]Defendant's arguments regarding a meritorious defense focus on the Court's personal jurisdiction and the recent *Cox* decision. Neither argument warrants vacating the Court's judgment. *Infra* Parts III.C-D. Defendants' attempt to incorporate their "informal answers" is improper and circumvents the Court's page limits by at least doubling the size of their motion.

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not a misrepresentation that secured the Court's judgment and prevented them from defending.

First, Defendants cannot possibly show the judgment was obtained through any purported misrepresentation concerning the Seattle servers because those contacts were unnecessary for the the Court's finding of personal jurisdiction. Defendants' Seattle servers allowed the Court to find sufficient contacts with Washington to support personal jurisdiction under Rule 4(k)(1). (Judg. at 5-6.) The Court also found personal jurisdiction under Rule 4(k)(2), which considers Defendants' contacts with the United States as a whole, based upon Defendants having "operated a marketing campaign directed at streaming services that sought to provide infringing content to a United States audience while avoiding the effects of United States copyright law" and being fully "aware that its infringement harmed DISH in the United States." (*Id.*) Therefore, the judgment was not "obtained through" any alleged misrepresentation because the Court found it had personal jurisdiction under Rule 4(k)(2) for reasons not dependent on the Seattle servers. *Casey*, 362 F.3d at 1260. Defendants' argument that the Court's factual findings concerning the Seattle servers are erroneous also fails because Rule 60(b)(3) "is aimed at judgments which were unfairly obtained, not at those which are [allegedly] factually incorrect." (Mot. at 2.) *In re M/V Peacock on Complaint of Edwards*, 809 F.2d 1403, 1405 (9th Cir. 1987).[10]

Second, Defendants had notice of DISH's allegations regarding the Seattle servers because they were served with the complaint and responded to those allegations as part of their "informal answers." Defendants could have raised their personal jurisdiction arguments by filing a response in this Court prior to default judgment being entered against them. Defendants fail to provide clear and convincing evidence that any alleged misrepresentation prevented them from "fully and fairly

[10]Nor are the Seattle servers required to invoke the Copyright Act. The unauthorized transmission of DISH's copyrighted works from servers in Defendants' data centers located outside the United States to users in the United States is actionable infringement because such public performances do not "take place entirely abroad." *Subafilms, Ltd. v. MGM-Pathe Commc'ns Co.*, 24 F.3d 1088, 1098 (9th Cir. 1994); *see DISH Network L.L.C. v. Fraifer*, 171 F.4th 1344, 1355 (11th Cir. 2026) ("[A]n infringing performance that originates abroad but terminates in the United States constitutes a domestic Copyright Act violation.") (quoting *Spanski Enters., Inc. v. Telewizja Polska, S.A.*, 883 F.3d 904, 916 (D.C. Cir. 2018)).

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presenting the[ir] defense." *Casey*, 362 F.3d at 1260; *Pac. & Arctic R.R. & Navigation Co. v. United Trans. Union*, 952 F.2d 1144, 1148 (9th Cir. 1991) (stating Rule 60(b)(3) does not apply to alleged misconduct that is "discoverable by due diligence before or during the proceeding").

Finally, DISH's allegation that the Seattle servers were used to commit infringements was not a misrepresentation because the evidence supports it. Defendants argue that the IP addresses identified in the complaint exhibit do not correspond with servers in the Seattle data center because, according to Defendants, they only had one ASN associated with that location and the IP addresses in the exhibit were never associated with that ASN. (Mot. at 10; Doc. 43, "Karpenko Decl." ¶ 7.) Defendants do not provide any documentation to support their claim of using only one ASN at the Seattle data center, despite that allegation being the linchpin of their argument. Defendants' claim is contradicted by evidence that DISH obtained when identifying infringements taking place from Defendants' servers, which shows server IP addresses that geolocate to the United States. (Seehar Decl. ¶ 6, Ex. 1.) Defendants admit the Seattle "servers are the only United States servers Virtual Systems has ever used." (Mot. at 10.) Defendants' admission is consistent with statements on their website identifying Seattle as their only United States location. (Doc. 1 ¶¶ 10-11.)

Accordingly, the evidence supports DISH's allegation that some infringements were taking place from the Seattle servers leading up to the filing of this case. The IP addresses of those servers stopped geolocating to the United States and took on new geolocations outside the United States after this case was filed. (Seehar Decl. ¶ 7, Ex. 2.) The change coincided with modifications made to the IP addresses' Whois information on September 4, 2025, which was about a week after DISH moved for default judgment in which it argued that the Seattle servers were one of two alternative grounds to find personal jurisdiction. (*Id.*; Doc. 19.) Defendants' claim that the infringements are connected to servers abroad must be viewed in this light: Defendants manipulated the information concerning the servers, including their location, after the complaint was filed and served.

There are also errors in Defendants' argument that no server IP addresses associated with the infringements were linked to the ASN that Defendants admit was used at the Seattle data center.

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(Karpenko Decl. ¶¶ 6-7.) At least one server IP address identified in the complaint exhibit was tied to that ASN, contrary to Defendants' argument. (Seehar Decl. ¶ 8, Ex. 3.) At least one additional IP address of a server used in the infringement, which was not specifically listed in the complaint exhibit, falls under the ASN that Defendants associate with Seattle. (Seehar Decl. ¶ 9, Ex. 4.)[11] Defendants admittedly performed only a "preliminary review" of the server location information before accusing DISH of making false statements. (Karpenko Decl. ¶ 7.) Defendants' perfunctory review of the information is incorrect and by no means constitutes clear and convincing evidence that DISH misrepresented that the Seattle servers were used to infringe its copyrights. The Seattle servers were used in some of the infringements; there is no misrepresentation.

D. Defendants Are Not Entitled To Relief Under Rule 60(b)(6).

Rule 60(b)(6) is reserved for "extraordinary circumstances" where the specific grounds for relief in subsections (b)(1)-(5) do not apply. *Kemp*, 596 U.S. at 533. The Ninth Circuit considers an intervening change in controlling law under Rule 60(b)(6). *Phelps*, 569 F.3d at 1133; *Martinez v. Shinn*, 33 F.4th 1254, 1263 (9th Cir. 2022). A judgment should be vacated only if "the change in law affects an issue dispositive to the outcome of the case." *Martinez*, 33 F.4th at 1263.

Defendants' arguments center on the Supreme Court's decision in *Cox*, which concerned an internet provider whose services were used to illegally share copyrighted works. 146 S.Ct. at 964-65. The Court observed that companies such as Cox "cannot directly control how their Internet services are used" and "have limited knowledge about how their Internet services are used or who uses them" as a single account may serve multiple users. *Id.* at 965. Cox "repeatedly discouraged copyright infringement by sending warnings, suspending services, and terminating accounts." *Id.* at 968. The Fourth Circuit found Cox liable for contributory infringement because it "suppl[ied] a product with knowledge that the recipient will use it to infringe copyrights." *Id.* at 966. The Court reversed, holding that contributory infringement is appropriate where the defendant "induced the

[11]The server IP addresses in the complaint exhibit correspond with an "illustrative list of Pirate Services" and do not represent each and every IP address used in the infringements, which at times were masked through non-party services. (Doc. 1 ¶ 22, Doc. 1-4 n.1; Seehar Decl. ¶ 4.)

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infringement or the provided service is tailored to that infringement." *Id.* at 967. *Cox* did not speak to vicarious infringement, which the Court stated was a separate category of secondary copyright liability. *Id.* at 964. *Cox* does not warrant vacating the Court's judgment for at least two reasons.

First, *Cox* is not "dispositive to the outcome of the case." *Martinez*, 33 F.4th at 1263. The Court determined that DISH pleaded three separate claims for copyright infringement based upon Defendants materially contributing to infringement, inducing infringement, and having vicarious liability for infringement. (Judg. at 8-10.) Defendants' liability for inducing infringement is based on the Supreme Court's decision in *Metro-Goldwyn-Mayer Studios, Inc. v. Grokster Ltd.*, 545 U.S. 913 (2005), which *Cox* endorsed when affirming that inducement is a basis for secondary liability. (*Id.* at 9.) *Cox*, 146 S.Ct. at 967-68. Defendant's liability for vicarious infringement is based upon Ninth Circuit precedent and this is the claim *Cox* expressly did not consider. (Judg. at 10.) *Cox*, 146 S.Ct. at 964, 967 (stating the "writ of certiorari regarding vicarious liability" was denied). The Court need not decide if *Cox* overruled Ninth Circuit law supporting DISH's first claim based on material contribution because the judgment is valid and stands under DISH's second claim for inducement or its third claim for vicarious infringement that are clearly are not affected by *Cox*.

Second, even if *Cox* were dispositive, vacating the Court's judgement under Rule 60(b)(6) does not automatically follow; "extraordinary circumstances" must be established. *Kemp*, 596 U.S. at 533. The Ninth Circuit identified two scenarios where a change in law is not extraordinary: (1) "the Supreme Court arrives at a 'different interpretation' from 'then-prevailing' precedent in our Circuit," or (2) the movant "displayed a 'lack of diligence,'" such as by "failing to 'raise[ ] [the] issue' before the district court" or "declining to lodge an appeal." *Fed. Trade Commc'n v. Hewitt*, 68 F.4th 461, 468-69 (9th Cir. 2023) (quoting *Gonzalez*, 545 U.S. at 536-537).

The two unexceptional circumstances identified by the Ninth Circuit are both present here: the Court's judgment was consistent with Ninth Circuit law when it was issued; and Defendants did not present any argument in this Court concerning *Cox*, which was pending before the Supreme Court when this case was filed, nor did they timely appeal the Court's judgment. Defendants fail

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to establish the extraordinary circumstances required to obtain relief under Rule 60(b)(6). *Hewitt*, 68 F.4th at 470 (affirming denial of Rule 60(b)(6) motion and emphasizing "the original judgment was consistent with then-prevailing precedent and was never materially challenged"); *see also Ege v. Express Messenger Sys., Inc.*, No. 2016-cv-1167-RSL, 2019 WL 6701342, at *4 (W.D. Wash. Dec. 9, 2019) (denying Rule 60(b)(6) motion and finding lack of diligence where the Circuit court split of authority and pending Supreme Court case were never brought to the court's attention).[12]

IV. CONCLUSION

Defendants' motion is filed as a substitute for timely appeal and therefore should be denied. Moreover, Defendants' default was culpable as they admittedly had notice of this case and failed to file a proper response to the complaint, which is grounds to deny relief under Rule 60(b)(1). As for Rule 60(b)(3), Defendants cannot show that any alleged misrepresentation regarding the Seattle servers caused the Court to enter judgment and precluded Defendants from defending. Defendants' "preliminary review" of the server location data is incorrect; there was no misrepresentation that Seattle servers were used in the infringements. Finally, *Cox* is not dispositive because at best the decision pertains to only one of DISH's three claims supporting the Court's judgment, which was consistent with prevailing precedent when it was issued and was not timely challenged, precluding relief under Rule 60(b)(6). Defendants' motion should be denied and the Court's judgment upheld.

Dated: May 8, 2026

PREG O'DONNELL & GILLETT PLLC
By: s/ Gregory Latendresse
Gregory Latendresse, WSBA # 32787
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Seattle, Washington 98164
Tel: (206) 287-1775
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stephen.ferguson@hnbllc.com

[12]Defendants paint *Cox* as an extreme case of secondary copyright infringement because there was an internal Cox email stating "F the DMCA!!!" and Cox only terminated 32 subscribers. (Mot. at 8.) Defendants' conduct is worse: Defendants publicly advertised their "DMCA Ignored" policy to attract pirate streaming services and did not take action on a single DMCA infringement notice.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DISH NETWORK L.L.C., Plaintiff, v. VIRTUAL SYSTEMS, LLC and VYACHESLAV SMYRNOV, Defendants.	No. 2:24-cv-01683-BJR **DECLARATION OF BASIT SEEHAR**

I, Basit Seehar, declare as follows;

1. I make this declaration based on personal knowledge and, if called upon to testify, would testify competently as stated herein.

2. I am employed by NagraStar LLC, where I started as a media piracy analyst in 2019 and now serve as a manager in its anti-piracy program, a position I have held since 2023. I hold an undergraduate degree in Electronics Engineering and a master's degree in Computer Information Systems. My work for NagraStar includes analyzing streaming services for rightsholders such as DISH Network L.L.C. to identify unauthorized content, including the identification of servers and networks used in transmitting that content to users in the United States. I have performed this work for the past seven years, analyzing hundreds of streaming services and thousands of streams in that

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time, and therefore have substantial experience in identifying the servers and networks used to transmit content over the internet and the locations of these servers and networks.

3. My work included identifying streaming services that used the servers and network of Virtual Systems, LLC to transmit unauthorized content to users in the United States as part of linear streams of channels and on a VOD basis. The content included the audiovisual "Works" that are identified in DISH's complaint filed in this case. The streaming services included the "Pirate Services" identified in that complaint and the corresponding exhibit 3. I refer to this analysis of Pirate Services that transmitted Works to users in the United States using Virtual Systems' servers and network as the "Monitoring." The Monitoring involved largely automated processes that were implemented, managed, and verified for accuracy by myself and media piracy analysts working under my direction and supervision.

4. The data collected from the Monitoring included the IP addresses of the servers and network used in transmitting the Works. The IP addresses were identified from network traffic that was captured when streaming the Works from the Pirate Services. Representative examples of the IP addresses are identified in the complaint exhibit 3. Additional IP addresses that correspond with Virtual Systems' servers and network used in transmitting the Works were identified through the Monitoring. The Monitoring also showed that Pirate Services at times used Cloudflare's services to mask the IP addresses of the servers and network used to transmit the Works. In those instances, Cloudflare identified Virtual Systems as the provider associated with the transmissions but did not disclose the underlying Virtual Systems IP addresses. This is consistent with the way Cloudflare's services are commonly used, where Cloudflare's network operates in front of the origin server and abuse inquiries may identify the provider but not necessarily disclose the origin IP address.

5. The data collected from the Monitoring also included information that concerns the location of Virtual Systems' servers and network used in transmitting the Works, based on the IP addresses identified from the network traffic. The location information was obtained using IP-API (https://ip-api.com/) to geolocate these IP addresses. IP-API states that its geolocation data is 99%

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accurate at the country level, and for purposes of the United States is less accurate at the state level and the city level.[1] The Monitoring process records the geolocation data at the country level. The geolocation data is manually verified by myself or a media piracy analyst that works on my team. IP-API is used by other anti-piracy analysts and is considered accurate and reliable in our industry.

6. The IP address geolocation data collected from the Monitoring shows that Pirate Services used Virtual Systems' servers and network in the United States to transmit the Works. IP addresses that geolocated to the United States at the time the Monitoring was performed include at least ten IP addresses identified in the complaint exhibit 3 that fall under the IP address block 185.254.196.0/22. The geolocation data was verified by a media piracy analyst at the time the data was collected as part of the Monitoring. In addition, prior to DISH filing the complaint, I verified that the IP addresses geolocated to the United States using IP-API and a second geolocation service called MaxMind (https://maxmind.com). Attached as Exhibit 1 are screenshots I obtained from IP-API and MaxMind for one of these IP addresses, 185.254.196.31, both of which associated this IP address with Virtual Systems' server and network in the United States.

7. The Monitoring continued after the complaint was filed in this matter. The IP-API geolocation data collected as part of that Monitoring shows the ten IP addresses in the complaint exhibit 3 that fall under the IP address block 185.254.196.0/22 stopped geolocating to the United States and started geolocating to Ukraine after this case was filed. The geolocation data changed around the same time the Whois information for the IP address block 185.254.196.0/22 was last modified on September 4, 2025. Attached as Exhibit 2 is a screenshot that I obtained from RIPEstat (https://stat.ripe.net/) showing that the Whois information for that block of IP addresses was last modified on September 4, 2025.

8. The IP addresses identified in the complaint exhibit 3 also include 176.119.29.17. The Whois information for the block of IP addresses corresponding with 176.119.29.17 shows the IP addresses were first recorded under AS30860 and then recorded under AS43641 about one hour

[1] https://members.ip-api.com/faq

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later. Routing history also associates this block of IP addresses with AS43641. Attached as Exhibit 3 are screenshots I obtained from RIPEstat for the IP address block that includes 176.119.29.17.

9. The network traffic collected from the Monitoring identified at least one additional United States-based IP address, 176.97.121.93, that was associated with Virtual Systems' servers and network used to transmit the Works on the Pirate Services. The IP address was first identified in Monitoring conducted on December 25, 2024. The IP-API data obtained during the Monitoring, which was verified by a media piracy analyst, showed that this IP address geolocated to the United States. Attached as Exhibit 4 is a screenshot I obtained from IP-API that also shows this IP address was associated with Virtual Systems' servers and network in the United States and AS43641.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in the United States on May 7, 2026.

Basit Seehar
05/07/2026
_____
Basit Seehar

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EXHIBIT 1

```
"query": "185.254.196.31",
"status": "success",
"continent": "North America",
"continentCode": "NA",
"country": "United States",
"countryCode": "US",
"region": "NY",
"regionName": "New York",
"city": "New York",
"district": "",
"zip": "10001",
"lat": 40.7503,
"lon": -74.0014,
"timezone": "America/New_York",
"offset": -14400,
"currency": "USD",
"isp": "Virtual Systems LLC",
"org": "Virtual Systems LLC",
"as": "AS30860 Virtual Systems LLC",
"asname": "YURTEH-AS",
"mobile": false,
"proxy": false,
"hosting": true
```


MaxMind GeoIP (02.08.2024)

IP address	**185.254.196.31**
Host name	celebposter.com
IP range	
ISP	
Organization	
Country	**United States** (US)
Region	New York
City	New York
Time zone	America/New_York, GMT-0400
Local time	20:37:50 (EDT) / 2024.08.07
Postal Code	10001

EXHIBIT 2



▾Whois results (1)

Trim fields

inetnum	185.254.196.0/22
netname	UA-VSYS-20180411
country	UA
org	ORG-VSL22-RIPE
admin-c	VS10657-RIPE
tech-c	VS10657-RIPE
geofeed	https://vsys.host/geofeed.csv
status	ALLOCATED PA
mnt-by	VSYS-MNT
mnt-by	RIPE-NCC-HM-MNT
created	2021-05-25T06:57:27Z
last-modified	2025-09-04T08:53:53Z
source	RIPE

EXHIBIT 3

route	176.119.29.0/24
origin	30860
mnt-by	YURTEH-MNT
created	2020-12-25T12:03:13Z
last-modified	2020-12-25T12:03:13Z
source	RIPE

route	176.119.29.0/24
origin	43641
mnt-by	YURTEH-MNT
created	2020-12-25T13:18:01Z
last-modified	2020-12-25T13:18:01Z
source	RIPE

Prefix Routing Consistency

10 per page

Search...

Prefix	Origin	BGP (RIS)	IRR Sources	RPKI	VRP
176.119.24.0/21	AS30860	×	RIPE	☹	/-
176.119.24.0/21	AS6698	×	×	☺	/24
176.119.24.0/24	AS30860	×	×	☺	/24
176.119.25.0/24	AS30860	×	×	☺	/24
176.119.26.0/23	AS30860	×	×	☺	/23
176.119.26.0/24	AS30860	×	×	☺	/24
176.119.27.0/24	AS30860	×	×	☺	/24
176.119.28.0/24	AS30860	×	×	☺	/24
176.119.29.0/24	AS43641	×	RIPE	☹	/-
176.119.29.0/24	AS30860	✓	RIPE	☺	/24

EXHIBIT 4

```
"query": "176.97.121.93",
"status": "success",
"continent": "North America",
"continentCode": "NA",
"country": "United States",
"countryCode": "US",
"region": "WA",
"regionName": "Washington",
"city": "Seattle",
"district": "",
"zip": "98160",
"lat": 47.6109,
"lon": -122.3303,
"timezone": "America/Los_Angeles",
"offset": -25200,
"currency": "USD",
"isp": "SOLLUTIUM EU Sp z.o.o.",
"org": "",
"as": "AS43641 SOLLUTIUM EU Sp z.o.o.",
"asname": "Sollutium-NL",
"mobile": false,
"proxy": false,
"hosting": false
```

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DISH NETWORK L.L.C., Plaintiff, v. VIRTUAL SYSTEMS, LLC and VYACHESLAV SMYRNOV, Defendants.	No. 2:24-cv-01683-BJR **DECLARATION OF TIMOTHY FRANK**

I, Timothy Frank, declare as follow:

1. I am a partner at the law firm Hagan Noll & Boyle LLC, counsel for Plaintiff DISH Network L.L.C. ("DISH"). I am admitted *pro hac vice* in this case. I make this declaration based on my personal knowledge and, if called on to testify, would competently testify as stated herein.

2. I submitted a request to the Ukraine Central Authority, on behalf of DISH, to have Defendants Virtual Systems, LLC and Vyacheslav Smyrnov served with process pursuant to the Hague Convention. The Ukraine Central Authority caused two cases to be initiated in the Ukraine courts to effect service. I was not notified that the cases were initiated. I located the case involving Virtual Systems (No. 910/14408/24) from searching the Ukraine Judiciary website (court.gov.ua). The case involving Smyrnov (No. 760/30143/24) was filed in a different Ukraine court and I was

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unable to locate that case on the Ukraine Judiciary website. The foregoing is reflected in the status report filed in this matter on January 10, 2025. (Doc. 10.) I first learned of the Ukraine court case involving Smyrnov when I received the certificate of service from the Ukraine Central Authority on April 15, 2025. To my knowledge, DISH was never summoned or asked to participate in either of the Ukraine court cases involving service of process on Virtual Systems and Smyrnov.

3. The certificates of service received from the Ukraine Central Authority for Virtual Systems and Smyrnov track the Hague Convention model form. (Doc. 11-2, 12-3.) The certificates include language from the model form stating "the applicant is requested to pay or reimburse the expenses detailed in the attached statement*." (*Id.*) The documents that I received from the Ukraine Central Authority did not include a statement requesting payment or reimbursement for expenses. Nor have I received any such request during the nearly thirteen months that have passed since the Ukraine Central Authority provided the documents to me. The Ukraine Central Authority advises that "requests for service are complied for free of charge" and if "fulfillment of the request requires costs" then the requesting party is notified and service "may be accomplished after payment of the costs."[1] Service was accomplished on Virtual Systems and Smyrnov, consistent with there being no outstanding costs. (Doc. 11-12.)

4. I emailed a copy of the Court's order granting DISH's motion for default judgment and the Clerk's judgment to Defendants' Ukrainian counsel, Taras Dementiev, on November 24, 2025. (Exhibit 1.) Mr. Dementiev responded to my email on November 30, 2025. (Exhibit 2.)

5. I emailed a letter to Defendants' Seattle counsel, Mr. Lorbiecki, on April 22, 2026. (Exhibit 3.) Mr. Lorbiecki responded to my letter on April 23, 2026. (Exhibit 4.).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in the United States on May 7, 2026.

s/ Timothy M. Frank
Timothy M. Frank

[1]https://www.hcch.net/en/states/authorities/details3/?aid=251 (emphasis added).

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EXHIBIT 1

Subject: DISH Network L.L.C. v. Virtual Systems, LLC and Vyacheslav Smyrnov, No. 24-cv-1683-BJR (W.D. Wash.)
Date: Monday, November 24, 2025 at 12:17:09 PM Mountain Standard Time
From: Timothy Frank <TImothy.Frank@hnbllc.com>
To: kmkdka.3012@gmail.com <kmkdka.3012@gmail.com>, 2962720052@mail.gov.ua <2962720052@mail.gov.ua>
Attachments: Order.pdf, Judgment.pdf

Dear Mr. Dementiev,

I am legal counsel for DISH Network L.L.C. in the above-referenced copyright infringement case that was filed against Virtual Systems, LLC and Vyacheslav Smyrnov in the United States. The United States court entered a final judgment and permanent injunction against Virtual Systems, LLC and Vyacheslav Smyrnov on November 12, 2025. The court's order and judgment are attached.

Please respond to this email and confirm that you have delivered the attached order and judgment to Virtual Systems, LLC and Vyacheslav Smyrnov. Also confirm in your response that Virtual Systems, LLC and Vyacheslav Smyrnov will immediately comply with the permanent injunction set forth in the court's order.

Your confirmation is requested by November 26, 2025. Absent your timely confirmation, efforts will be undertaken to directly contact Virtual Systems, LLC and Vyacheslav Smyrnov regarding this matter.

Regards,

Timothy M. Frank
Attorney / Partner
Hagan Noll & Boyle, LLC
Two Memorial City Plaza
820 Gessner, Suite 940
Houston, Texas 77024
Tel: 713.343.0478
Fax: 713.758.0146
timothy.frank@hnbllc.com

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EXHIBIT 2

Subject: DISH Network L.L.C. v. Virtual Systems, LLC and Vyacheslav Smyrnov, No. 24-cv-1683-BJR (W.D. Wash.)
Date: Sunday, November 30, 2025 at 1:45:48 AM Mountain Standard Time
From: Адвокат Дементьев Т.М. <kmkdka.3012@gmail.com>
To: Timothy Frank <TImothy.Frank@hnbllc.com>, info <info@hnbllc.com>

Dear Mr. Frank,

I confirm receipt of Your email dated November 24, 2025, attaching the Court's Order Granting Default Judgment and the Judgment, both entered on November 12, 2025. I have delivered these documents to my clients, Virtual Systems, LLC and Vyacheslav Smyrnov.

Regarding Your request for confirmation of immediate compliance with the permanent injunction, please be advised that my clients are electing to exercise their procedural rights to formally challenge the validity of the Default Judgment.

We are currently preparing to file the necessary motions and/or appeals, including a Motion for Relief from a Final Judgment under Federal Rule of Civil Procedure 60(b), in the U.S. District Court for the Western District of Washington. This challenge is based on substantial grounds, including, but not limited to, the Court's lack of personal jurisdiction and material procedural defects, specifically the failure to afford the foreign Defendants the mandatory 90-day period to answer the Complaint, as required by the Federal Rules of Civil Procedure.

We therefore cannot and will not confirm immediate compliance with a judgment whose validity is being formally and actively contested.

Please govern yourself accordingly.

Sincerely,
Taras Dementiev
Attorney at Law

+380936024422 (viber, whatsapp, telegram)

EXHIBIT 3

Subject: DISH v. Virtual Systems
Date: Wednesday, April 22, 2026 at 7:00:34 PM Mountain Daylight Time
From: Timothy Frank <TImothy.Frank@hnbllc.com>
To: Lorbiecki, Mark <MLorbiecki@williamskastner.com>
Attachments: 2026.04.22 - Permanent Injunction.pdf

Mr. Lorbiecki,

Please see the attached correspondence concerning the Court's permanent injunction.

Timothy M. Frank
Hagan Noll & Boyle, LLC
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Houston, Texas 77079
Tel: 713.343.0478
Fax: 713.758.0146
timothy.frank@hnbllc.com

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April 22, 2026
VIA EMAIL

Mark Lorbiecki
Williams Kastner
601 Union Street, Ste. 4000
Seattle, Washington 98101
mlorbiecki@williamskastner.com

Re: DISH Network L.L.C. v. Virtual Systems, LLC, No. 24-cv-1683-BJR (W.D. Wash.)

Dear Mr. Lorbiecki:

Your clients Virtual Systems, LLC and Vyacheslav Smyrnov ("Defendants") are willfully violating the Court's permanent injunction entered on November 12, 2025, which states:

> Virtual Systems and Smyrnov, and any officer, agent, servant, employee, attorney, or other person acting in active concert or participation with either of them, are permanently enjoined from infringing DISH's copyrights in works that air on the B4U Movies, CBC, CBC Drama, Melody Aflam, Melody Classic, Sahara One, Sahara Samay, Times Now, and Zoom channels, including (1) publicly performing the material in the United States, which includes streaming or transmitting the material; (2) contributing to, inducing, or failing to stop or limit the public performance of this material in the United States, which includes a prohibition on providing any servers or network used in streaming or transmitting the material and requires termination of any current or future accounts of customers that stream or transmit the material.

(Doc. 23 at 14.) The Court was clear that a "[v]iolation of this permanent injunction will subject Defendants and all other persons bound by this injunction to all applicable damages and penalties, including contempt of Court." (*Id.*)

Defendants willfully violated the Court's permanent injunction on at least **176 instances** during approximately the past three months, as referenced in the chart below. Defendants provided the "servers or network used in streaming or transmitting" DISH's copyrighted works in each of these instances. (*Id.*) Defendants were informed of these infringements in written notices delivered to Defendants as the infringements were occurring. The infringement notices provided Defendants the information required to take action to stop or limit the infringement, including the name of the Pirate Service using Defendants' servers and network to infringe, the IP addresses of Defendants' servers and network used in the infringement, and the channels that aired DISH's works that were infringed, which included content clearly within the scope of the Court's permanent injunction.

Date	Pirate Service	Works Aired On	IP Address	IP Address (2)[1]
4/10/26	u.m3uiptv.com	B4U Movies	195.66.210.10	
4/10/26	u.m3uiptv.com	CBC	195.66.210.10	
4/10/26	u.m3uiptv.com	CBC Drama	195.66.210.10	
4/10/26	u.m3uiptv.com	CBC Drama	195.66.210.10	
4/10/26	world-iptv.club	B4U Movies	149.18.45.141	
4/10/26	world-iptv.club	CBC	149.18.45.141	
4/10/26	world-iptv.club	Zoom	149.18.45.141	
4/10/26	world-iptv.club	Zoom	149.18.45.141	
4/10/26	world-iptv.club	Zoom	149.18.45.141	
4/10/26	world-iptv.club	B4U Movies	149.18.45.141	
4/10/26	world-iptv.club	B4U Movies	149.18.45.141	
4/10/26	world-iptv.club	Times Now	149.18.45.141	
4/10/26	world-iptv.club	Times Now	149.18.45.141	
4/10/26	world-iptv.club	CBC	154.6.41.45	
4/10/26	world-iptv.club	CBC Drama	154.6.41.45	
4/10/26	world-iptv.club	CBC	154.6.41.45	
4/10/26	world-iptv.club	B4U Movies	154.6.41.45	
4/10/26	world-iptv.club	B4U Movies	154.6.41.45	
4/10/26	world-iptv.club	B4U Movies	154.6.41.45	
4/10/26	world-iptv.club	B4U Movies	154.6.41.45	
4/10/26	world-iptv.club	Zoom	154.6.41.45	
4/10/26	world-iptv.club	Times Now	154.6.41.45	
4/10/26	world-iptv.club	B4U Movies	154.6.41.45	
4/10/26	world-iptv.club	Times Now	154.6.41.45	
4/10/26	world-iptv.club	Zoom	154.6.41.45	
4/10/26	world-iptv.club	B4U Movies	154.6.41.45	
4/10/26	world-iptv.club	B4U Movies	154.6.41.45	
4/10/26	world-iptv.club	Zoom	154.6.41.45	
4/10/26	world-iptv.club	Zoom	154.6.41.45	
3/30/26	Freego TV	CBC Drama	138.226.244.20	
3/30/26	Freego TV	CBC	138.226.244.20	
3/30/26	Freego TV	B4U Movies	138.226.244.20	
3/30/26	Freego TV	B4U Movies	138.226.244.20	
3/30/26	Freego TV	B4U Movies	138.226.244.20	
3/30/26	Freego TV	B4U Movies	138.226.244.20	
3/30/26	Freego TV	B4U Movies	138.226.244.20	
3/30/26	tech-rill.blogspot.com	B4U Movies	91.239.79.63	

[1]For certain encrypted P2P STB-based Pirate Services, monitoring identifies one or more IP addresses in the network traffic associated with the infringing content. Each such IP address is identified in the table.

3/16/26	Joy TV	CBC Drama	62.182.80.141	62.182.80.236
3/16/26	Joy TV	CBC Drama	62.182.80.141	62.182.80.236
3/9/26	IPTV Digi	B4U Movies	149.18.45.192	
3/9/26	IPTV Digi	Times Now	149.18.45.192	
3/9/26	IPTV Digi	Times Now	149.18.45.192	
3/9/26	IPTV Digi	B4U Movies	149.18.45.192	
3/9/26	IPTV Digi	B4U Movies	149.18.45.192	
3/9/26	IPTV Digi	Melody Classic	149.18.45.192	
3/9/26	IPTV Digi	Melody Aflam	149.18.45.192	
3/9/26	IPTV Digi	CBC Drama	149.18.45.192	
3/9/26	IPTV Digi	Zoom	149.18.45.192	
3/9/26	IPTV Digi	Zoom	149.18.45.192	
3/9/26	IPTV Digi	Zoom	149.18.45.192	
3/9/26	Freego TV	CBC Drama	138.226.244.20	
3/9/26	Freego TV	CBC Drama	138.226.244.20	
3/9/26	Freego TV	B4U Movies	138.226.244.20	
3/9/26	Freego TV	B4U Movies	138.226.244.20	
3/9/26	Freego TV	B4U Movies	138.226.244.20	
3/9/26	Freego TV	Zoom	138.226.244.20	
3/9/26	dream4evertwo.info	CBC Drama	31.42.185.100	
3/9/26	dream4evertwo.info	CBC	31.42.185.100	
3/9/26	dream4evertwo.info	CBC	31.42.185.100	
3/9/26	dream4evertwo.info	B4U Movies	31.42.185.100	
3/9/26	dream4evertwo.info	Sahara One	31.42.185.100	
3/9/26	dream4evertwo.info	Zoom	31.42.185.100	
3/5/26	ninoiptv.com	CBC	45.12.2.240	
3/5/26	ninoiptv.com	CBC	45.12.2.240	
3/5/26	ninoiptv.com	CBC Drama	45.12.2.240	
3/5/26	ninoiptv.com	Zoom	45.12.2.240	
3/5/26	ninoiptv.com	Zoom	45.12.2.240	
3/5/26	ninoiptv.com	B4U Movies	45.12.2.240	
3/5/26	ninoiptv.com	B4U Movies	45.12.2.240	
3/5/26	ninoiptv.com	Zoom	45.12.2.240	
3/5/26	ninoiptv.com	Zoom	45.12.2.240	
3/5/26	ninoiptv.com	Zoom	45.12.2.240	
3/2/26	sat-forum.net	B4U Movies	62.182.83.108	
3/2/26	sat-forum.net	B4U Movies	62.182.83.108	
3/2/26	sat-forum.net	B4U Movies	62.182.83.108	
3/2/26	sat-forum.net	CBC	62.182.83.108	
3/2/26	sat-forum.net	Sahara One	62.182.83.108	
3/2/26	sat-forum.net	Times Now	62.182.83.108	

3/2/26	sat-forum.net	Zoom	62.182.83.108	
3/2/26	sat-forum.net	Zoom	62.182.83.108	
3/2/26	sat-forum.net	Zoom	62.182.83.108	
3/2/26	sat-forum.net	Zoom	62.182.83.108	
2/24/26	IPTV Digi	B4U Movies	149.18.45.77	
2/24/26	IPTV Digi	Times Now	149.18.45.77	
2/24/26	IPTV Digi	Times Now	149.18.45.77	
2/24/26	IPTV Digi	B4U Movies	149.18.45.77	
2/24/26	IPTV Digi	B4U Movies	149.18.45.77	
2/24/26	IPTV Digi	B4U Movies	149.18.45.77	
2/24/26	IPTV Digi	Zoom	149.18.45.77	
2/24/26	IPTV Digi	Zoom	149.18.45.77	
2/24/26	IPTV Digi	Zoom	149.18.45.77	
2/24/26	IPTV Digi	Melody Classic	149.18.45.77	
2/24/26	IPTV Digi	Melody Aflam	149.18.45.77	
2/24/26	IPTV Digi	CBC	149.18.45.77	
2/19/26	Joy TV	CBC	62.182.80.253	62.182.80.164
2/19/26	Joy TV	CBC Drama	62.182.80.253	62.182.80.126
2/19/26	Super Arab IPTV	CBC Drama	62.182.80.236	62.182.80.141
2/19/26	Super Arab IPTV	CBC	62.182.80.236	62.182.80.164
2/19/26	Joy TV	CBC	62.182.80.253	62.182.80.164
2/19/26	Joy TV	CBC Drama	62.182.80.253	62.182.80.126
2/19/26	Super Arab IPTV	CBC Drama	62.182.80.236	62.182.80.141
2/19/26	Super Arab IPTV	CBC	62.182.80.236	62.182.80.164
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	Zoom	45.12.3.139	
2/18/26	hd.tousecurity.com	B4U Movies	45.12.3.139	
2/18/26	hd.tousecurity.com	B4U Movies	45.12.3.139	
2/18/26	hd.tousecurity.com	Sahara Samay	45.12.3.139	
2/18/26	hd.tousecurity.com	Times Now	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	hd.tousecurity.com	CBC	45.12.3.139	

2/18/26	hd.tousecurity.com	CBC	45.12.3.139	
2/18/26	ninoiptv.com	B4U Movies	213.111.153.7	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	Zoom	45.12.3.139	
2/11/26	hd.tousecurity.com	B4U Movies	45.12.3.139	
2/11/26	hd.tousecurity.com	B4U Movies	45.12.3.139	
2/11/26	hd.tousecurity.com	Sahara Samay	45.12.3.139	
2/11/26	hd.tousecurity.com	Times Now	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/11/26	hd.tousecurity.com	CBC	45.12.3.139	
2/2/26	hd.tousecurity.com	B4U Movies	45.12.3.139	
2/2/26	hd.tousecurity.com	B4U Movies	45.12.3.139	
2/2/26	hd.tousecurity.com	Sahara Samay	45.12.3.139	
2/2/26	hd.tousecurity.com	Times Now	45.12.3.139	
2/2/26	hd.tousecurity.com	CBC	45.12.3.139	
2/2/26	heylink.me	CBC	45.12.2.240	
2/2/26	heylink.me	B4U Movies	45.12.2.240	
2/2/26	heylink.me	B4U Movies	45.12.2.240	
2/2/26	heylink.me	Sahara Samay	45.12.2.240	
2/2/26	heylink.me	Times Now	45.12.2.240	
2/2/26	heylink.me	Zoom	45.12.2.240	
2/2/26	heylink.me	Zoom	45.12.2.240	
2/2/26	heylink.me	Zoom	45.12.2.240	
2/2/26	heylink.me	CBC	45.12.2.240	
2/2/26	heylink.me	CBC Drama	45.12.2.240	
1/29/26	GreatBee	CBC Drama	62.182.80.236	62.182.80.188
1/29/26	GreatBee	CBC	62.182.81.11	62.182.80.164
1/29/26	GreatBee	CBC Drama	62.182.80.236	62.182.80.188
1/29/26	GreatBee	CBC	62.182.81.11	62.182.80.164
1/29/26	sat-forum.net	B4U Movies	91.239.79.63	
1/27/26	iptvcodes.online	CBC	62.182.83.108	
1/27/26	iptvcodes.online	Zoom	62.182.83.108	

1/27/26	iptvcodes.online	Zoom	62.182.83.108	
1/27/26	iptvcodes.online	B4U Movies	62.182.83.108	
1/27/26	iptvcodes.online	B4U Movies	62.182.83.108	
1/27/26	iptvcodes.online	Sahara One	62.182.83.108	
1/27/26	iptvcodes.online	Times Now	62.182.83.108	
1/27/26	iptvcodes.online	Zoom	62.182.83.108	
1/27/26	iptvcodes.online	B4U Movies	62.182.83.108	
1/27/26	iptvcodes.online	Zoom	62.182.83.108	
1/23/26	Super Arab IPTV	CBC Drama	62.182.81.11	62.182.80.141
1/23/26	Super Arab IPTV	CBC	62.182.81.11	62.182.80.164
1/23/26	Joy TV	CBC	62.182.80.141	62.182.80.164
1/23/26	Joy TV	CBC Drama	62.182.80.141	62.182.80.126
1/23/26	Joy TV	CBC	62.182.80.141	62.182.80.164
1/23/26	Joy TV	CBC Drama	62.182.80.141	62.182.80.126
1/23/26	Super Arab IPTV	CBC Drama	62.182.81.11	62.182.80.141
1/23/26	Super Arab IPTV	CBC	62.182.81.11	62.182.80.164

The Pirate Services using Defendants' servers and network to infringe DISH's copyrights are many of the same Pirate Services identified in DISH's complaint filed in this case on October 15, 2024. (Doc. 1-4.) Accordingly, Defendants also failed to comply with the portion of the Court's order "requir[ing] termination of any current or future accounts" of these Pirate Services. (Doc. 23 at 14.) Defendants have continued to financially benefit from their customers' infringement and have done nothing to stop or limit this infringement taking place through Defendants' servers and network – despite the permanent injunction requiring them to do so.

Defendants must immediately comply with the Court's permanent injunction. Defendants, through their Ukrainian counsel, previously informed DISH they would not comply because they believed the Court's order was invalid (and as shown above, in at least 176 instances Defendants did not comply). Defendants' position is contrary to law and demonstrates willful disobedience of the order. *See* Fed. R. Civ. P. 62(c) (stating a permanent injunction is not stayed "[u]nless the court orders otherwise"); *see also* Fed. R. Civ. P. 60(c)(2) (stating a motion to set aside judgment "does not affect the judgment's finality or suspend its operation"). Defendants do not get to unilaterally decide whether they will follow the Court's order.

Please confirm by April 30, 2026 that Defendants are in full compliance with the Court's permanent injunction.

Sincerely,

HAGAN NOLL & BOYLE, LLC



Timothy M. Frank

EXHIBIT 4

Subject: DISH Network v. Virtual Systems, et al.
Date: Thursday, April 23, 2026 at 4:10:01 PM Mountain Daylight Time
From: Tokatjian, Maria <MTokatjian@williamskastner.com>
To: Timothy Frank <TImothy.Frank@hnbllc.com>
CC: Lorbiecki, Mark <MLorbiecki@williamskastner.com>, Rava, Theresa <TRava@williamskastner.com>, glatendresse@pregodonnell.com <glatendresse@pregodonnell.com>, Crista Kettler <Crista.Kettler@hnbllc.com>
Attachments: image001.png, image002.png, Response Letter re Permanent Injunction.pdf

Good afternoon,

Attached please find correspondence of today's date from Mark Lorbiecki regarding the above-referenced matter.

Sincerely,

Maria Tokatjian
Williams Kastner | Legal Assistant
601 Union Street, Suite 4000
Seattle, WA 98101-2341
P: 206-628-5988 | F: 206-628-6611
www.williamskastner.com

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April 23, 2026

VIA ELECTRONIC MAIL

Timothy M. Frank
HAGAN NOLL & BOYLE, LLC
14800 St. Mary's Lane, Suite 110
Houston, Texas 77079
timothy.Frank@hnbllc.com

Re: Your Letter dated April 22, 2026

Dear Mr. Frank:

I am in receipt of your April 22, 2026 letter, which alleges Defendants are violating the Court's permanent injunction entered on November 12, 2025 (the "Order").

I will certainly pass your letter on to the clients with my advice relative to your assertions but I have a few clarifying questions I would like to ask relative to the statements in your letter. As I read the quoted language in your letter, our clients are permanently enjoined **from infringing DISH's copyrights** in works that air on the B4U Movies, CBC, CBC Drama, Melody Aflam, Melody Classic, Sahara One, Sahara Samay, Times Now, and Zoom channels [Emphasis added.]

As you know, On March 25, 2026, the U.S. Supreme Court unanimously (9-0) ruled in *Cox Communications, Inc. v. Sony Music Entertainment* that internet service providers (ISPs) are not contributorily liable for users' copyright infringement simply by providing internet access, even with knowledge of infringing activity. As such, your list of domain names identifies the actual alleged infringers of the copyright but the simple presence (if still present which we cannot know until we speak to the clients and we have not had the necessary time to set up the conference in the Ukraine) of material on servers is not infringement as the Supreme Court has handed down the definition of infringement in *Cox*. If you are asserting that our client did more than to provide Internet services since the signing of the Order, could you please be specific as to what services were provided since the signing of the Order and how they fit the *Cox* definition of infringement? To have that information will make the questions I ask our clients much more cogent and allow us to address your concerns within the scope of infringement law. Please understand that each question is a reflection of a genuine desire to address the concerns that you have set out in your letter.

Earlier, I had asked you for your client's evidence that infringement was occurring within the United States and, as I understand the allegations of the Complaint, at the servers located at the Sabey Data Center. As you are aware, in response to your client's actions, the Sabey Data Center no longer houses any servers under our clients' control. Your client's presentment of the order and injunction effected the eviction of our client Virtual Systems and terminated any contract to house servers at the data center. Therefor, no actions are occurring within the Western District of Washington, because they cannot occur there. So a further clarifying question is to ask exactly what actions do you allege have taken place within the United States to effect the infringement you are alleging has occurred since the Order was signed. Are you, instead, suggesting that the verb "infringe" has a unique meaning within the Order unaffected by the *Cox* decision? Please help me to understand your position on this issue so I can be a faithful reporter to our clients.

The Copyright Act, 17 U.S.C. §§ 101 et seq., does not apply extraterritorially. This is an "undisputed axiom" of American copyright law predating even the 1909 Copyright Act: acts of infringement occurring entirely outside the United States are not cognizable under U.S. copyright law, and no civil cause of action exists for purely foreign infringement. The Copyright Act's territorial scope is reinforced by the general presumption against extraterritoriality, by the international principle of national treatment embodied in the Berne Convention, and by longstanding federal circuit court precedent. However, a significant judicial exception—the predicate act doctrine—permits recovery of damages flowing from foreign infringement when a completed domestic act of copyright infringement enabled or was directly linked to the foreign conduct.

Copyright protection is inherently territorial in character. The Copyright Act grants copyright owners a bundle of exclusive rights under 17 USCA § 106, and anyone who violates those rights is an infringer 17 USCA § 501. But the statute contains no express statement of its geographic scope. Federal courts, from the Supreme Court onward, have uniformly held that Congress did not intend the Copyright Act to apply beyond the territorial borders of the United States.

The leading principle is well stated in *Update Art, Inc. v. Modiin Publishing, Ltd.*: "It is well established that copyright laws generally do not have extraterritorial application." 843 F.2d 67 (1988) The Ninth Circuit, sitting *en banc* in *Subafilms, Ltd. v. MGM-Pathe Communications Co.*, adopted Professor Nimmer's characterization of the "undisputed axiom," 3 Nimmer, supra, § 12.04[A] 843 F.2d at 12–86, that the United States' copyright laws have no application to extraterritorial infringement predates the 1909 Act, and found "no clear expression of congressional intent in either the 1976 Act or other relevant enactments to alter the preexisting extraterritoriality doctrine."

A direct consequence of this territoriality rule is that a foreign actor who engages in or authorizes activity entirely abroad—with no part of the conduct taking place in the United States—does not thereby violate U.S. copyright law. *Datacarrier S.A. v. WOCCU Services Group, Inc.*, 221 F.Supp.3d 1078 (2016). Crucially, the principle applies not only to direct infringement but also to secondary liability

theories: the mere authorization from within the United States of infringing acts that occur entirely abroad does not itself state a claim under the Copyright Act. In *Subafilms*, the Ninth Circuit held that because there can be no contributory liability unless the authorized act could itself constitute infringement, and because wholly extraterritorial acts are not cognizable, a domestic authorization of foreign infringement is equally non-actionable. The court reasoned that holding otherwise would produce the "untenable anomaly" of holding a party liable for authorizing conduct that, had it engaged in the conduct directly, would have resulted in no liability at all. It is for this reason that I am asking you to identify the actions that would be infringing under the Order.

I also wish to know what date you are using for the date of our clients' actual notice of the Order. While formal service of the injunction is not legally mandatory, the practical consequences of failing to establish actual notice are significant. A party seeking contempt sanctions must prove by clear and convincing evidence that: (1) a valid injunction existed; (2) the enjoined party had knowledge of that injunction; and (3) the enjoined party disobeyed it. You will recall that the Order that included the Permanent Injunction was a default order. By its definition, a default order is entered where a party has not participated in the underlying cause of action. In federal court, Federal Rule of Civil Procedure 65(d)(2) provides that an injunction order "binds only the following who receive actual notice of it by personal service or otherwise: (A) the parties; (B) the parties' officers, agents, servants, employees, and attorneys; and (C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B)." FRCP Rule 65. So, when was notice effected according to your view of the case?

This has been an ongoing issue in this case. In your client's complaint, at paragraphs 24 and 36, you assert that our clients have violated prior orders in other cases, i.e., *DISH Network L.L.C. v. Lool Tech Co.*, No. 4:16-cv-01771 (S.D. Tex.); *DISH Network L.L.C. v. Alghafir*, No. 4:20-cv-01678 (S.D. Tex.); *DISH Network L.L.C. v. 786 Wireless World, Inc.*, No. 21-cv-05730 (E.D.N.Y.). In discussions with our clients, they are having trouble identifying any missive or other correspondence from your firm or otherwise from your client which would have given them notice of these distinct orders. Would you please provide us with any information that you might have that indicates that our clients were given notice of these other orders. We believe that such is important information and is relevant in as much as it appears that the current order was secured by asserting that our clients have ongoing contempt for orders issuing from the federal courts. To that end, please help our clients to identify what events you are crediting with having given notice of both the instant Order and these other orders.

As you are also aware, the Defendants have filed a motion for relief from the Order on the basis of *Cox* and other issues as set out in the motion. Yesterday, we received Interrogatories and Requests for Product addresses to each of our clients. Federal courts recognize that discovery against foreign defendants raises special concerns, including international comity, undue burden, and due process protections. Courts routinely limit or stay discovery directed at foreign defendants when jurisdiction is contested. *Asahi Metal Indus. Co. v. Superior Court*, 480 U.S. 102, 114 (1987) (finding jurisdictional discovery against foreign defendants inappropriate where it creates undue burdens); *Sinochem Int'l Co.*

v. Malaysia Int'l Shipping Corp., 549 U.S. 422, 432 (2007) (holding that jurisdictional issues must be resolved before a foreign entity is subjected to litigation burdens)).

The Ninth Circuit has made clear that courts must be especially cautious before compelling foreign defendants to engage in discovery when their connection to the forum state is in dispute. In *Freestream Aircraft (Berm.) Ltd. v. Aero Law Grp.*, 905 F.3d 597, 605 (9th Cir. 2018), the court held that personal jurisdiction should be resolved as a threshold matter before foreign entities are subjected to the burdens of U.S. litigation. Courts have also recognized that forcing foreign defendants to comply with broad discovery before jurisdiction is established can violate principles of international comity. *In re Cathode Ray Tube (CRT) Antitrust Litig.*, 2014 WL 5462496, at *5 (N.D. Cal. Oct. 23, 2014) (courts must consider "international comity concerns" before compelling discovery from foreign defendants)).

As you are aware, one of the issues presented in the motion is one of jurisdiction. Also true is the fact that if the motion is granted, the discovery sought will no longer be post-judgment discovery. Permitting broad discovery now would force Virtual Systems to engage in burdensome litigation before its jurisdictional challenge is resolved, directly contradicting the principle that jurisdiction must come first. The Ninth Circuit has specifically cautioned against imposing unnecessary burdens on foreign defendants where jurisdiction is unclear. *Doe v. Unocal Corp.*, 248 F.3d 915, 925 (9th Cir. 2001) (rejecting jurisdictional discovery where plaintiff's alter ego claims were speculative and contradicted by evidence)).

A stay of discovery is appropriate when it will promote judicial efficiency and prevent unnecessary motion practice. Courts frequently stay discovery where a pending motion could dispose of the entire case. *Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988) (discovery may be stayed when it is "not required to address the pending motion"); *Hall v. Norton*, 266 F.3d 969, 976 (9th Cir. 2001) (court has broad discretion to stay discovery to prevent unnecessary litigation burdens)).

If Defendants' motion for relief from the Order is granted, discovery will have been a waste of time and resources. For that reason, I am asking you for an agreement to stipulate to a stay of discovery until after the Court renders a ruling on the motion for relief from the Order. If this is not agreeable to your client, please let me know when we can meet and confer over this issue. We intend to move for the stay if we cannot agree to a stipulated stay. Please let me know soonest.

The requests for answers to specific questions set out above is in earnest. This is a complex case and knowing your position relative to each might well allow us to resolve, at least, parts of the ongoing litigation. One of the shortcomings of the written word is that sometimes the language selected can, inadvertently, suggest that the purpose is to annoy or hector. I have not intended to do so in this letter. Instead, I am anticipating the questions my own clients, located several time zones away in Ukraine, are likely to ask.

I thank you in advance for answers to these questions. We appreciate any effort to resolve matters without the aid of the Court if such is possible.

Sincerely,



Mark Lawrence Lorbiecki
206-628-6605
mlorbiecki@williamskastner.com