

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 IN SUPPORT OF PLAINTIFFS’
APPLICATION FOR AN ORDER AUTHORIZING ALTERNATIVE SERVICE OF
PROCESS ON DEFENDANTS AND ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION**

I, DAVID M. HIRSCHBERG, declare as follows is true and correct:

1. I submit this affidavit in support of Plaintiffs’ application for an order authorizing alternative service of process on defendants and entry of a preliminary injunction.

2. I am a member of the Bar of this Court and of counsel to 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.

3. Attached hereto are true and accurate copies of the following:
- Exhibit A – The webpage available at sci-hub.org/donate, retrieved on April 1, 2015, along with an English translation thereof;
 - Exhibit B – A February 14, 2013, tweet posted to the @Sci_Hub Twitter account, which, when translated into English, reads “***All downloaded articles are saved on LibGen and downloaded from there after the second request. ~ 15 articles / minute are now going through LibGen.***”;
 - Exhibit C – A March 22, 2013, tweet posted to the @Sci_Hub Twitter account which, when translated into English, reads “***Due to the huge amount of accounts that were closed recently we were forced to introduce limits on the maximum number of users, especially foreigners :(***”;
 - Exhibit D - The “People” section of Sci-Hub’s profile on “Copiny,” available at sci-hub.copiny.com/user/index, retrieved on April 1, 2015, along with an English translation thereof;
 - Exhibit E – Sci-Hub’s main page on the VK social networking site, at vk.com/sci_hub, retrieved on April 13, 2015. Underneath Elbakyan’s name in the “Contacts” section in the lower right is text that, when translated into English, reads “Programmer, creator of the Sci-Hub”; *and*

- Exhibit F – Postings to Sci-Hub’s Twitter (@Sci_Hub) and VK (vk.com/sci_hub) social media accounts, posted on the following dates:
 - Twitter - March 29, 2012, which when translated into English, reads “*PayPal has consented, proxy was successfully bought. Now the assortment will fill in little by little. One proxy has already been restored :)*”;
 - Twitter - February 18, 2013, which when translated into English, reads “*Traffic is 18 PDF / minute + LibGen 22 PDF / minute. Total: 40 – a new record! I hope that they don’t ban on the proxy*”;
 - Twitter - April 25, 2013, which when translated into English, reads “*Normal work of the service is restored, traffic is 67 articles / last 3 minutes (downloaded via proxy - 36, found in LibGen - 31)*”;
 - Twitter - April 26, 2013, which when translated into English, reads “*People! Who can set up an http mirror for LibGen scientific articles? The volume of data ~ 12 terabytes (21 million articles) necessary to work stably*”;
 - Twitter - July 24, 2013, which when translated into English, reads “*Update: The algorithm for automatically determining the DOI of articles has been improved (for working with LibGen)*”
 - VK – May 31, 2015, in which Alexandra Elbakyan claims to be the creator and primary programmer for Sci-Hub, and which, in pertinent part, when translated into English, reads, in part, “*In this*

post I'm going to talk about the creator of the Sci-Hub project, that is, about myself. Due to recent events, my identity has become entangled in gossip and rumors, which is why this post is necessary. I'll say right away that I not only created Sci-Hub four years ago, but since that time I have done absolutely all (ninety-eight percent) of the programming work on the site by myself. In this post I'm going to talk about the creator of the Sci-Hub project, that is, about myself. Due to recent events, my identity has become entangled in gossip and rumors, which is why this post is necessary. I'll say right away that I not only created Sci-Hub four years ago, but since that time I have done absolutely all (ninety-eight percent) of the programming work on the site by myself.”; and

- VK – June 2, 2015, which when translated into English, reads *“Maria, the Libgen library is being updated with articles uploaded by Sci-Hub. In addition to articles uploaded at the request of users, Sci-Hub itself verifies what articles are still not in the library and will complete uploading them.”*

4. Attached hereto as Exhibit G is the affirmation of Robert Lendensky, Director of Business Development at Transperfect, certifying the authenticity of Exhibits A-F above, and to the accuracy of the translations thereof.

5. Attached hereto as Exhibit H is a true and correct copy of Defendant Alexandra Elbakyan's biography on the Lifeboat Foundation website, available at lifeboat.com/ex/bios.alexandra.a.elbakyan, retrieved April 8, 2015.

6. Attached hereto as Exhibit I is a true and correct copy of the @Sci-Hub Twitter account's "Following" list, retrieved April 15, 2015, listing Alexandra Elbakyan (@ringo_ring) as the only Twitter account followed by @Sci_Hub.

7. Attached hereto as Exhibit J are true and correct copies of the WHOIS records of the domains www.sci-hub.us and lib.gen.in, retrieved April 15, 2015.

8. Attached hereto as Exhibit K is a true and correct copy of the webpage available at Almaty-guide.narod.ru/esname.shtml.htm, retrieved April 15, 2015, indicating that Teslenko St. has been renamed as "Zhumabaev St."

I declare under penalty of perjury that the foregoing is true and correct.

Dated June 11, 2015.


David M. Hirschberg