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11 Liberty Media Holdings, LLC

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

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

Case No.: 2:12-cv-01057

**OPPOSITION TO FF MAGNAT LIMITED'S MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

21 Plaintiff Liberty Media Holdings ("Liberty") brought suit against foreign defendants in this  
22 district, under 28 U.S.C. § 1391<sup>1</sup>, which provides that a foreign defendant can be sued in any  
23 judicial district. In symbiosis, Federal Rule of Civil Procedure 4(k)(2) operates as the federal long-  
24 arm statute, and under that Rule, jurisdiction is proper over Defendant FF Magnat Limited d/b/a  
25 Oron.com ("Oron") in the United States. Fed. R. Civ. P. 4(k)(2) permits federal courts to exercise

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27 <sup>1</sup> Initially, Plaintiff cited 28 U.S.C. § 1391(d) which was amended in December 2011. The new  
28 section reads, "a defendant not resident in the United States may be sued in any judicial district."  
28 U.S.C. § 1391(c)(3).

1 personal jurisdiction over a defendant that lacks sufficient contacts with any single state if the  
2 complaint alleges federal claims and the defendant maintains sufficient contacts with the United  
3 States as a whole. See *Getz v. Boeing Co.*, 654 F.3d 852 (9th Cir. 2011). Under the law,  
4 jurisdiction lies within this district, unless Defendants concede to jurisdiction in another state,  
5 which they have declined to do.

6 In this case, Plaintiff's claims arise under federal law, and Defendant has extensive contacts  
7 with the United States (and purposely targets the United States market). In light of the Defendant's  
8 motion and supporting declaration, it is impossible to make the strongest possible arguments that  
9 the Nevada long-arm statute applies without the benefit of jurisdictional discovery. Nevertheless,  
10 jurisdiction is clearly proper under Fed. R. Civ. P. 4(k)(2), and thus, the Court can dispense with  
11 jurisdictional discovery and an analysis of the Nevada long-arm statute as long as the Federal long-  
12 arm Rule applies. It does.

### 13 **I. INTRODUCTION AND FACTUAL BACKGROUND**

14 Defendant Oron is an alien corporation, purporting to operate outside the United States and  
15 outside of the jurisdiction of any Court in the United States of America. However, Defendant has  
16 extensive beneficial business contacts in the United States, and chooses to victimize multiple  
17 American companies by infringing upon their copyrights. One of those companies is Liberty, a  
18 company with its principal place of business in Las Vegas, Nevada.

19 Plaintiff's investigator viewed Defendant's website in Nevada. Plaintiff's investigator  
20 viewed the unlawful redistribution of its works in Nevada. The harm from the Defendants'  
21 unlawful activities is aimed at Plaintiff in Nevada, and the damage from the infringement on the  
22 Oron site is felt in Nevada.<sup>2</sup> While Defendant argues that it operates wholly extraterritorially, this

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24 <sup>2</sup> This district has recently held analogously that, the District of Nevada, "has an interest in  
25 discouraging injuries that occur within its boundaries, including injuries resulting from patent  
26 infringement." *Elan Microelectronics Corp. v. Pixcir Microelectronics Co.*, 2012 U.S. Dist.  
27 LEXIS 19255, 19-20 (D. Nev. Feb. 16, 2012). It is illogical that this would apply to patents and  
28 not copyrights. Plaintiff is a Las Vegas based business, which employs dozens of Las Vegas  
residents, all of whose employment is imperiled by online piracy perpetrated by Defendants. The  
District of Nevada certainly has an interest in discouraging such activity.

1 is demonstrably false. Defendant has set up a corporation outside the United States, and since  
2 receiving notice of this dispute, moved one of its domain names (oron.com) offshore while leaving  
3 others here. Nevertheless, Defendant still maintains significant contacts with the United States,  
4 makes substantial income from United States residents, and causes damage from its unlawful  
5 activities in the United States.

6 Intellectual property piracy operations cannot be allowed to evade liability because pirates  
7 register their companies in another country while selling goods and services to Americans,  
8 contracting with Americans, advertising to Americans, and taking American money, with a  
9 business model built upon infringing the copyrights of American businesses. If they can, then this  
10 Court will create a legal anomaly permitting intellectual property pirates to engage in their  
11 unlawful activities while evading justice simply by smirking at its victims from behind a  
12 transparent film of off-shore shell entities while playing a game of “three card monty” with its  
13 principals to help evade justice. The instant dispute involves a scheme that is specifically designed  
14 to steal from Americans and then to use the stolen wares to make huge profits from Americans. If  
15 a foreign entity wants to steal from us, contract with us, sell goods and services to us, and amass  
16 our dollars, then it must face our courts when it runs afoul of our laws.

## 17 **II. THE COURT HAS JURISDICTION OVER THE DEFENDANT**

18 Defendant devotes most of its motion to arguing that the Nevada long-arm statute does not  
19 apply.<sup>3</sup> Plaintiff acknowledges that Defendant’s declaration<sup>4</sup> shifts the burden for demonstrating  
20 jurisdiction onto Plaintiff’s shoulders. Without the benefit of jurisdictional discovery, Plaintiff  
21 cannot fully and completely refute Defendant’s arguments against the applicability of the Nevada  
22 long-arm statute. Nevertheless, jurisdiction is proper under Fed. R. Civ. P. 4(k)(2). Therefore,  
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24 <sup>3</sup> The Plaintiff has a good-faith belief that the Nevada long-arm statute would apply, but does not  
25 wish to waste party or judicial resources in conducting jurisdictional discovery to prove it, when  
the proper application of Fed. R. Civ. P. 4(k)(2) will achieve the exact same result.

26 <sup>4</sup> That said, the Plaintiff has evidence that suggests that Mr. Davidoglov’s Declaration is highly  
27 unreliable, if not perjurious. See Exhibits 11, 15, 18, 19, 20; see also ECFs 22-10, 25-1, 83.  
28 Despite these documents bearing names listed as owners of FF Magnat Ltd.’s websites and bank  
accounts, none of these documents acknowledge Mr. Davidoglov as having any connection to FF  
Magnat Ltd. whatsoever.

1 rather than belabor this Court with jurisdictional discovery disputes and inevitable motions to  
2 compel and motions for protective orders, Plaintiff concedes that without jurisdictional discovery,  
3 it is unlikely to meet its burden under the Nevada long-arm statute. If the Court wishes to save  
4 time, the Plaintiff concedes that without jurisdictional discovery to indicate to the contrary, the  
5 Nevada long-arm statute should not be the focus of the analysis, and the Court should concentrate  
6 on Fed. R. Civ. P. 4(k)(2). Under the Federal long-arm jurisdiction conferred by Rule 4(k)(2),  
7 jurisdiction is indisputable.

8 **A. A Foreign Defendant is Subject to Suit in any Judicial District**

9 Under 28 U.S.C § 1391(c)(3), “a defendant not resident in the United States may be sued in  
10 any judicial district.” Fed. R. Civ. P. 4(k)(2) provides for federal personal jurisdiction in cases  
11 such as this. Rule 4(k)(2) acts as a “federal long-arm statute.” *United States v. Swiss American*  
12 *Bank, Ltd.*, 191 F.3d 30, 36 (1st Cir. 1999); *Getz*, 654 F.3d 852.

13 The Advisory Committee Notes to Fed. R. Civ. P. 4(k)(2) explain the purpose of the Rule.  
14 This Rule was enacted to:

15 [c]orrect the gap in the enforcement of federal law. Under the former rule, a  
16 problem was presented when the defendant was a non-resident of the United  
17 States sufficient to justify the application of United States law and to satisfy  
18 federal standards of forum selection, but having insufficient contact with any  
19 single state to support jurisdiction under state long-arm legislation or meet  
20 the requirements of the Fourteenth Amendment limitation on state court  
21 territorial jurisdiction. In such cases, the defendant was shielded from the  
enforcement of federal law by the fortuity of a favorable limitation on the  
power of state courts, which was incorporated into the federal practice by the  
former rule.

22 Specifically, Rule 4(k)(2) permits a court to exercise personal jurisdiction over a defendant  
23 if: (1) the plaintiff’s claim arises under federal law; (2) the defendant is not subject to  
24 jurisdiction in any state’s courts of general jurisdiction; and (3) the exercise of jurisdiction  
25 comports with due process. See *Synthes (U.S.A.) v. G.M. Does Reis Jr.*, 563 F.3d 1285,  
26 1293-94 (9th Cir. 2009); see also *World Tankers Corp. v. M/V Ya Mawlaya*, 99 F.3d 717,  
27 720 (5th Cir. 1996).

**B. Rule 4(k)(2) Applies to This Case**

As the United States Court of Appeals for the Fifth Circuit has explained:

Rule 4(k)(2) thus sanctions personal jurisdiction over foreign defendants for claims arising under *federal law* when the defendant has sufficient contacts with the nation as a whole to justify the imposition of United States law but without sufficient contacts to satisfy the due process concerns of the long-arm statute of any particular state.

*World Tanker Carriers Corp. v. MV & YA Mawlaya*, 99 F.3d 717, 720 (5th Cir. 1996). The Ninth Circuit is in agreement. *Getz*, 654 F.3d at 858-859.

In *Elan Microelectronics Corp. v. Pixcir Microelectronics Co.*, 2011 U.S. Dist. LEXIS 36640 (D. Nev. Apr. 4, 2011), this court dealt with this very issue.

[P]ursuant to FRCP 4(k)(2), this Court may also exercise jurisdiction where a claim arises under federal law, the defendant does not have minimum contacts with any one state to support jurisdiction, but where its contacts with United States as a whole are sufficient to meet the due process requirements. *Synthes*, 563 F.3d at 1293-94.

*Elan Microelectronics I*, 2011 U.S. Dist. LEXIS 36640 at \*3 (citing *Synthes (U.S.A.) v. GM Dos Ries Jr. Ind. Com. De Equip. Medico*, 563 F.3d 1285, 1293-94 (Fed. Cir. 2009)).

“Rule 4(k)(2), ... establishes jurisdiction over a defendant when process has been served and three requirements are met: ‘(1) the plaintiff’s claim arises under federal law, (2) the defendant is not subject to jurisdiction in any state’s courts of general jurisdiction, and (3) the exercise of jurisdiction comports with due process.’”

*Elan Microelectronics Corp. v. Pixcir Microelectronics Co.*, 2012 U.S. Dist. LEXIS 19255 at\*6 (D Nev. Feb. 16, 2012) (citing *Synthes*, 563 F.3d at 1294). Rule 4(k)(2) applies in this case.<sup>5</sup>

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<sup>5</sup> The Defendant makes a strange argument that since the *Holland America Line* case the Ninth Circuit had “never applied 4(k)(2)” that somehow means that five years later Courts should still not apply it. It is not as if the court in that case declared the statute unconstitutional. Further, it is predictable that 4(k)(2) will come into greater and greater use as international commerce grows.

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**i. Plaintiff’s Claims Arise Under Federal Law**

The analysis under the first prong is simple: This case is a copyright infringement case, thus it arises under federal law. Copyright is governed by title 17 of the U.S. Code, and federal courts have exclusive jurisdiction over copyright cases. 28 U.S.C. §1338(a).

**ii. FF Magnat Ltd. is Beyond the Reach of Any State Court of General Jurisdiction**

The second prong is less simple. While Plaintiff does not concede that there are no facts that will show that Defendant is beyond the reach of the Nevada long-arm statute, Plaintiff concedes that it may need jurisdictional discovery to do so. In order to facilitate the 4(k)(2) analysis, Plaintiff is prepared to concede the inapplicability of the Nevada long-arm statute prior to conducting jurisdictional discovery. Whether the Nevada long-arm statute applies or 4(k)(2) applies, the result will be the same – this Court must assert jurisdiction over Defendant; therefore, Plaintiff will narrow the issues by concentrating on Rule 4(k)(2), which requires no jurisdictional discovery.

Had the Defendant acknowledged Rule 4(k)(2)’s applicability, it may have presented arguments relevant to whether jurisdiction is proper in another state. Under Fed. R. Civ. P. 4(k)(2), a foreign defendant has the privilege of conceding jurisdiction in an alternate state and then the plaintiff bears the burden of supporting its chosen forum. Had the Defendant conceded that jurisdiction would be proper in Utah, Florida, or Rhode Island, the Plaintiff would have borne a burden to refute this position that could likely only be overcome after jurisdictional discovery (provided the alternate forum was not a clear farce). Since the Defendant declined to do so, Defendant waived its ability to concede jurisdiction in another state and not go “all in.” Since Defendant chose the “all in” approach by arguing that no U.S. Court may claim jurisdiction over it,

1 Plaintiff's choice of forum prevails unless Defendant can carry the burden of demonstrating that  
2 jurisdiction in the United States would be inappropriate under Rule 4(k)(2).<sup>6</sup>

3 Plaintiff is not privy to information that would satisfy it (much less the Court) that any other  
4 alternate state could properly exercise jurisdiction over the Defendant.<sup>7</sup> However, Plaintiff does  
5 not bear that burden under Rule 4(k)(2). If the defendant challenges jurisdiction in the forum state  
6 and declines to identify any other where suit is possible, then the federal court asserts jurisdiction  
7 under Rule 4(k)(2). *ISI Int'l, Inc. v. Borden Ladner Gervais LLP*, 256 F.3d 548, 552 (7th Cir.  
8 2001) (“[A] piecemeal analysis of the existence *vel non* of jurisdiction in all fifty states is not  
9 necessary. Rather, so long as a defendant does not concede to jurisdiction in another state, a court  
10 may use 4(k)(2) to confer jurisdiction.”); see also *Silver Ring Splint Co. v. Digispint, Inc.*, 2007  
11 U.S. Dist. LEXIS 25522 (W.D. Va. Apr. 5, 2007) (“Defendant knows very well what activities it  
12 has conducted in the other 49 states, and deliberate coyness as to these activities is not a  
13 justification for denying jurisdiction here. Accordingly, the burden is more properly placed on  
14 Defendant to come forward with evidence that another forum would be correct.”); *Steven Henry*  
15 *Adams v. Unione Mediterranea Di Sicurta*, 364 F.3d 646, 651 (5th Cir. 2004).

16 Defendant declined to so much as suggest an alternate forum, let alone come forward with  
17 evidence that another one of the 49 other states is more appropriate. Therefore, the second prong  
18 of Rule 4(k)(2) is satisfied. Given that the portions of Rule 4(k)(2) which act analogously to a  
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20 <sup>6</sup> This is unfortunate, as the case has been settled, yet reams of paper must be wasted in litigating  
21 moot issues. ECF 32. See *Callie v. Near*, 829 F.2d 888, 890 (9th Cir. 1987) (The court has  
22 inherent authority under federal law to enforce a settlement agreement in an action pending before  
23 it.); *TNT Marketing, Inc. v. Agresti*, 796 F.2d 276, 278 (9th Cir. 1986). See also *Marks-Foreman v.*  
24 *Reporter Pub. Co.*, 12 F.Supp.2d 1089, 1092 (S.D. Cal. 1998); *Harrop v. Western Airlines, Inc.*,  
25 550 F.2d 1143, 1144-45 (9th Cir. 1977) (Both parties or their authorized attorneys must agree to  
26 the terms of the settlement.)

27 <sup>7</sup> In fact, if the Plaintiff had such information, it would have filed suit there, but Defendant's  
28 contacts with the United States seem to be scattered across the United States, from Utah,  
California, Florida, Virginia, Pennsylvania, and a myriad of other contacts. Meanwhile, the focus  
of the harm was here in Nevada. In fact, the Plaintiff initially considered filing in Pennsylvania,  
since that was the address listed on Oron's public WhoIs information. ECF 1-1. But, before the  
Plaintiff could file, (while parties were negotiating a pre-suit settlement), the Defendant quickly  
moved the domain to Luxembourg in a transparent attempt to avoid jurisdiction in Pennsylvania.

1 long-arm statute are resolved in favor of this Court asserting jurisdiction, we must simply turn to  
 2 the question of whether it would offend due process to say that jurisdiction in the United States is  
 3 improper. Even if due process is feeling particularly sensitive today it would fee no offense at this  
 4 Court asserting jurisdiction.

5 Defendant claims to have insufficient contacts with Nevada, meanwhile spreading out its  
 6 United States contacts over multiple states, leaving no single state as a clear nexus of American  
 7 activity. The following table shows the United States contacts discovered by the Plaintiff to date:

8 **Table A**

	<b>Connection to U.S.</b>	<b>District</b>	<b>ECF/Exhibit</b>	
9	1	Payment Processor AMSVisa	Nevada	Exhibit 1
10	2	Damages Felt by Plaintiff	Nevada	ECF 1
11	3	Website Registration and Publicly Listed Contact Address	M.D. Pa.	ECF 1-1
12	4	Domain Name Registration Company	E.D. Virginia	ECF 1-2
13	5	Registration for GoOron.com	M.D. Pa.	ECF 17-7
14	6	GoOron.com Terms of Service Jurisdiction Selection Clause	N.D. Cal.	Exhibit 2
15	7	PornBB.org Registration through Moniker	S.D. Fla.	ECF 66-9
16	8	Payment Processor CC Bill	Arizona	ECF 1-3
17	9	Payment Processor PayPal	N.D. Cal., Nebraska	ECF 1-4, 1-5, 22-10
18	10	Payment Processor SegPay	S.D. Fla.	Exhibit 3
19	11	Payment Processor Rixty	N.D. Cal.	Exhibit 4
20	12	Payment Processor Coinstar	W.D. Wash.	Exhibit 5
21	13	Payment Processor PaymentWall	N.D. Cal.	Exhibit 6
22	14	Oron Premium Blog Registered with Utah Company and Lists Utah Address in WhoIs	Utah	Exhibit 7
23	15	Oron Premium Blog has Servers in San Francisco	N.D. Cal.	Exhibit 8
24	16	Oron uses Google Mail to run its operations.	N.D. Cal.	ECF 83
25	17	Oron agents use Skype, a Microsoft-owned service, to communicate with Oron affiliates.	W.D. Wash.	ECF 83
26	18	Oron Makes Payments to Affiliates in USD	Nationwide	Exhibit 9
27	19	Website Lists USD for Payments	Nationwide	Exhibit 10
28	20	Bank Account Application Lists "USA" as primary market and income in USD	Nationwide	Exhibit 11
	21	Contracted with American Resellers	Nationwide	ECF 17-6



	<b>Connection to U.S.</b>	<b>District</b>	<b>ECF/Exhibit</b>
22	More than 430,000 U.S. Visitors Transacted with Oron in June 2012; More than 3.5 million in 2012; More than 6.8 million from June 2011 – June 2012	Nationwide	Exhibit 12
23	13.4 % of Traffic is U.S.-based (most from any single country)	Nationwide	Exhibit 13
24	Oron.com is in U.S. English	Nationwide	ECFs 1-6, 1-8, 1-10, 17-5, 17-6, 71-2, 71-3, 71-4

With ties to multiple states across the country and multiple ties to the nation as a whole that are not state specific, where should Defendant answer for its actions if not in the jurisdiction the victim calls home? See *Righthaven LLC v. South Coast Partners, Inc.*, 2011 U.S. Dist. LEXIS 12802,\*4 (D. Nev. Feb. 5, 2011) (Willful infringement of a forum state resident’s copyrights is sufficient to satisfy the *Calder* effects test); *Righthaven, LLC v. Va. Citizens Def. League, Inc.*, 2011 U.S. Dist. LEXIS 67659, \*9-10 (D. Nev. June 23, 2011) (same). Where else but where the vast majority of the harm was felt and where the greatest concentration of witnesses and evidence will be found?

In contrast, Defendant presented us with a constellation of data points across the globe as to where bits and pieces of its business are located. While Table A shows the numerous and pervasive contacts that Defendant has with the United States, the evidence Defendant submitted shows tiny points of contact with various countries. This evidence is presented below in Table B:

**Table B**

	<b>Connection to Foreign Country</b>	<b>Country</b>	<b>ECF / Exhibit</b>
1	Fedor Goncherov, who acts for Oron and is believed to be the true owner, is based in Germany	Germany	ECF 66-10
2	Putative Owner is Resident of Moldova, but has Executed Declarations both in Moldova and the Ukraine	Moldova	ECFs 71-1, 73-1; Exhibit 21.
3	Incorporation as Hong Kong Limited Company	China, Hong Kong S.A.R.	Exhibit 20
4	Hosting provided by Leaseweb, B.V.	Netherlands	ECF 25-1
5	Registration of Domain Names provided by EuroDNS	Luxembourg	Exhibit 14
6	New corporate “owner” of Oron	United Kingdom	Exhibit 15

As seen in Table B, Defendant’s operation seem to be run by a collection of individuals across the globe, using a shell corporation in Hong Kong that contracts for Oron’s operations with

1 Dutch hosting, and Luxembourg domain name registration providers, for a Russian living in  
2 Germany, or a Moldovan who seems to move from country to country with some degree of  
3 regularity. Simultaneously, Defendant's payment processing, and ostensibly the majority of its  
4 economic activity, occurs within and is solicited from the United States. Compared to Defendant's  
5 disjointed and shadow-cloaked offshore operations, the Defendant has a consistent, systemic, and  
6 deliberate economic relationship with the United States. As such, jurisdiction is proper before this  
7 Court.

8 **iii. Jurisdiction in the United States Would Not Offend Due Process**  
9 **Because Defendant Oron Has Extensive Contacts with the United States**

10 It is important that the Court recognize the breadth of the due process analysis. Under Rule  
11 4(k)(2), the Court does not ask whether due process would be offended if jurisdiction were asserted  
12 in the state, but rather whether due process tolerates the suit in the United States as a whole.  
13 "Under Rule 4(k)(2), the constitutional requirements are the same as with any other personal  
14 jurisdiction inquiry, i.e., relatedness, purposeful availment, and reasonableness. They are simply  
15 applied as to the United States as a whole, rather than a particular state." *ISI Int'l*, 256 F.3d at 552.

16 The defendant's national contacts take center stage because the rule applies  
17 only to situations in which federal courts draw jurisdictional authority from  
18 the federal sovereign (unreinforced by 'borrowed' state statutes), and, thus,  
19 the applicable constitutional requirements devolve from the Fifth rather than  
the Fourteenth Amendment.

20 *World Tanker Carriers Corp.*, 99 F.3d at 720.

21 Let us not forget that Defendants are alleged to have committed an intentional tort, namely  
22 copyright infringement. ECF 1 ¶ 1. They did so by infringing upon copyrights owned by Plaintiff,  
23 which they had to know were created by an American entity. ECF 71-7. As this very Court held:  
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25 Ultimately, unless and until the Ninth Circuit overrules *Columbia Pictures*,  
26 this court remains bound by its express holding that where the defendant  
27 "willfully infringed copyrights owned by [the plaintiff], which, as [the  
28 defendant] knew, had its principal place of business in the [forum]," "[t]his  
fact alone is sufficient to satisfy' the Calder effects test."

1 *South Coast Partners, Inc.*, 2011 U.S. Dist. LEXIS 12802 at \*4 (citations omitted). See also *Va.*  
2 *Citizens Def. League, Inc.*, 2011 U.S. Dist. LEXIS 67659 at \* 9-10 (“This Court agrees with a  
3 recent district court case which stated that ‘unless and until the Ninth Circuit overrules Columbia  
4 Pictures, this court remains bound by its express holding.’”) (citing *South Coast Partners*). By this  
5 reasoning alone, the Court should rule that jurisdiction is proper.<sup>8</sup> Defendant certainly knew it was  
6 infringing upon American copyrights. If it denies this, then this would be a proper subject for  
7 jurisdictional discovery. However, the only way that Oron could have been blind to this would be  
8 if it was willfully so. However, even in the absence of this clear rule, Defendant would still be  
9 subject to jurisdiction in the United States under Rule 4(k)(2).

10 Defendant Oron has such pervasive and systematic economic ties to the United States there  
11 is no doubt that it is subject to jurisdiction here. See Table A, *compare* Table B. Given  
12 Defendant’s extensive contacts with the United States, it cannot seriously argue that it lacks  
13 minimum contacts with the forum **nation**, or that it could not reasonably anticipate being haled into  
14 court in the United States. Defendant Oron engages in so much commerce with the United States  
15 that Due Process would not be so much as mildly chafed, let alone offended, by the exercise of  
16 jurisdiction over Oron.

17 More than 430,000 unique American Internet users did business with Oron in June of 2012  
18 alone; more than 3.5 million American Internet users did so in the first half of 2012; and in the last  
19 year, Oron has transacted with more than 6.8 million American Internet users. **Exhibit 12.** A full  
20 13.4% of Oron.com’s traffic comes from the United States. **Exhibit 13.** Defendant claims that  
21 “only” 13.4% of its customers are from the United States, but the United States represents (by far)  
22 its largest market.<sup>9</sup> *Id.* Defendant makes the misleading assertion that its markets in Russia,  
23 Europe, Asia, and Hong Kong make up a larger share of Oron’s traffic. However, Russia is  
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25 <sup>8</sup> The Defendant was certainly aware of the Plaintiff. See ECF 83-53. The degree of that  
26 knowledge is unsure without jurisdictional discovery. However, the Court should be able to assent  
27 to jurisdiction without it.

28 <sup>9</sup> By comparison, its second largest markets are India and Germany with 6.8%. Accordingly, its  
next two markets combined are about equal to its American market. The Russian Federation, Japan  
and Brazil follow with 5.2%, 4.9%, and 4.4%, respectively. **Exhibit 13.**

1 number four in its traffic list. *Id.* Hong Kong is not even in the top six. *Id.* Furthermore, Oron  
2 previously represented to their Hong Kong Bank that the United States was one of its primary  
3 markets. **Exhibit 11.** More than four hundred thousand Americans **per month** engage in  
4 interactive transactions with the Oron.com website, a number of which are known only to Oron –  
5 but obviously a significant one, based on the sheer quantity of Oron assets impounded by the  
6 injunctions issued by this Court and its Hong Kong counterpart – resulting in a payment from  
7 United States-based users to the Defendant. **Exhibit 12.** What is more likely – that it was lying  
8 then, or that it is lying now? Oron cannot seriously contend that it can serve more than four  
9 hundred thousand Americans per month (more than 6.8 million per year) and collect millions of  
10 U.S. dollars, yet it would offend Due Process for it to be compelled to answer for its unlawful  
11 actions in the United States. **Exhibits 1, 15.**

12 While the number of *Nevada* visitors to the site is irrelevant to the Rule 4(k)(2) analysis, the  
13 Plaintiff is confident that a significant number of Oron.com’s visitors are Nevadans. This can only  
14 be truly determined through discovery but, statistically speaking, it is more likely than not that  
15 nearly 60,000 Nevadans enter into transactions with Oron.com every year<sup>10</sup>. Meanwhile, all of the  
16 infringements claimed in the Complaint were viewed and documented from Liberty’s Las Vegas,  
17 Nevada offices. Therefore, even the Nevada long-arm statute would seem to be satisfied by such a  
18 number – especially so in light of the Court’s rulings in *South Coast Partners* and *Va. Citizens Def.*  
19 *League*.

20 To add to the weight of Plaintiff’s position, these numbers only apply to one of Defendant  
21 Oron’s websites. While Plaintiff does not know how many websites FF Magnat Limited owns,  
22 Plaintiff is aware of four additional websites currently operated by the company and/or its  
23 affiliates: pornbb.org, forumophilia.com, oron-premium.com, and gooron.com. ECF 17-7, ECF  
24 66-9, ECF 66-11. Pornbb.org and forumophilia.com received 378,039 unique American visitors in

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26 <sup>10</sup> Nevada’s population of 2,733,322 is .88% of the United States population of 311,591,917. If we  
27 assume that each state in the United States is represented in the Oron traffic proportionally to their  
28 population, 59,840 Nevada residents visit and enter into transactions with the Oron website every  
year.

1 the month of June 2012.<sup>11</sup> **Exhibit 16.** Accordingly, Defendant engaged more than eight hundred  
2 thousand Americans in the month of June 2012 alone. The United States of America  
3 unquestionably represents the Defendants' largest and most important market.

4 In addition, Defendant Oron regularly engages in contracts and other business transactions  
5 with Americans. The Oron domain name was registered with full knowledge that the domain name  
6 registrar was an American company (ECF 1-2, showing Network Solutions in Virginia); the  
7 Oron.com WhoIs information listed an address in Pennsylvania (ECF 1-1); the largest number of  
8 Oron's customers are from the United States (**Exhibit 13**); Oron used and continues to use various  
9 American companies as payment processors (**Exhibit 1**, an application from FF Magnat Limited  
10 for payment processing with a Las Vegas company; ECF 1-3, **Exhibit 15**, showing Oron utilized  
11 CCBill, an Arizona company; ECF 1-4, 1-5, 22-10, showing Oron utilized PayPal, a company with  
12 Nebraska headquarters; **Exhibit 3**, showing Oron utilized SegPay, a Florida company; **Exhibits 4-**  
13 **5**, showing Oron utilized Rixty and Coinstar, companies located in California and Washington,  
14 respectively; **Exhibit 6**, Oron used San Francisco company Paymentwall); and its terms and  
15 conditions are entirely in English, and American English at that (ECF 1-10).

16 The website's signup form for premium accounts clearly and unequivocally targets United  
17 States residents. It has drop down menus for users that list the United States as the top option and  
18 provides a space to fill in U.S. zip codes. **Exhibit 17.** While Oron's Terms of Service claim to  
19 disallow pornography and "warez," Oron has a reputation of being a "porn" file host and has  
20 sought out webmasters on message boards that frequently trade tips on the distribution of "warez."  
21 **Exhibits 25-26.**

22 Defendant's claimed location in Hong Kong is nothing more than a ruse created for the  
23 purpose of evading authority. This entity that owns several pornographic message boards, and  
24 profits from unlawfully redistributing pornography online expects this Court to believe that it chose

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25  
26 <sup>11</sup> The statistics for GoOron.com, which is apparently FF Magnat's "backup plan" in case  
27 Oron.com is shut down, are unknown. The website Oron-Premium.com is a blog regarding the  
28 benefits of premium accounts at Oron and does not have significant enough traffic for it to be  
monitored. The Oron-Premium blog does, however, provide valuable information, such as how to  
use other websites to search for files on Oron. **Exhibit 27.**

1 to locate in a nation where pornography is legally prohibited?<sup>12</sup> Given this fact, it is uncertain  
2 whether Plaintiff would have the ability to advocate the merits of its claim in a Hong Kong court.  
3 There is no evidence that anyone related to Defendant's website has ever resided in, or even  
4 visited, Hong Kong. Defendant has not even shown that it has a single member in Hong Kong, an  
5 office there, employees there, or anything else except a registered agent and a bank account.  
6 Davidoglov and the entity FF Magnat Limited assert that they did *not* do lots of things in Nevada or  
7 the United States, (have employees, own real estate, and pay taxes); it is quite certain they did few,  
8 if any, of those things in Hong Kong.<sup>13</sup> In fact it seems that all that the Defendant did in Hong  
9 Kong was sweep United States funds into an account there, and then periodically convert those  
10 funds into gold which we can only presume is not stored in Hong Kong, and which it is certain will  
11 prove quite difficult to find once a judgment is entered against the Defendant. **Exhibit 18** at 5-6;  
12 **Exhibit 19.**

13 Defendant knows of the value of Plaintiff's copyrighted works. The Defendant also knows,  
14 as evinced by its sale of unlimited downloads and substantial frozen assets, that it can make serious  
15 profits by selling services that are completely derived from copyright infringement. Defendant's  
16 infringement of Liberty's copyrights is aimed at Plaintiff, who is located in the United States, thus  
17 independently justifying the exercise of jurisdiction. *South Coast Partners*, 2011 U.S. Dist. LEXIS  
18 \_\_\_\_\_

19 <sup>12</sup> Hong Kong Control of Obscene and Indecent Articles Ordinance (CPA 390), available at  
20 <http://www.hklii.hk/eng/hk/legis/ord/390/index.html>.

21 <sup>13</sup> Despite Mr. Davidoglov's Declarations filed with this Court, Plaintiff has found no evidence that  
22 the Oron.com website or FF Magnat Limited are actually owned by Stanislav Davidoglov. The  
23 paperwork for FF Magnat Limited's Hong Kong incorporation papers references "Goncharov  
24 Fedor," "Yew Kim Priscilla," and "Tam Lai Sheung," but never Stanislav Davidoglov in any  
25 iteration. **Exhibit 20.** The FF Magnat PayPal account is in the name "Goncharov Fedor," not  
26 Stanislav Davidoglov. ECF 22-10. Defendant's HSBC account is in the name of "Goncharov  
27 Fedor," not Stanislav Davidoglov. **Exhibit 11.** The Oron domain name registration was in the  
28 name of "Goncharov Fedor," not Stanislav Davidoglov. ECF 66-10. Even the letter from  
Leaseweb, filed by the Defendant, lists "G. Maksim" as the account owner, not Stanislav  
Davidoglov. ECF 25-1. Furthermore, Defendant claims that Davidoglov is located in Moldova,  
but in the Hong Kong action, he indicates residency in the Ukraine. ECF 73-1, **Exhibit 21.** Should  
this case proceed to discovery, Mr. Davidoglov's identity will be an interesting topic of discussion,  
as will be his explanation as to where he has been during every step of the company's operation,  
and how he has only now come to the forefront, when FF Magnat needed a fall guy.

1 12802 at \*4; *Va. Citizens Def. League*, 2011 U.S. Dist. LEXIS 67659 at \*9-10. For the same  
2 reason, the infringement is aimed at harming Plaintiff in its business, and Defendant knew that  
3 Plaintiff and most of its other victims are American companies and was aware that its infringing  
4 activities would cause Americans to suffer harm. Even if Defendant did not know the Plaintiff was  
5 a Nevada company, Defendant knew that it was infringing on *somebody's* content and that content  
6 obviously came from the United States. See *South Coast Partners*, 2011 U.S. Dist. LEXIS 12802  
7 at \*4; *Va. Citizens Def. League*, 2011 U.S. Dist. LEXIS 67659 at \*9-10.

8 Defendant is targeting, engaging, and profiting from American residents with its websites.  
9 If Defendant can sense that surfers are coming from the United States, then the Defendant could  
10 have chosen to simply “geo block” Americans and/or Nevadans, or to decline United States  
11 memberships. As Defendant elected to block specific individuals from accessing the Oron.com site  
12 because they sent take-down notices under the Digital Millennium Copyright Act attempting to  
13 remove their copyrighted content from the website, it surely had the capacity to cut off the United  
14 States from accessing and transacting business with its site. **Exhibit 23**. Instead, Defendant chose  
15 to specifically target the wallets of Nevadans and Americans alike.

16 For a party claiming that it should be immune from suit in the United States, Oron seemed  
17 to eschew doing business with foreign companies in favor of U.S.-based companies (until this  
18 dispute erupted, when it began flushing everything it could offshore). Interestingly, when  
19 Defendant registered for its bank account in Hong Kong, it listed “USA” as one of the countries  
20 “Where Major Business Carried Out.” **Exhibit 11**. It listed currency references in “US\$,” listed  
21 “USA” as one of three countries under “Sales Location(s),” and listed “USA” as one of three  
22 countries providing the “Source of Funds.” **Exhibit 11**. Now that it serves its present purpose – to  
23 disingenuously claim that it could not foresee litigation in the United States – FF Magnat Ltd.’s  
24 “owner” seems to have forgotten all about the United States. In the Hong Kong action, Defendant  
25 claimed that it moved the Oron.com website to the European registrar after this suit was filed  
26 because of “customer service concerns.” However, FF Magnat seems to have had no such  
27 “customer service” issues with its other business. GoOron.com is still registered with its United  
28 States registrar. **Exhibit 22**. Defendant not only does significant business in the United States, but

1 seems to prefer the benefits of doing business here and actively solicits and caters to American  
2 customers. It is clear that Oron actively participates in the United States market, and only now, to  
3 try to evade jurisdiction, does it attempt to minimize its contact with United States residents and  
4 claim to operate wholly outside the United States.

5 **C. The Court’s Exercise of Jurisdiction Over Oron Is Reasonable**

6 Defendant lists the factors enumerated by the Ninth Circuit in *Amoco*, which are to be  
7 balanced to determine the reasonableness of exercise of personal jurisdiction over a particular  
8 defendant. ECF 73 at 9; *Amoco Egypt Oil Co. v. Leonis Navigation Co., Inc.*, 1 F.3d 848, 851 (9th  
9 Cir. 1993). Liberty agrees that this standard is appropriate for determining personal jurisdiction  
10 over a defendant in the State of Nevada, but Defendants in this case are subject to being haled into  
11 Court here under other jurisdictional grounds – namely, Fed. R. Civ. P. 4(k)(2), rather than the  
12 state’s long-arm statute. However, even if this question were analyzed under Nevada’s long-arm  
13 statute, the answer would be identical, as it “reaches the limits of due process set by the United  
14 States Constitution.” NRS 14.065; *Elan Microelectronics*, 2012 U.S. Dist. LEXIS 19255, 19-20,  
15 *citing* *Baker v. Eighth Judicial Dist. Court*, 116 Nev. 527, 999 P.2d 1020, 1023 (Nev. 2000).  
16 Nevertheless, and contrary to Defendant’s assertions, Plaintiff believes these factors weigh in their  
17 favor.

18 **i. The Extent of Purposeful Interjection**

19 None of Defendant’s above-described contacts with the United States are merely fortuitous.  
20 Defendants expressly aimed at this market, and darn well hit their target – over eight hundred  
21 thousand times per month. Defendant successfully cultivated its economic relationships with the  
22 United States. First and foremost, Defendant’s infringement was felt in, and aimed at, the United  
23 States. *Bancroft & Masters, Inc. v. Augusta National, Inc.*, 223 F.3d 1082, 1087 (9th Cir. 2000)  
24 (finding that express aiming of infringement occurs “the defendant is alleged to have engaged in  
25 wrongful conduct targeted at a plaintiff whom the defendant knows to be a resident of the forum  
26 state”); *Design Tex Group, Inc. v. United States Vinyl Manufacturing Corp.*, No. 04-5002, 2005  
27 *WL 357125* at \*1 (S.D.N.Y. Feb. 14, 2005) (“[B]ecause the plaintiffs (and their intellectual  
28 property) are based in New York, the injury is felt within the state no matter where the



1 infringement takes place”). Additionally, the Oron website itself is highly interactive, and none of  
2 its contacts with the United States are mere happenstance.

3 Under *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, Oron is at the most interactive end of the  
4 website spectrum. 952 F. Supp. 1119 (W.D. Pa 1997). In fact, any claim that Oron.com is not  
5 interactive would be unsupportable. By Defendant’s own admission, Oron “offers its users the  
6 ability to *upload and store large amounts of data* on remote and secure servers. Oron assigns a  
7 unique URL web address to the user’s data for access purposes. [... T]he *user has complete control*  
8 *over his or her documents and files* and makes the decision whether to share those documents and  
9 files with others.” (ECF 15 at 5:3-7) (emphasis added) Under *Zippo* and its progeny, this is an  
10 interactive service that not only allows, but invites, its users to upload data to its servers, and then  
11 provides these users with the tools to share the uploaded files with others. 952 F. Supp. 1119. This  
12 is no passive service, but instead a highly interactive one that invites interactions of both data and  
13 money with visitors within the United States.

14 Defendant claims that the unreasonableness of jurisdiction over it is so heightened that  
15 purposeful availment of the forum does not overcome and outweigh any “unreasonableness.” As  
16 shown *supra*, Defendant claims that it lacks ties sufficient to bind it to a court of general  
17 jurisdiction within any single state within the United States. However, Defendant’s pervasive ties  
18 with the United States for its financial and business gain are more than sufficient to subject it to  
19 jurisdiction in general in the United States. *See* Table A, *supra*. Accordingly, Defendant has  
20 interjected itself and its business into the United States to a degree that more than justifies this  
21 Court’s exercise of personal jurisdiction over it.

22 **ii. The Burden on the Defendant to Defend the Suit in the Chosen Forum,**  
23 **if Any, Does Not Weigh Against This Court’s Exercise of Jurisdiction.**

24 Defendant claims that it would be too burdensome for it to defend itself in a Nevada court,  
25 and cites to a case that asserts that it is unfair to hale a foreign entity into a United States court.  
26 However, Defendant is clearly capable of ably defending itself in Nevada, as it has already shown  
27 by its many court filings and numerous attorneys scattered throughout the United States – locally,  
28 from San Francisco, and from the District of Columbia.

1           There is, in fact, no other less burdensome jurisdiction where this action may be brought;  
2 any alleviation of Defendant's burden is immediately transferred onto Plaintiff. Plaintiff's rights in  
3 the copyrighted work may have little application, if any, beyond the borders of the United States.  
4 As seen in Table B, the disjointed and global nature of Defendant's operation make it unclear  
5 where, if anywhere, Defendant could effectually be sued. While its putative owner claims to be in  
6 Moldova, the corporation itself is organized in Hong Kong – though all of its business activities  
7 predominantly occur on Netherlands-based servers, through domain names registered through yet  
8 another European company, and its apparent real owners are Russians living in Germany. Rather  
9 than play “Where's Waldo?” a hemisphere away, it is in the interests of the Plaintiff and Defendant  
10 to litigate this case in this District, where attorneys have already been retained and admitted to  
11 practice before the Court, and in the country where the vast majority of the evidence lies. Based on  
12 the contacts seen in Table A, it is no burden for Defendant to conduct significant business with the  
13 United States, benefitting from its economic bounty and financial services. As Defendant can  
14 clearly retain the services of several United States law firms, it is not burdened by litigating in the  
15 courts of the country primarily responsible for its Internet traffic and, by all appearances, economic  
16 activity.

17                           **iii.     The Extent of Conflict with the Sovereignty of the Defendant's State**

18           Defendant notes that proceedings are ongoing in Hong Kong related to this case, but fails to  
19 note that the Hong Kong proceedings are not a full-blown lawsuit: They are simply a Mareva  
20 injunction in order to help solidify Plaintiff's ability to prevent dissipation of assets. Oron's  
21 account information, as filed in the Hong Kong action (and attached as **Exhibit 19**) shows that it  
22 regularly moves money from the United States to Hong Kong and then utilizes that money to  
23 purchase gold. *Id.* Since November 30, 2011, Defendant Oron has, according to its own bank  
24 statements, purchased 21,926,536.47 HKD (nearly three million in United States dollars) worth of  
25 gold. *Id.* The court in Hong Kong noted:

26                           [T]here is a bank statement which shows a company which is rapidly moving its  
27 money out of the United States and into another jurisdiction where it invests in  
28 gold. If that's not a *prima facie* case of dissipation, I'm not sure what is.

1 **Exhibit 18** at 2:A-C.

2           Furthermore, just as was allowed here, the Hong Kong court gave Oron leave to request the  
3 disbursement of funds for legitimate business expenses. While both the Hong Kong court and this  
4 Court disbursed some funds to Defendant, see ECF 19: see also **Exhibit 18** at 6:E-F, both the Hong  
5 Kong court and this Court have found that Defendant sought funds without truly justifying the  
6 amounts requested.

7                           **iv. The Forum State’s Interest in the Dispute**

8           As Defendant concedes, and as this Court has previously held, this factor weighs in favor of  
9 Plaintiff. See *Righthaven LLC v. South Coast Partners, Inc.*, 2011 U.S. Dist. LEXIS 12802, \*4 (D.  
10 Nev. Feb. 5, 2011) (“[T]his court remains bound by its express holding that where the defendant  
11 ‘willfully infringed copyrights owned by [the plaintiff], which, as [the defendant] knew, had its  
12 principal place of business in the [forum],’ ‘[t]his fact alone is sufficient to satisfy’ the Calder  
13 effects test.”); *Va. Citizens Def. League, Inc.*, 2011 U.S. Dist. LEXIS 67659, \*9-10 (same).

14           Liberty conducts its business and distributes its content over the Internet from this District.  
15 Liberty employs dozens of Nevadans and supports their families. If its goods are stolen, then harm  
16 is felt in the local Nevada economy. Accordingly, the Court has an interest in protecting these  
17 intellectual property rights (as they can only be adjudicated before this Court). Moreover, as  
18 Liberty is situated in Nevada, not only is its injury by Defendant’s infringement felt within the  
19 state, but a substantial amount of the evidence needed to prove its case is also located within  
20 Nevada’s borders. Accordingly, these factors weigh in favor of this Court’s exercise of jurisdiction  
21 over Defendant Oron. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476-77 (1985).

22                           **v. The Most Efficient Forum for Judicial Resolution of the Dispute**

23           As discussed *supra*, the action in Hong Kong is merely an application for a Mareva  
24 injunction, rather than full-blown litigation on the merits of Defendant’s copyright infringement.  
25 In fact Plaintiff’s copyrights are registered in the United States, but are not registered in Hong  
26 Kong. Accordingly, it is unlikely that Liberty would even have standing to bring a claim in Hong  
27  
28

1 Kong.<sup>14</sup> Plaintiff's copyrighted works fall exclusively under American federal law and would  
 2 hardly be able to be effectively litigated in countries that do not recognize American copyright  
 3 registrations, let alone in China, a country where the very nature of Plaintiff's work is not  
 4 necessarily permissible in Hong Kong, which lacks the United States' First Amendment  
 5 protections.<sup>15</sup>

6 Plaintiff and Defendant have already appeared before this Court, and actively litigated the  
 7 matters presently pending. In fact, Defendant filed numerous motions with the Court before  
 8 lodging a responsive pleading under Fed. R. Civ. P. 12(b)(2). As Defendant has an abundance of  
 9 ties with the United States justifying jurisdiction; Liberty, its injury, and the evidence needed to  
 10 prevail in this case all are found within the District; and Defendant has proven itself capable of  
 11 mounting an able defense before this Court based just on the record thus far, it would be most  
 12 efficient to keep the instant dispute before this Court, rather than to abandon nearly 75 docket  
 13 entries so that the action could be started over before another court.

14 **vi. The Importance of the Chosen Forum to the Plaintiff's Interest in**  
 15 **Convenient and Effective Relief.**

16 Plaintiff does not seek to file suit in the United States out of mere convenience. Plaintiff  
 17 has brought suit in the United States because Plaintiff does not do business in Hong Kong, nor are  
 18 its works even necessarily permissible in Hong Kong, and they are certainly not registered in Hong  
 19 Kong, Germany, Russia, Moldova, the Ukraine, Luxembourg, or the Netherlands. Similarly,  
 20 Plaintiff does not do business, and does not have copyright protection, in the myriad of nations  
 21 involved in Defendant's scheme.

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22  
 23 <sup>14</sup> The undersigned does not claim extensive knowledge of Hong Kong intellectual property law,  
 but if Hong Kong operates like the United States, a registration is a prerequisite to standing.

24 <sup>15</sup> Relatedly, and counter to Defendant's claim that "there will be a question in this case whether  
 25 the Copyright Act's protection should even extend to plaintiffs like Liberty Media and [...] pornography," (ECF # 15 at 5 n. 5) the Seventh Circuit Court of Appeals recently ruled that  
 26 pornography is, in fact, entitled to copyright protection, reaffirming the Ninth Circuit's decision in  
 27 *Jartech, Inc. v. Clancy*, 666 F.2d 403, 406 (9th Cir. 1982). *FlavaWorks, Inc. v. Gunter et al.*, Case  
 28 No. 11-3190, 2012 WL 3124826 at \*2, \_ F.3d \_ (7th Cir. Aug. 2, 2012) (Posner, J.). However if  
 the Court would like briefing on this issue, Plaintiff is prepared to engage in a separate hearing on  
 the copyrightability of erotic materials.

1 In contrast, Plaintiff's copyrights are all registered with the U.S. Copyright Office as works  
2 made in America. Liberty's injury is felt here in America, and specifically within Nevada. The  
3 evidence needed to prove Liberty's claims and secure judgment in its favor are found within  
4 America generally, with much of the evidence right here in Nevada. Additionally, the largest  
5 percentage of individuals transacting with the Defendant are Americans. **Exhibit 13.** As seen in  
6 Table A, the Defendant has heavy contacts with the United States, which diminish any argument  
7 that it would be inconvenient for it to now involve itself with a United States matter. If the  
8 Defendant can use the services offered by United States businesses to enrich itself as part of its  
9 copyright infringement scheme, then it is reasonable and equitable for the Defendant to defend  
10 itself for the wrongs arising from those relationships.

11 **vii. The Existence of an Alternate Forum**

12 Again, Hong Kong is not a viable alternate forum for full litigation. The Parties are not  
13 actively litigating the same issues in the Hong Kong courts; the Parties are engaged in a Mareva  
14 injunction proceeding that was, itself, brought in aid of this case. **Exhibit 18.** The Mareva  
15 proceeding in Hong Kong is dependent upon this case and in no way stands independently from  
16 this action. The Hong Kong matter is not an action for copyright infringement. There is no actual  
17 litigation of the merits at bar in this case in Hong Kong. The Plaintiff's harm did not occur in  
18 Hong Kong, and instead occurred, and is felt within, the United States. Plaintiff's copyrights and  
19 harms exist within the United States, and are to be litigated here for the reasons stated *supra*. In  
20 fact, Hong Kong has no interest in the merits of this case at all.

21 Defendant has failed, fatally, to take the opportunity to present an alternate forum state in  
22 the United States in which this lawsuit could progress forward. Accordingly, the litigation must  
23 proceed within this District.

24 **III. IN THE ALTERNATIVE, PLAINTIFF REQUESTS LEAVE**  
25 **TO CONDUCT JURISDICTIONAL DISCOVERY**

26 If Defendant continues to maintain its position that personal jurisdiction is improper and the  
27 Court is remotely concerned that there is any question, then Plaintiff requests leave to conduct  
28 jurisdictional discovery and participate in an evidentiary hearing. "Where pertinent facts bearing

1 on the question of jurisdiction are controverted ... or where a more satisfactory showing of the facts  
2 is necessary' courts should allow for discovery." *Wells Fargo & Co. v. Wells Fargo Express Co.*,  
3 556 F.2d 406, 430 (9th Cir. 1977); *Marshall v. McCown Deleeuw & Co.*, 391 F.Supp.2d 880, 882  
4 (D. Idaho 2005). See also *Dean v. Motel 6 Operating L.P.*, 134 F.3d 1269, 1271-72 (6th Cir.  
5 1998). It would seem that such an exercise would be an unnecessary waste of resources, given the  
6 overwhelming factual and legal support for the maintenance of jurisdiction under Rule 4(k)(2), but  
7 Plaintiff requests this in the alternative.

#### 8 IV. CONCLUSION

9 Piracy of copyrighted works is not new to the entertainment field. Music, movies, videos,  
10 and books have been copied and distributed without authorization or compensation to the rightful  
11 owner for as long as creative people have memorialized their ideas on paper. In the past, copies  
12 were easier to spot and distribution of unauthorized works more difficult. With the advent of the  
13 Internet and the ability to replicate digital files *ad infinitum*, the ease of pirating copyrighted  
14 material has contributed to the explosion of unauthorized material. The global reach of the  
15 Internet allows website operators to hide behind borders, fictional names, or outdated addresses,  
16 thwarting attempts by copyright owners to seek compensation for the unauthorized use of their  
17 intellectual property. Traditional geographic borders have no meaning on the Internet, further  
18 compounding the difficulty facing legitimate copyright owners attempting to enforce their rights  
19 against unauthorized users. Legitimate copyright owners must climb a steep hill to enforce their  
20 rights when their works can be replicated at lightning speed by far away entities, only to be sold  
21 back to the legitimate owner's customers in its home market while the pirates claim immunity from  
22 prosecution.

23 Plaintiff, a Las Vegas based business with full ownership of United States copyrights,  
24 documented numerous infringements of its works from its Las Vegas location. The Oron.com  
25 website contains advertising directly targeted at Nevada residents and interacts directly with  
26 Nevada residents, competing with Plaintiff for customers by selling Plaintiff's own works.

27 Defendants argue that claims for infringement of U.S. copyrights, rightfully owned by a  
28 Nevada company, and infringed upon to produce income from Internet users and advertisers in the

1 U.S., may not be litigated in the State of Nevada or even in the United States. However,  
2 Defendants targeted American works, American users, and American dollars and are properly  
3 before the jurisdiction of this Court. The due process requirements for Defendant to be haled into  
4 this Court have been met. Since Defendants have declined to stipulate to an alternative U.S. forum,  
5 the Plaintiff's choice, its home forum, prevails. The case should remain here. Plaintiff respectfully  
6 requests that the Motion be denied.

7  
8 Dated: August 7, 2012

Respectfully Submitted,

9 s/Marc J. Randazza

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**CERTIFICATE OF SERVICE**

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I hereby certify that the foregoing document was filed using this Court’s CM/ECF system on August 7, 2012.

Dated: August 7, 2012

Respectfully Submitted,

s/Marc J. Randazza

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