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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

LIBERTY MEDIA HOLDINGS, LLC, a  
California Corporation,  
  
Plaintiff,  
  
vs.  
JAMES MARCH, individually; PERRY  
SJOGREN, individually; DI S.A., a  
foreign corporation; RYOICHI  
WATANABE, an individual; MARK  
BURKE, an individual; JASON  
PHILLIPS, an individual; DAVID  
SMITH, an individual; ADRUSH  
MEDIA, a foreign corporation;  
NAMEVIEW, INC., a foreign  
corproation; MYCLICKTO.COM, a  
California corporation; DIRECT  
PRIVACY ID 826C9; and DOES 1-500,  
  
Defendants.

CASE NO. 10cv1809 WQH (BLM)  
ORDER

HAYES, Judge:

The matter before the Court is the Motion for Alternate Service on Defendants, Ryoichi Watanabe, Jason Phillips, David Smith, Adrush Media, and Direct Privacy ID 826C9<sup>1</sup> (ECF No. 9) filed by Plaintiff.

**BACKGROUND**

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<sup>1</sup> On December 17, 2010, Plaintiff filed a Voluntary Dismissal of Direct Privacy ID 826C9 (ECF No. 13).

1 On August 31, 2010, Plaintiff Liberty Media Holdings, LLC, filed the Complaint (ECF  
2 No. 1) and on October 18, 2010, Plaintiff filed a First Amended Complaint (ECF No. 6)  
3 alleging claims of cyberpiracy, cybersquatting, and trademark infringement against Defendants  
4 for their use of website domain names which target Plaintiff's trademark CORBIN FISHER.  
5 Plaintiff contends that Defendant Watanabe is "believed to be" a resident of Tokyo who  
6 registered an infringing domain name through Godaddy.com; Defendant Phillips is "believed  
7 to be" a resident of the UK who registered an infringing domain name through  
8 Publicdomainregistry.com; Defendant Smith is a foreign individual who registered infringing  
9 domain names through Above.com; and Defendant Adrush Media is a name holder for an  
10 infringing domain name registered through Directnic, Ltd. *Id.* at 4-8.

11 Plaintiff seeks an order from the Court allowing Defendants to be validly served via  
12 email. Plaintiff contends that the locations listed in the domain name information for  
13 Defendants Watanabe, Phillips, Smith, and Adrush Media are incorrect and were likely "used  
14 in order to evade process." (ECF No. 9-1 at 2). Plaintiff contends that it has diligently  
15 attempted to locate the physical addresses of Defendants, but has been unable to do so.  
16 Plaintiff contends that it has located the email addresses of Defendants Watanabe, Phillips,  
17 Smith, and Adrush Media. Plaintiff contends that, "Plaintiff is unaware of any international  
18 agreement with the Netherlands, the United Kingdom, Japan, Grand Cayman, or Australia  
19 which prohibits service via email." *Id.* at 5.

## 20 DISCUSSION

21 Plaintiff bears the burden of effectuating proof of service. *See Butcher's Union Local No.*  
22 *498, United Food and Commercial Workers v. SDC Inv., Inc.*, 788 F.2d 535, 538 (9th Cir.  
23 1986). To meet the due process requirement, "the method of service crafted by the district  
24 court must be reasonably calculated, under all the circumstances, to apprise interested parties  
25 of the pendency of the action and afford them an opportunity to present their objections." *Rio*  
26 *Props., Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1016-17 (9th Cir. 2002) (quotation omitted).

27 Federal Rule of Civil Procedure 4(f) provides, in pertinent part:

28 [A]n individual ... may be served at a place not within any  
judicial district of the United States:

1 (1) by any internationally agreed means of service that is reasonably  
2 calculated to give notice...

3 (3) by other means not prohibited by international agreement, as the  
4 court orders.


5 Fed. R. Civ. P. 4(f); *see also* Fed. R. Civ. P. 4(h) (providing that a foreign corporation must  
6 be served in a manner prescribed by Rule 4(f)). Service under Rule 4(f)(3) must be (1)  
7 directed by the court; (2) not prohibited by international agreement; and (3) comport with  
8 constitutional notions of due process. *Rio Props., Inc.*, 284 F.3d at 1014-16.

9 Plaintiff states that it is “unaware” of any international agreement which prohibit service  
10 via email on the Defendants. The Court finds that at ths stage in the proceedings, the record  
11 does not adequately demonstrate that service on Defendants via email is not prohibited by  
12 international agreement.

### 12 CONCLUSION

13 **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Alternate Service (ECF No.  
14 9) is **DENIED**.

15 DATED: December 20, 2010

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17 **WILLIAM Q. HAYES**  
18 United States District Judge  
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