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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Liberty Media Holdings, LLC, a California Corporation)
Plaintiff,)
vs.)
FF Magnat Limited d/b/a Oron.com; Maxim Bochenko a/k/a Roman Romanov; and John Does 1-500,)
Defendants.)

Case No.: 2:12-cv-01057

DECLARATION OF ZACHARY THOMPSON IN OPPOSITION TO DEFENDANTS' EMERGENCY MOTION FOR DISBURSEMENT OF FUNDS

DECLARATION OF ZACHARY THOMPSON IN OPPOSITION TO DEFENDANTS' EMERGENCY MOTION FOR DISBURSEMENT OF FUNDS

I, Zachary Thompson, being over 18 years of age, having personal knowledge of the matters set forth herein, and being competent to testify about them if called to do so at trial, state as follows:

1. I am the owner and principal of Move Clicks LLC, d/b/a Yellow Fiber Networks ("YFN"), a Virginia limited-liability company that provides hosting services for websites and other online services. I have owned and operated YFN for 6 years, and been employed in the web hosting industry for 12 years.

1 2. I am familiar with the range of hosting services we provide to our own clients, and
2 the business and billing practices of the web hosting industry generally – as well as the practices of
3 other competing host companies.

4 3. I have reviewed the declaration of Stevan Lieberman and Defenant FF Magnat
5 Limited’s (“Oron[’s]”) emergency motion for disbursement of funds filed in this case.

6 4. Based on what I have read from Mr. Lieberman’s declaration and the defendant’s
7 June 28 motion, the withdrawal request for funds is unreasonable and seems quite suspect from the
8 perspective of a web hosting service.

9 5. As the owner of a hosting company, I find that more than 71,000 Euro (roughly
10 more than \$75,000) for one month of hosting is, without substantiation, unreasonable.

11 6. To my knowledge, Megaupload – which purported to constitute 4% of all internet
12 traffic before being shut down¹ – hosted 25 petabytes of data, which cost nearly \$9,000 per day,
13 and had approximately one thousand-one hundred (1,100) servers, and their accompanying
14 bandwidth, dedicated to that service’s use.²

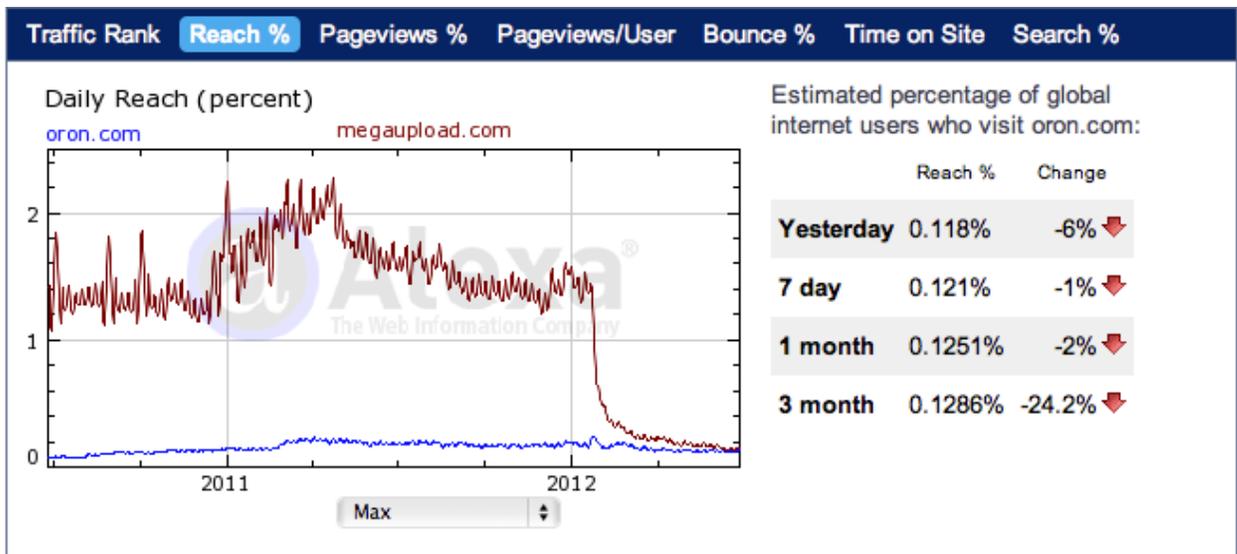
15 7. Based on available information, Oron.com is far smaller than Megaupload.
16 Alexa.com, an internet data service, shows that before its shutdown in early 2012, Megaupload had
17 a dramatically higher percentage of reach across the web – that is, people who visit, access or use
18 the site – than Oron.com, as demonstrated below.

19 8. This difference in reach percentage, which appears to be measurable both
20 exponentially or in orders of magnitude, is illustrated below in a screen capture from Alexa.com
21 that can be recreated by comparing Megaupload.com to Oron.com at
22 <http://www.alex.com/siteinfo/oron.com#> :

23

24 ¹ Benoit Le Corre, Inside the Secretive World of Megaupload, Owni.eu (Dec. 20, 2011),
25 <http://owni.eu/2011/12/20/inside-the-secretive-world-of-megaupload-kim-schmitz-megaworld-the-mega-song/> (last accessed June 28, 2012) (“According to its promotional video, 50 million people
26 come to MegaUpload every day. By itself it makes up 4% of the net”).

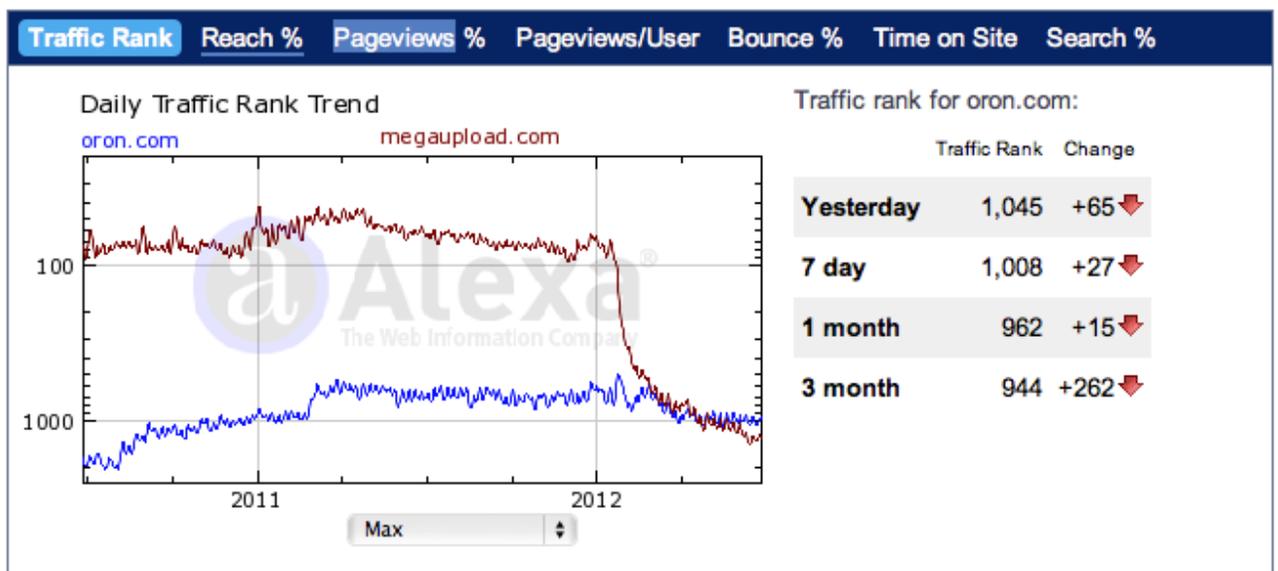
27 ² Timothy B. Lee, *ISP: Storing 25 Petabytes of Megaupload Data Costs Us \$9,000 a Day*, Ars
28 Technica (Mar. 22, 2012), <http://arstechnica.com/tech-policy/2012/03/isp-storing-25-petabytes-of-megaupload-data-costs-us-9000-a-day/> (last accessed June 28, 2012).



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9. Similarly, Oron.com has a traffic ranking that, prior to Megaupload’s shut-down, was lower than Megaupload’s by roughly a power of 10.

10. This is not to say that Oron.com is only 10% the size of Megaupload – in fact, it likely is much smaller than that, as illustrated in the previous graphic. This measure from Alexa shows, however, just how far behind Megaupload was in traffic *ranking* (as opposed to actual *reach*). The following screen capture from Alexa.com that can be recreated by comparing Megaupload.com to Oron.com at <http://www.alexa.com/siteinfo/oron.com#> :



1 11. By all available metrics, Oron.com is obviously much smaller than Megaupload and
2 should have significantly lower hosting expenditures.

3 12. Without seeing Leaseweb's invoice to Oron and knowing the number of servers that
4 are dedicated to Oron's use and the amount of bandwidth they consume, I cannot conclusively state
5 whether the approximately \$75,000 needed to pay Leaseweb is reasonable, but based on the
6 massive size discrepancy between Oron and its largest competitor, I do not believe its hosting costs
7 genuinely run anywhere close to \$75,000 per month.

8 13. Additionally, by reviewing the affidavit of Mr. Lieberman and Oron's Motion, I see
9 that they claim to owe Leaseweb another 277,000 euro (approximately \$280,000) on July 9, 2012.

10 14. In my experience running my own hosting company, and based on the industry
11 practices of the hosting industry, this type of intra-month billing is a highly irregular practice.

12 15. Generally, and in the course of my business, hosting services are billed on a monthly
13 basis, with one bill due at the beginning or end of each month where the customer receives hosting
14 service.

15 16. I have never seen a billing practice where a customer would have to pay one bill at
16 the end of the month, and then another bill for regularly occurring charges only eight (8) days later,
17 prior to these filings.

18 17. I do not engage in this practice in my business and do not personally know anyone
19 who does. To my knowledge, this is not an industry standard practice; instead, it appears to be a
20 premise for some kind of improper activity.

21 18. Based on my knowledge of Leaseweb through the websites I know it to host,
22 including upload.to, filefactory.com imagehyper.com movshare.net and uploadhouse.com, and my
23 knowledge of its reputation in the web hosting industry, I can state with personal knowledge that
24 Leaseweb is regarded as a haven for copyright infringement and other piracy, and used heavily by
25 sites dedicated to the storage and transmission of infringing materials.³

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27 ³ Ernesto, *BREIN Disconnects The Pirate Bay, For Now*, TorrentFreak (Oct. 5, 2009),
28 <http://torrentfreak.com/brein-disconnects-the-pirate-bay-for-now-091005/> (*last accessed* June 28,
2012) (“Since [notorious BitTorrent service] The Pirate Bay found a new home in Ukraine last
(Continued...)”)

1 19. Given the substantial revenue and profits Leaseweb realizes from providing hosting
2 services to piracy sites, it appears to me, based on my experience serving clients in the web hosting
3 business, that Leaseweb is attempting to enter an unorthodox arrangement with Oron in order to let
4 it pre-pay for its services, or *overpay* and receive a cash refund from Leaseweb.

5 20. Given Leaseweb’s statute within the internet piracy community, any refusal or
6 inability to service one of its clients through providing refunds for pre-paid or overpaid accounts
7 would likely be perceived as a sign of weakness and harm its ability to maintain current clients and
8 obtain new hosting contracts for lucrative copyright infringement outfits.

9 21. Again, as Leaseweb has not provided an invoice to the Court for my review, I
10 cannot comment with authority on this issue. I do believe, however, that any invoices Leaseweb
11 receives after having notice of my statements will be unreliable at best, and inauthentic or
12 fraudulent at worst, in an attempt to overstate Oron’s fees in order to provide Oron with a cash
13 rebate – and provide the company with funds – or to receive security for future uninterrupted
14 hosting.

15 22. Finally, non-payment of a monthly invoice at my business will not result in the
16 instantaneous cut-off of hosting services to a customer, nor shall it result in instant data loss.

17 23. In the course of running my business, customers are provided with fifteen (15) days
18 of notice after non-payment that if their hosting balance is not made current, their service will be
19 disconnected. During this warning period, the customer is still provided with hosting service.

20 24. To my knowledge, other hosting companies do not instantly cut off the service of
21 their customers the day an invoice for service is past due, and similarly do not erase customer data
22 immediately after an invoice is past due and not paid in full.

23 25. Similarly, based on my knowledge of the web hosting industry, it is not standard
24 practice for hosting companies to instantly cut off the service of their customers the day an invoice
25

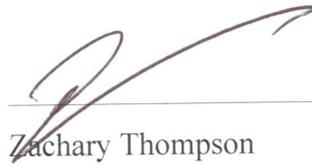
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27 (...Continued)

28 week, traffic to the site has been routed through Netherlands-based ISP NForce, *which uses the services of Dutch carrier Leaseweb*”) (emphasis added).

1 for service is past due, and similarly not common practice to erase customer data immediately after
2 an invoice is past due and not paid in full.

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4 I declare under penalty of perjury that the foregoing is true and correct to the best of my
5 knowledge.

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7 Dated: June 28, 2012 in Reston, Virginia

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12 Zachary Thompson

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