

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELSEVIER INC., ELSEVIER B.V., ELSEVIER
LTD.

Plaintiffs,

v.

SCI-HUB d/b/a WWW.SCI-HUB.ORG, THE
LIBRARY GENESIS PROJECT d/b/a
LIBGEN.ORG, ALEXANDRA ELBAKYAN,
JOHN DOES 1-99,

Defendants.

Index No. 15-cv-4282 (RWS)

DECLARATION OF DAVID M. HIRSCHBERG

I, David M. Hirschberg, declare as follows:

1. I am a member of the Bar of this Court and am associated with the law firm of DeVore & DeMarco LLP, attorneys for plaintiffs Elsevier Inc., Elsevier B.V., and Elsevier Ltd. (together the “Plaintiffs” or “Elsevier”) in this above-referenced matter. My office address is 99 Park Avenue, Suite 1100, New York, New York, 10016. I am familiar with the facts and circumstances in this action.

2. I submit this declaration pursuant to Rule 55.1 of the Civil Rules for the Southern District of New York, in support of Plaintiffs’ application for a Certificate of Default.

3. Upon information and belief, none of the defendants in this action are infants, incompetents, or members of the United States military. The only individual defendant whose identity is known to Plaintiffs at this time is Alexandra Elbakyan, who, upon information and

belief, is a 28-year old graduate student who is a resident of either Russia or Kazakhstan. All other individual defendants in this action are the unknown operators of websites which have trafficked in pirated copies of articles published in scientific journals.

4. All defendants in this action were served with copies of the Complaint, the Court's Order dated June 18, 2015, notice of the Preliminary Injunction Hearing, and the Civil Summons issued by the Clerk of Court, along with Russian language translations of each of those documents, in the manner provided for by this Court's Order dated June 18, 2015, during the period beginning June 23, 2015 and ending June 30, 2015. Attached hereto as Exhibits A through G are affidavits of service which have been filed with this Court (Dkts. 24 through 30).

5. As directed by the Court's Order, service on Defendant Alexandra Elbakyan was attempted by mail to Zhumabaeva, 172, Almaty, Kazakhstan 050014 (Dkt. 25). The materials mailed to that address, however, were returned unopened. My firm requested information from the United States Postal Service as to the status of the mailed materials, and was informed that the postal service of Kazakhstan was unable deliver the parcel as addressed. Attached as Exhibit H is a true and correct copy of the response to our inquiry and a photograph of the parcel displaying the article number.

6. Although Elbakyan did not receive the mailed copies of the initiating documents in this case by postal mail, she apparently did receive them by email, a fact evidenced by her participation in two teleconferences with the Court on July 7 and July 14, 2015, and her letter to the Court, filed September 15, 2015, in which she expressly references the litigation by case number (Dkt. 50).

7. Defendant Alexandra Elbakyan has failed to plead or otherwise defend this action. Elbakyan participated in two teleconferences with the Court and Plaintiffs' counsel on July 7

and July 14, 2015. During those teleconferences, Elbakyan indicated she intended to defend the action and requested additional time to retain counsel. This request was granted, and the Court ordered Elbakyan to enter a notice of appearance no later than August 21, 2015. (Order, dated July 15, 2015 (Dkt. 40)). Elbakyan has neither entered an appearance nor filed an answer in this action. Upon information and belief, other than by sending letter to the Court, entered September 15, 2015 (Dkt. 50), Elbakyan has taken no steps to participate in these proceedings since the July 14, 2015 teleconference.

8. All other defendants in this action – The Library Genesis Project d/b/a libgen.org, elibgen.org, libgen.info, estrorecollege.org, and bookfi.org, and the John Doe operators of each of those entities – have failed to enter a notice of appearance or participate in these proceedings in any manner.

I declare under penalty of perjury that the foregoing is true and correct.
Dated: February 16, 2017


David M. Hirschberg