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September 2, 2015

VIA ECF and FAX

Honorable Robert W. Sweet  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl St.  
New York, New York 10007-1312

Re: *Elsevier, Inc., et al. v. Sci-Hub, et al.*, 15-cv-4282 (RWS)

Dear Judge Sweet,

We are counsel to Elsevier Inc., Elsevier B.V., and Elsevier Ltd. (“Elsevier”) in the above-captioned action. We write in regards to the preliminary injunction hearing, currently scheduled for September 16, 2015, at 12:00 p.m.

As the Court is undoubtedly aware, none of the Defendants have either entered an appearance in this matter or submitted any written response to Plaintiffs’ application for a preliminary injunction. Moreover, notwithstanding the fact that the time for responsive filings had expired prior to the July 14 teleconference before Judge Abrams, the Court, at Defendant Elbakyan’s request, delayed these proceedings until September 16, and allowed Elbakyan until August 21 to have any counsel file a notice of appearance and until August 28 to file any opposition papers. (Dkt. 40.) As both deadlines have passed without either event occurring, Plaintiffs fully expect that none of the Defendants will be present or represented at the September 16 hearing.

Plaintiffs have filed voluminous materials in connection with their application for a preliminary injunction addressing every aspect of the requested relief. We also note that one of the individuals who filed a declaration in support of Plaintiffs’ application would have to fly to New York City from Ohio, and another would have to cancel a work obligation in another state to testify at the hearing. Accordingly, unless the Court prefers otherwise, in the event that Defendants do not indicate their intent to appear and do not file any opposition papers, we are prepared to rest on our papers and do not see the need for any declarants to be present on September 16. We submit the letter to respectfully seek the Court’s guidance on this issue so as to be prepared to meet the Court’s desires and expectations while at the same time maximizing the Court’s efficient use of its and the declarants’ time.



Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J V DeMarco", with a long horizontal flourish extending to the right.

Joseph V. DeMarco

Cc: All Defendants by means authorized by Court Order