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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 CRAIGSLIST, INC.,

No. C 09-4739 SI

9 Plaintiff,

**ORDER GRANTING PLAINTIFF'S
MOTION TO SERVE DEFENDANT BY
ALTERNATE MEANS**

10 v.

11 CHRISTOPHER MEYER, JOHN DOE d/b/a
12 CLBOTPRO.COM AND
13 CRAIGSLISTBOTPRO.COM; AND DOES 3
14 THROUGH 25, INCLUSIVE

Defendants.
_____ /

15 Plaintiff's motion to serve defendant Christopher Meyer by alternate means is currently
16 scheduled for hearing on July 30, 2010. Pursuant to Civil Local Rule 7-1(b), the Court finds that this
17 matter is appropriate for resolution without oral argument and hereby VACATES the hearing. For the
18 reasons set forth below, the Court GRANTS the motion.
19

20 **BACKGROUND**

21 On November 5, 2009, plaintiff craigslist, Inc. filed a complaint against defendants John Doe
22 d/b/a Clbotpro.com and craigslistbotpro.com, and Does 2 through 25, inclusive, alleging violations of
23 federal copyright and trademark law, the Computer Fraud and Abuse Act, California Penal Code § 502,
24 California trademark law, as well as contract claims and fraud.

25 On October 21, 2009, plaintiff moved for and was granted leave to conduct expedited third-party
26 discovery on the online service providers, payment processors, and privacy registrants for defendant's
27 websites. According to plaintiff, as a result of that discovery, plaintiff learned defendant Meyer was the
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1 Registrant Contact, Administrative Contact, Technical Contact, and Billing Contact for the domain
2 names clbotpro.com and craigslistbotpro.com. FAC ¶ 12. On February 26, 2010, plaintiff filed the first
3 amended complaint and named Christopher Meyer as a defendant.

4 Plaintiff craigslist, Inc. is a California-based company incorporated in Delaware that operates
5 the website, www.craigslist.org (“craigslist”), which provides localized online classified ad placements
6 and related online services. The FAC alleges that defendant Meyer operates Clbotpro.com and
7 craigslistbotpro.com, both of which purportedly sell programs that allow the automated postings of ads
8 on craigslist, including by circumventing craigslist security measures and other violations of craigslist’s
9 Terms of Use (“TOU”). *Id.* ¶ 83. Plaintiff alleges that auto-posting software allows the placement of
10 large numbers of redundant, miscategorized, and/or mislocated ads on craigslist that disrupt the use of
11 craigslist services and places a heavier burden on plaintiff’s computer systems. *Id.* ¶¶ 77-81.

12 Plaintiff’s counsel Jeremy Buxbaum states in his declaration that “craigslist made more than ten
13 unsuccessful attempts to serve defendant Meyer.” Buxbaum Decl. ¶ 8. These service attempts were
14 based on information gleaned from plaintiff’s investigation, including the third-party discovery. *Id.* ¶
15 9. Based on its investigation, plaintiff believes that Meyer is likely residing in Thailand, but plaintiff
16 does not know Meyer’s physical address. *Id.* ¶¶ 11, 12. Plaintiff also believes Meyer is associated with
17 and regularly uses certain email addresses including but not limited to mediagulch@excite.com,
18 chris@interobang.com, clbotpro@gmail.com, support@craigslistbotpro.com, and sales@clbotpro.com.

20 DISCUSSION

21 Pursuant to Federal Rule of Civil Procedure 4(f)(3), plaintiff has moved to serve defendant
22 Christopher Meyer through alternate means, including by email and other electronic means. Rule 4(f)(3)
23 permits the service of an individual at a place not within any judicial district of the United States by
24 “means not prohibited by international agreement, as the court orders.” Fed. R. Civ. P. 4(f)(3). Rule
25 4(f) does not “create a hierarchy of preferred methods of service of process” and, “court-directed service
26 under Rule 4(f)(3) is as favored as service available under Rule 4(f)(1) or 4(f)(2).” *Rio Properties, Inc.,*
27 *v. Rio International Interlink*, 284 F.3d 1007, 1014, 1015 (9th Cir. 2002) (footnote omitted) (emphasis
28 omitted). Under Rule 4(f)(3), a method of service must comport with constitutional notions of due

1 process and must not violate any international agreement. *Rio Properties, Inc.*, 284 F.3d at 1015, 1016.
2 A method of service comports with due process if it is “reasonably calculated, under all the
3 circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity
4 to present their objections.” *Id.* at 1016, 1017 (quoting *Mullane v. Cent. Hanover Bank & Trust*, 339
5 U.S. 306, 314 (1950)).

6 Plaintiff contends that service through email comports with due process because it is reasonably
7 calculated to inform defendant of the impending action, and under the circumstances here, it is the *only*
8 means of providing notice to defendant. In *Rio Properties*, the Ninth Circuit found that email was “the
9 method most likely to reach” a defendant who operated a website from Costa Rica with no discoverable
10 street address in either the United States or Costa Rica, and who only provided an email address as a
11 contact. 284 F.3d at 1017-118. As in *Rio Properties*, plaintiff argues defendant Meyer has a business
12 that is conducted entirely through the internet and that is structured such that Meyer can only be
13 contacted through email. Furthermore, through its investigation, plaintiff states that it has been unable
14 to determine a physical address for defendant Meyer in either the United States or Thailand and is thus
15 unable to serve Meyer by any other means.

16 Plaintiff also contends there is no authority that states or implies that email service is prohibited
17 by international agreement, or otherwise, in Thailand. Thailand is not a signatory of the Hague Service
18 Convention, thus it does not apply¹, nor are there any other agreements that would prohibit service via
19 email. *See Rio Properties*, 284 F.3d at 1016 (finding the Hague Service convention did not apply in
20 Costa Rica because the country was not a signatory of the convention). In addition to *Rio Properties*,
21 plaintiff cites two cases from this district for the proposition that service by email is not generally
22 prohibited by international agreement. *See e.g., Bank Julius Baer & Co. Ltd v. Wikileaks*, No. C
23 08-00824 JSW, 2008 WL 413737, at *2 (N.D. Cal. Feb. 13, 2008) (finding plaintiff has successfully
24 demonstrated that service through email was not prohibited by an international agreement);
25 *Williams-Sonoma Inc. v. Friendfinder Inc.*, No. C 06-06572 JSW, WL 2007 1140639, at *2 (N.D. Cal.

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27 ¹ Plaintiff notes that even if Meyer is residing in one of the signatory nations, the result would
28 be the same because Article 1 of the Hague Service Convention states that the Convention does not
apply when the address of the person to be served is unknown.

1 April 17, 2007) (concluding that there was no showing that service by email was prohibited by an
2 international agreement).

3 The Court agrees and finds that service of defendant Meyer through email is appropriate and that
4 it comports with due process. Plaintiff has demonstrated that despite third-party discovery and other
5 investigation resulting in more than ten failed service attempts, plaintiff has been unable to obtain a
6 physical address for Meyer. Additionally, plaintiff has shown that because defendant has chosen to
7 conduct business through the internet and list only email addresses as contact information, service
8 through email will give defendant sufficient notice and the opportunity to respond. The Court also finds
9 that issuing an order allowing service via email would not be prohibited by international agreement.²
10

11 **CONCLUSION**

12 For the foregoing reasons and for good cause shown, the Court hereby GRANTS plaintiffs'
13 motion to serve defendant Christopher Meyer by email. (Docket No. 26).
14

15 **IT IS SO ORDERED.**

16
17 Dated: July 26, 2010.



18 SUSAN ILLSTON
United States District Judge

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² Plaintiff's motion is framed as seeking order authorizing service by alternate means, including
by email and other electronic means. However, plaintiff's motion only addresses service by email.