

The Honorable Marsha J. Pechman

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON CONTENT SERVICES LLC, a
Delaware corporation, PENGUIN RANDOM
HOUSE LLC, a Delaware corporation, LEE
CHILD, SYLVIA DAY, JOHN GRISHAM, C.J.
LYONS, DOUG PRESTON, JIM
RASENBERGER, T.J. STILES, R.L. STINE,
MONIQUE TRUONG, SCOTT TUROW,
NICHOLAS WEINSTOCK, AND STUART
WOODS,

Plaintiffs,

v.

KISS LIBRARY d/b/a KISSLY.NET,
WTFFASTSPRING.BID, LIBLY.NET, and
CHEAP-LIBRARY.COM, RODION
VYNNYCHENKO, ARTEM
BESSHAPOCHNY, JACK BROWN, and
DOES 1-10,

Defendants.

NO. 2:20-cv-01048 MJP

PLAINTIFFS' UPDATE
REGARDING DEFENDANT
VYNNYCHENKO PROOF OF
SERVICE, PURSUANT TO
FEBRUARY 8, 2021 ORDER
(DKT. 21)

Pursuant to the Court's February 8, 2021 Order (Dkt. 21), Plaintiffs previously provided all available proofs of service for Defendants Kiss Library, Artem Besshapochny, and Jack Brown, and a response to Defendant Besshapochny's November 24, 2020 letter (Dkt. 19). See Dkt. 22 at 2-4. In light of the Court's April 9, 2021 deadline for providing proof of service on the remaining named defendant, Rodion Vynnychenko, Plaintiffs provide the Court with this advance update. Specifically, given the delays in service caused by Defendant Vynnychenko's

PLAINTIFFS' UPDATE RE: VYNNYCHENKO SERVICE

1 efforts to evade service abroad, the COVID-19 pandemic, and Ukrainian judicial funding
2 shortages, Plaintiffs respectfully request an additional sixty days to effect service on Defendant
3 Vynnychenko.

4 As permitted by the Federal Rules of Civil Procedure (“Rules”), the Hague Convention
5 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
6 (the “Hague Convention”), and this Court’s July 8, 2020 Order (Dkt. 10), Plaintiffs have been
7 diligently pursuing efforts to effect service of the Complaint (Dkt. 1), Summons (Dkt. 5),
8 Plaintiffs’ Motion for Temporary Restraining Order/Preliminary Injunction and supporting
9 declarations (“Motion”) (Dkts. 2-4), and the Court’s Order Authorizing Service of Process by
10 Electronic Means and Expedited Discovery, and Issuing Temporary Restraining Order
11 (“Order”) (Dkt. 10) (collectively, the “Service Documents”) on Defendant Vynnychenko. As
12 detailed by Plaintiffs’ Ukrainian counsel Artem Krykun-Trush, confirming service abroad on
13 Defendant Vynnychenko has been repeatedly delayed despite Plaintiffs’ diligence.

14 First, the global COVID-19 pandemic caused significant disruptions in Ukraine’s
15 government service, which further caused delays in Ukrainian courts, since Ukrainian law
16 requires government service on parties and original paper copies of required documents. *See*
17 Supplemental Declaration of Artem Krykun-Trush (“Supp. Krykun-Trush Decl.”) ¶ 2.
18 Although the Ministry of Justice of Ukraine received original paper copies (and translations) of
19 the Service Documents on August 21, 2020, *id.* ¶ 4, the Desnyanskyi District Court of Kyiv did
20 not receive them until October 1, 2020, *id.* ¶ 7. Therefore, by the time the Desnyanskyi District
21 Court of Kyiv set a hearing to confirm service on October 13, 2020, *id.*, it had been over three
22 months since Plaintiffs first served Defendant Kiss Library and its operators became aware of
23 this lawsuit. *See* Dkt. 12 (“Goldmark Decl.”) ¶ 2; Ex. A.

24 Second, although effecting service Defendant Vynnychenko at his registered address in
25 Kyiv should have been straightforward for the local Ukrainian government, *see* Supp. Krykun-
26 Trush Decl. ¶ 3, Defendant Vynnychenko used the delay caused by COVID-19 to evade service
27 by deregistering his Kyiv address after Plaintiffs initiated this suit, *see id.* ¶ 8. Plaintiffs were

1 first notified of this move on October 13, 2020, when Plaintiffs' counsel attended the hearing at
2 the Desnyanskyi District Court of Kyiv to confirm service. *See id.* In light of this evasion,
3 Defendant Vynnychenko's delay in registering a new address, and the aforementioned COVID-
4 19 related postal issues, the proper Ukrainian district court tasked with effecting and
5 confirming service did not receive the Service Documents until February 3, 2021, *see id.* ¶¶ 9-
6 13.

7 Third, although the Kirovskyi District Court of Kirovohrad set a hearing on March 4,
8 2021, at 11:10 a.m. for the purpose of confirming service on Defendant Vynnychenko at his
9 newly-changed address, *see* Dkt. 22 at 2, Plaintiffs were notified at that hearing that the local
10 court could not effect service on Defendant Vynnychenko before the hearing due to lack of
11 funds. Supp. Krykun-Trush Decl. ¶¶ 15-17. As detailed in the Kirovskyi District Court of
12 Kirovohrad Clerk's March 19 letter, funding shortages caused by COVID-19 meant that the
13 court could not serve Defendant Vynnychenko in advance of the hearing. *Id.*, Ex. A (further
14 noting they are "unable to send a reply to this request to your address in hard copy since the
15 court completely lacks postal stamps and envelopes for sending judicial correspondence"). *See*
16 *also* <https://kr.kr.court.gov.ua/sud1109/pres-centr/news/1080641/> (Kirovskyi District Court of
17 Kirovohrad's official Ukrainian-language announcement regarding the funding shortage).
18 Notwithstanding these funding issues, the Kirovskyi District Court of Kirovohrad assured
19 Plaintiffs' counsel that funding would be restored, and set a hearing for April 14, 2021 at 2:00
20 p.m. to confirm that it effected service on Defendant Vynnychenko. Supp. Krykun-Trush Decl.
21 ¶ 15. Following that hearing, and in the event the Kirovskyi District Court of Kirovohrad is
22 able to serve Defendant Vynnychenko at his new address, Plaintiffs will translate and submit
23 the Ukrainian proof of service if Defendant Vynnychenko to this Court.

24 In light of the above delays and the upcoming April 14, 2021 hearing in Ukraine,
25 Plaintiffs' respectfully request that the Court extend the deadline for confirming service on
26 Defendant Vynnychenko by approximately sixty days, until June 9, 2021.

1 DATED this 8th day of April, 2021.

2 DAVIS WRIGHT TREMAINE LLP

3 By s/ John A. Goldmark

4 John A. Goldmark, WSBA #40980
5 Caesar Kalinowski, WSBA #52650
6 920 Fifth Avenue, Suite 3300
7 Seattle, WA 98104
8 Telephone: 206-622-3150
9 Email: JohnGoldmark@dwt.com
10 CaesarKalinowski@dwt.com

11 Elizabeth A. McNamara (*pro hac vice*)
12 1251 Avenue of the Americas, 21st Floor
13 New York, NY 10020-1104
14 Telephone: 212-489-8230
15 Email: LizMcNamara@dwt.com

16 *Attorneys for Amazon Content Services*
17 *LLC, Penguin Random House LLC, Lee*
18 *Child, Sylvia Day, John Grisham, C.J.*
19 *Lyons, Doug Preston, Jim Rasenberger,*
20 *T.J. Stiles, R.L. Stine, Monique Truong,*
21 *Scott Turow, Nicholas Weinstock, and*
22 *Stuart Woods*