

II. Questions for Contracting States

A. "Service Section" of the HCCH website

- 4) On the "Service Section" of the HCCH website, the Permanent Bureau currently provides practical information for each Contracting State that was mainly obtained from the responses to the 2003 Questionnaire accompanying the provisional version of the new edition of the Practical Handbook on the operation of the Service Convention (2003 Service Questionnaire). This practical information, which is presented in form of a chart, consists of the following:
- 1) Contact details of each of the Central Authorities (Arts 2 and 18)
 - 2) Forwarding authorities (Art. 3(1))
 - 3) Methods of service (Art. 5(1) and (2))
 - 4) Translation requirements (Art. 5(3))
 - 5) Costs relating to the execution of the request for service (Art. 12)
 - 6) Time for the execution of a request
 - 7) Judicial officers, officials and other competent persons (Art. 10 *b*) and *c*)
 - 8) Oppositions and declarations (Art. 21(2), in particular with respect to Arts 8(2), 10 *a*), *b*) and *c*), 15(2) and 16(3))
 - 9) Derogatory channels (bilateral or multilateral agreements or domestic law permitting other transmission channels (Arts 11, 19, 24 and 25)
 - 10) Useful links

The Permanent Bureau invites your State to peruse the "Service Section" and to verify if all the information contained in the practical information chart for your State is (still) correct or if it needs to be updated, amended or supplemented. **The States that currently do not have a chart of practical information on the "Service Section" are kindly invited to submit this information to the Permanent Bureau.**

- 5) Would your State consider that the information provided on the "Service Section" of the HCCH website is:

Very useful

Useful – would you have any suggestions for improvement?

- *Links to that portion of the destination state's foreign code which describes methods of service pursuant to Article 10(b) and(c).*
- *Another thing that might be worth considering would be links to the search engines for a registrar of companies in the destination state, so that requesting authorities can verify the registered name and address of a defendant company.*

Not useful – would you have any suggestions for improvement?

B. Contact details for designated Authorities

- 6) Please check the contact information as contained on the HCCH website with regards to the **Central Authority(ies)** designated by your State (Arts 2 and 18(3)). If one of the following categories of information is missing then please provide it below (please provide both a postal address and a street address, if these are not identical):

Name of Authority: Office of International Judicial Assistance
Civil Division
U.S. Department of Justice
Address: 1100 L Street N.W.
Room 11006
Washington, D.C. 20530
Telephone: 202 514 7455
Fax: 202 514 6584
E-mail: Robert.Hollis@USDOJ.gov
Website: none
Language(s) of communication: English
Name of contact person: Robert Hollis

The U.S. Central Authority does not have a website. Some information is available at <http://www.usmarshals.gov/process/index.html> and the U.S. Department of State Bureau of Consular Affairs web page http://www.travel.state.gov/law/info/judicila/judicial_702.html.

Requests for Service of Process

The responsibility for making all formal service on behalf of the Department of Justice pursuant to Article 5(1) is handled by a private contractor. The service of process contract is currently being resolicited by the Department of Justice. Once a new contractor has been selected the United States will inform all parties to this Convention as to the name of the new contractor, the address where all service requests must be sent, as well as the fees and any payment mechanisms that is required under the contract. Under this contract, the contractor for the Department of Justice will execute all service requests using personal service. In the event personal service is impossible to effect, the contractor will serve by such other method or methods as may be permitted under the law of the jurisdiction, including mail service, if authorized.

Until a new contractor has been selected, Process Forwarding International (PFI) continues to serve as the contractor for the Department of Justice. The fee for serving process under this Convention and for non-Convention states remains \$95. PFI's address where service requests should be sent and relevant contact information is:

Process Forwarding International
633 Yesler Way
Seattle, WA 98104
USA
Phone: +1 (206) 521 2979
Fax: +1 (206) 224 3410
E-mail: info@hagueservice.net
Website: <http://www.hagueservice.net>

No fee is imposed when the party to be served is the United States, its departments, agencies or instrumentalities.

If your State is a federal State that has designated several Central Authorities under Article 18(3) and one of the above categories is missing for more than one Central Authority designated, please provide separate details for each of those Central Authorities (copy and paste if necessary – also, please provide both a postal address and a street address, if these are not identical): **Not Applicable**

Name of Authority:
Address:
Telephone:
Fax:
E-mail:
Website:
Language(s) of communication:
Name of contact person:

7) Please also verify the contact information as contained on the HCCH website with regards to the following authorities in your State, *if applicable*. If one of the following categories of information is missing then please provide it below (please provide both a postal address and a street address, if these are not identical): **Not Applicable**

a. **Other Authorities** that may have been designated in addition to the Central Authority (Art. 18(1)):

Name of Authority:
Address:
Telephone:
Fax:
E-mail:
Website:
Language(s) of communication:
Name of contact person:

b. An **Authority** that may have been designated instead of the Central Authority to complete the Certificate in the form of the model annexed to the Service Convention (Art. 6(1)):

Name of Authority:
Address:
Telephone:
Fax:
E-mail:
Website:
Language(s) of communication:
Name of contact person:

c. The **Competent Authority** that receives documents transmitted by indirect diplomatic or consular channels (Art. 9(1)):

Name of Authority:
Address:
Telephone:
Fax:
E-mail:

Website:

Language(s) of communication:

Name of contact person:

- 8) In Conclusion and Recommendation No 48, the 2003 Special Commission invited all States to provide information on the forwarding authorities (the authority or judicial officer competent under the law of the requesting State to forward to the Central Authority of the requested State the request for service) and their competences for

this information to be posted on the HCCH website. If your State has not yet done so, please provide comprehensive information to this effect below (obviously, the Permanent Bureau is not asking for a comprehensive list of individuals who may be forwarding authorities, but rather for a reference to all the categories of authorities, officials or professionals that may be forwarding authorities, for example "the courts", "bailiffs", "(professional) process servers", etc.):

The persons and entities within the United States competent to forward service requests pursuant to Article 3 include any court official, any attorney, or any other person or entity authorized by the rules of the relevant court.

C. Statistics

Main Channel of Transmission (Art. 3)

Requests for Service – Incoming

9) The following questions relate to the number of requests for service *addressed to your State* under the Service Convention.

a. Please complete the following table to indicate how many *incoming* requests for service the Central Authority(ies) of your State received in each of the past five years under the main channel of transmission. Please also note, if possible for each year, the country(ies) from which your State received the most requests for service.

2003	2004	2005	2006	2007
Number: 5663	Number: 6407	Number: 5986	Number: 6580	Number: 6312
State(s): <i>43</i>	State(s): <i>41</i>	State(s): <i>42</i>	State(s): <i>43</i>	State(s): <i>46</i>

b. Of the total amount of requests for service received in 2007, please divide these depending on the method of service that was used by your State and complete the following table with respect to the time that lapsed between the Central Authority(ies) of your State receiving a request for service and the relevant authority of your State forwarding the Certificate of service to the applicant in the requesting State.

For example, if your State executed 12 requests for service using personal service and the entire process took less than two months in each case, please write the number "12" in the relevant box. The total amount of incoming requests for service that your State received in the past year should therefore equal the sum of the figures appearing in the sub-totals line below:

Method of service	Less than 2 months	Between 2 and 4 months	Between 4 and 6 months	Between 6 and 12 months	More than 12 months	Returned un-executed (Art. 13)	Cases currently pending
Formal service (Art. 5(1) a))	5224*	0	0	0	0	1088**	0
Service by a particular method (Art. 5(1) b)) ⁴	Unknown ***	0	0	0	0	0	0
Informal delivery (Art. 5(2))	Unknown ***	0	0	0	0	0	0
Sub-totals:	5224*	0	0	0	0	1088**	0

	2003	2004	2005	2006	2007
Albania					2
Argentina	24	9	2		1
Belarus	2	5	7	1	3
Belgium	385	300	217	627	177
Botswana					1
Bulgaria	8	15	22	21	17
Canada	18	84	45	79	96
China	88	101	185	318	327
Croatia	7			7	
Cyprus			3	3	
Czech Republic	16	25	34	36	52
Denmark	17	26	21	35	17
Egypt	39	24	62	38	34
Estonia	6	7	6	2	7
Finland	58	53	36	32	58
France	1723	1690	1392	1650	1661
Germany	1241	1568	1608	1249	1080
Greece	402	648	614	412	792
Greenland					1
Hong Kong	15	19	15	29	5
Hungary	3	1	2	3	4
Iceland					2
India					8
Ireland	2	6	10	11	5

⁴ See Question 29) DELETION NEEDED HERE? b. for an explanation as to the meaning of Art. 5(1) b) – please adopt that meaning to fill in the chart above, independently of your response to Question 29) b. (i). DELETION NEEDED HERE?

Israel	20	9	12	8	25
Italy	413	611	529	513	604
Japan	5	22	24	24	13
Korea	2	1	1	3	3
Kuwait	16	4	18	19	20
Latvia	15	20	13	30	51
Lithuania	10	17	19	34	27
Luxembourg	18	35	63	25	54
Martinique	1				
Mexico	30	10	38	51	18
Netherlands	164	174	166	495	165
Norway	269	78	60	33	84
Poland	220	267	211	281	328
Portugal	18	39	28	20	19
Russia	6	27	35	41	46
San Marino			2	3	3
Slovakia	12	4	10	9	7
Slovenia	2	8	4	6	16
Spain	102	117	103	132	158
Sri Lanka	3	5	5	9	9
Sweden	33	31	32	9	23
Switzerland	42	35	28	24	10
Tunisia		1		244	3
Turkey	162	231	214	6	222
Ukraine	1	2	2	1	7
United Kingdom	37	78	88	7	47
Venezuela	8				
TOTALS	5663	6407	5986	6580	6312
COUNT	43	41	42	43	47

* Of the 5224 requests in which a certificate was returned within 2 months, 4136 were successfully served and 1088 could not be served because the servee could not be located.

** Rejected upon receipt as non-compliant with treaty or missing required fee. All but 16 of these requests were rejected and returned in 7 days or less.

*** Data not captured.

Requests for Service – Outgoing

10) The following questions relate to the number of requests for service sent by the forwarding authorities of your State under the Service Convention. These questions are likely to require some consultation with the (main) forwarding authorities in your State that (may) have previously forwarded requests for service: The persons and entities within the United States competent to forward service requests pursuant to Article 3 include any court official, any attorney, or any other person or entity authorized by the rules of the relevant court. Because this is not centralized, the United States does not have statistics regarding outgoing requests for service. The American Bar Association prepared a survey of practitioners that may yield some information about this question. When the results of that survey are received, the United States will provide supplemental information to the Permanent Bureau.

a. Please complete the following table to indicate how many outgoing requests for service the forwarding authorities of your State have forwarded to Central Authorities of other States Parties in the past five years. If possible, please also note the country(ies) to which your State sent the most requests for service for each year listed below.

2003	2004	2005	2006	2007
Number:	Number:	Number:	Number:	Number:
State(s):	State(s):	State(s):	State(s):	State(s):

b. Of the total amount of requests for service sent in 2007, please complete the following table with respect to the time that lapsed between the forwarding authority of your State sending a request for service and the applicant receiving the Certificate of Service from the requested State. Please also divide these depending on the method of service that was used in the requested State.

For example, if your State is made aware that six requests for service were sent from your State and the entire process took less than two months in each case, please write the number "6" in the relevant box. The total amount of outgoing requests for service that your State is aware were sent in the past year should therefore equal the sum of the figures appearing in the sub-totals line below:

Method of service	Less than 2 months	Between 2 and 4 months	Between 4 and 6 months	Between 6 and 12 months	More than 12 months	Returned un-executed (Art. 13)	Cases currently pending
Formal service (Art. 5(1) a))							
Service by a particular method (Art. 5(1) b)) ⁵							
Informal delivery (Art. 5(2))							
Sub-totals:							

D. General appreciation of the Service Convention

11) Please indicate below how your State rates the general operation of the Service Convention:

- Excellent
 Good
 Satisfactory
 Unsatisfactory

If your State considers that the general operation of the Service Convention is good, satisfactory or unsatisfactory, please indicate what particular aspects of the Convention your State considers require improvement or where your State has encountered difficulties. For any areas that require improvement, please also indicate whether your State considers that solutions could be developed in specific *Conclusions and Recommendations* to be adopted by the next Special Commission or by specific comments in a new edition of the *Service Handbook* or if a *Protocol* to the Convention is needed.

Regarding blanks provided on the Hague Service Certificate, it would be helpful to modify the Certificate so that it contained two blank fields under the heading "The documents referred to in the request have been delivered to." One blank would be dedicated to the identity of the defendant served and the second blank would be dedicated to the identity of the individual accepting service on behalf of the defendant served.

Some States have required that the documents to be served and/or the translation of

⁵ See Question 29) b. for an explanation as to the meaning of Art. 5(1) b) – please adopt that meaning to fill in the chart above, independently of your response to Question 29) b. (i).

the documents be legalized.

Some States will only accept requests for service emanating from clerks of court.

Some States have rejected service requests that were e-filed in U.S. court and where there was consequently no original signature or seal on the documents.

E. Case law and reference work

- 12) The Permanent Bureau invites States Parties to provide copies of any guides, desk instructions or any other practical information that may have been produced for the assistance of their judicial authorities or other authorities when sending or executing requests for service under the Service Convention.

General information is available on the U.S. Department of State, Bureau of Consular Affairs webpage http://www.travel.state.gov/law/info/judicial/judicial_702.html.

Guidance for U.S. consular officers about service of process is available in Volume 7 of the Foreign Affairs Manual, subchapter 950 which is available at <http://www.state.gov/documents/organization/86743.pdf>.

Title 22, Code of Federal Regulations, Part 92.85 http://edocket.access.gpo.gov/cfr_2008/aprqtr/22cfr92.85.htm provides that service of process and legal papers is not normally a U.S. Foreign Service function. Except when directed by the U.S. Department of State, officers of the U.S. Foreign Service are prohibited from serving process or legal papers or appointing others to do so.

Title 22, Code of Federal Regulations, Part 92.86 http://edocket.access.gpo.gov/cfr_2008/aprqtr/22cfr92.86.htm describes the consular responsibility to serve subpoenas. When directed by the Department of State, officers of the U.S. Foreign Service will serve a subpoena issued by a court in the United States on a national or resident of the United States who is in a foreign country unless such action is prohibited by the law of the foreign country. This function is authorized under 28 U.S. Code Section 1783 <http://www.law.cornell.edu/uscode/28/1783.html>.

The U.S. Department of State provided guidance about service of process in the United States to the Chiefs of Mission of foreign embassies in Washington, D.C. on February 3, 1976 and June 4, 2003. Copies of these diplomatic notes were published in the Digest of U.S. Practice in International Law of 1976 and 2003 <http://www.state.gov/s/l/c8183.htm>. Copies are also available from the U.S. Department of State, Bureau of Consular Affairs, Directorate of Overseas Citizens Services, Office of Policy Review and Inter-Agency Liaison (ASKPRI@state.gov).

- 13) The Permanent Bureau invites States Parties to provide copies of decisions rendered after the publication of the Service Handbook (or from before this time if these have not already been provided to the Permanent Bureau) that apply or relate to the Service Convention. If the decision is in a language other than English or French, a summary into either of these languages would be appreciated.

Annex A lists decisions involving the Hague Service Convention rendered from 2006 forward by federal and state courts. The U.S. Supreme Court has not rendered any major decision in this area since 1988.

- 14) The Permanent Bureau invites States Parties to forward a list of references of articles or books in connection with the Service Convention that do not already appear on the bibliography tab of the HCCH website or in the Service Handbook.

Annex B contains a list of references of articles in connection with the Hague Service Convention since the publication of the Service Handbook.

- 15) The Permanent Bureau invites States Parties to forward a citation for and / or a copy of the domestic legislation which implemented the Service Convention in their territory(ies), as well as any citations for and / or copies of any domestic laws which provide for the service of documents abroad.

The domestic laws authorizing service abroad are those concerning court procedure, both federal and state. Federal Rule of Civil Procedure 4 (<http://www.law.cornell.edu/rules/frcp/Rule4.htm>) establishes the requirements for summons and service. Section (d) provides for Waiver of Service; section (f) concerns service abroad on an individual; and section (j) service on a foreign State. Under Rule 4(f), service is to be made by internationally agreed means where applicable, and if not subject to an internal agreement, additional ways are provided. The majority of U.S. states have adopted court rules and procedures that follow Fed. R. Civ P. 4(f).

In 1988, the U.S. Supreme Court in *Volkswagenwerk Aktiengesellschaft v. Schlunk*, held that when service is to be made in a foreign country that is a party to the Hague Service Convention, the Convention is the exclusive means of service.

- 16) The Permanent Bureau invites States Parties to forward a list of any other bilateral treaties and / or international instruments to which they are a party and that provide rules for the service of documents abroad. In particular, States Parties are invited to identify those treaties that allow for direct judicial communication (see Art. 11 *in fine* of the Service Convention).

Although some bilateral consular conventions provide for service of process by consular officers, U.S. consular officers are generally prohibited from doing so unless authorized by the Department of State. Title 22, Code of Federal Regulations, Part 92.85 http://edocket.access.gpo.gov/cfr_2008/aprqr/22cfr92.85.htm.

F. Service Handbook

- 17) In 2006 during the Special Commission on General Affairs and Policy of the HCCH (now referred to as the "Council on General Affairs and Policy"), the Permanent Bureau distributed free copies of the Service Handbook to the heads of all delegations in attendance. Subsequently, the Permanent Bureau also sent free copies of the Service Handbook to the National Organs of Member States of the HCCH (in most instances for them to be passed on to the Central Authorities designated by their States), and the Central Authorities of non-Member Contracting States to the Service Convention. Additional copies of the Service Handbook may be ordered via the "Service Section" of the HCCH website (< www.hcch.net >). Do(es) the Central

Authority(ies) of your State have copies of the Service Handbook at their / its disposal?

NO – why not?

YES

a. Do(es) the Central Authority(ies) of your State regularly consult the Service Handbook when confronted with issues regarding the operation of the Service Convention?

YES **In addition, the U.S. Department of State, Bureau of Consular Affairs judicial assistance web page includes links to the Service Handbook.**

NO – why not?

b. Do(es) the Central Authority(ies) of your State find the Service Handbook to be:

Very useful

Useful

Not useful

Please indicate what particular aspects of the Service Handbook could be improved:

18) Do practitioners (attorneys, process servers, etc.) in your State also consult and rely on the Service Handbook?

YES

NO

No information available for possible comment

19) Has the Service Handbook been quoted or referred to in judicial proceedings and / or court decisions in your State (please provide precise references and copies of the relevant decisions)? If a decision is in a language other than English or French, a summary into either of these languages would be appreciated.

YES – references / comments: **Annex C lists those cases that cite the Service Handbook since 2003.**

NO

PART TWO – SUBSTANTIVE ISSUES

I. Non-mandatory but exclusive character of the Service Convention

20) In Conclusion and Recommendation No 73, the 2003 Special Commission unanimously confirmed the view that the Service Convention is non-mandatory but exclusive (see also Service Handbook, paras 24-45).

a. Has the non-mandatory but exclusive character of the Service Convention led to any questions or difficulties in your State since the 2003 Special Commission?

NO

YES – please explain what these questions or difficulties were and how they were addressed and solved:

b. Have any judicial proceeding and / or court decisions addressed this particular matter of the non-mandatory but exclusive character of the Service Convention? **In the United States, since the decision by the U.S. Supreme Court in *Volkswagenwerk A.G. v. Schlunk* in 1988, the non-mandatory but exclusive character of the Service Convention when litigants in federal or state court must make service outside of the United States has not been controversial and has not given rise to significant analysis in court opinions. The one area that has received attention concerns circumstances in which service can be made on persons or entities within the United States under specific local law so that there is no “occasion to transmit” a document for service abroad.**

NO

YES – please explain how the court(s) addressed and / or decided the matter (please provide precise references and copies of the relevant decisions; if a decision is in a language other than English or French, a summary into either of these languages would be appreciated):

II. Scope of the Service Convention

A. Interpretation of the phrase “civil or commercial matters”

21) In Conclusions and Recommendations Nos 69 to 72, the 2003 Special Commission urged for a broad and liberal interpretation of the phrase “civil or commercial matters” (Art. 1) and reaffirmed the Conclusions adopted at the 1989 Special Commission regarding the scope of the Service Convention.

- a. Has the interpretation of the phrase “civil or commercial matters” given rise to specific issues in your State (either as a requested or a requesting State) since 2003?

YES

(i) What were they and how have they been solved?

(ii) Have the authorities of your State followed the Conclusions and Recommendations of the 2003 Special Commission?

YES

NO – why not?

(iii) Please provide details and / or a copy of any relevant decision(s) (if these decisions are in a language other than English or French, a brief summary into either of these languages would be appreciated):

NO

In general, the United States will consider any non-criminal service request that emanates from a tribunal or other authority that has judicial or adjudicatory powers as “civil or commercial” for purposes of service under this Convention.

b. Has (any of) the Central Authority(ies) of your State been in direct contact with an authority of another Contracting State to discuss the interpretation of this phrase (so as to decide whether or not to execute a request for service)?

YES – please briefly explain the circumstances and modalities of any exchange:

NO – please explain why there was no communication on this issue: **The issue has not arisen.**

22) Regardless of whether a matter has actually arisen, please indicate (by placing a “YES” or a “NO” in the relevant box) which of the following types of matters the authorities of your State consider as falling within the scope of the phrase “civil or commercial matters”:

Bankruptcy or insolvency in general

Reorganisation under bankruptcy laws

Insurance

Social security

Employment

Taxation

Anti-trust and competition

Consumer protection

Regulation and oversight of financial markets and stock exchange (e.g., in matters possibly involving insider trading)

Proceeds of crime

Other matters (please specify):

The United States will consider requests for service under any of these categories if the matter arises out of a non-criminal proceeding before a court or tribunal with adjudicatory powers.

23) *This question is addressed to States that are also States Parties to the Evidence Convention:* Does your State interpret the expression “civil or commercial matters” in the same way under both the Service Convention and the Evidence Convention (see also Questions 17) and 18) in the Evidence Questionnaire, Prel. Doc. No 1 of May 2008 for the attention of the Special Commission on the practical operation of the Hague Evidence, Service, Apostille and Access to Justice Conventions)?

YES

NO – please explain the difference(s):

B. Interpretation of “judicial and extrajudicial documents”

24) The Service Convention applies to both judicial and extrajudicial documents (Art. 1(1) – see paras 65 to 70 of the Service Handbook).

a. Is the concept of extrajudicial documents, which may have to be served on an addressee, known in the domestic law of your State?

[] NO

[] YES

(i) What are the most important examples of extrajudicial documents generated in your State and which, under the domestic law of your State, may have to be served (*e.g.*, consents for adoption, notarial documents)?

(ii) Please explain in what circumstances these extrajudicial documents may have to be served abroad:

(iii) Who may serve these extrajudicial documents? Please specify in particular whether or not private persons may serve extrajudicial documents (see para. 70 of the Service Handbook).

(iv) How many extrajudicial documents has your State, as a requesting State, forwarded in 2007 to another State Party for service?

- 0
- 1-10
- 11-20
- more than 20

b. In 2007, how many extrajudicial documents has(have) the Central Authority(ies) or other relevant authorities and officials of your State received under the Service Convention, as the requested State, for service in your State?

- 0
- 1-10
- 11-20
- more than 20

(i) Please specify from which States these requests for service of extrajudicial documents emanated:

The United States does not maintain records that would permit it to identify which countries have submitted service requests involving extrajudicial documents, although it is known that such requests have emanated from Finland and Italy.

(ii) Were all these requests executed?

- YES
- NO – why not?

C. Service on States and State Officials

25) Have the forwarding authorities of your State, as a State of origin, used any channel(s) of transmission available under the Service Convention when service has had to be effected upon a foreign State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for a State or a State-owned company (see also Question 39))?

[] YES – please indicate:

- a. which channel(s) of transmission under the Service Convention has(ve) most commonly been used in this context:
- b. those State(s), or agents representing such State(s), for which / whom such requests for service have been forwarded:
- c. whether service was eventually effected, and if so, by what method:
- d. any difficulties that were encountered in any of these cases:

The United States does not have statistical information available to respond to this question. The persons and entities within the United States competent to forward service requests pursuant to Article 3 include any court official, any attorney, or any other person or entity authorized by the rules of the relevant court.

28 U.S. Code Section 1608

<http://www.law.cornell.edu/uscode/28/1608.html> provides hierarchical methods of service of process on a Foreign State, including 28 U.S.C. 1608(a)(2) service by applicable international convention on service of process.

If service cannot be effected by 28 U.S.C. 1608(a)(1) special arrangement for service between the plaintiff and the foreign State or political subdivision; 28 U.S.C. 1608(a)(2) service by international convention; or 28 U.S.C. 1608(a)(3) service by mail on the head of the ministry of foreign affairs, service be attempted under 28 U.S.C. 1608(a)(4) service through the diplomatic channel.

The U.S. Department of State, Bureau of Consular Affairs, Directorate of Overseas Citizens Services, Office of Policy Review and Inter-Agency Liaison is charged with service under 28 U.S.C. 1608(a)(4) in accordance with Title 22, Code of Federal Regulations, Part 93

http://www.access.gpo.gov/nara/cfr/waisidx_08/22cfr93_08.html.

Additional information about service under the Foreign Sovereign Immunities Act is available on the U.S. Department of State, Bureau of Consular Affairs web page at

http://www.travel.state.gov/law/info/judicial/judicial_693.html.

The U.S. Department of State is advised by counsel requesting service through the diplomatic channel under 28 U.S.C. 1608(a)(4) if service through the Hague Service Convention has not been effected.

[] NO – if applicable, please indicate the method(s) of transmission that was (were) used, not under the Service Convention, to transmit requests for service upon a foreign State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for a State or a State-owned company, whether or not service was eventually effected, and, if so, by what method:

26) Has(have) the Central Authority(ies) or other authorities and officials in your State, as a State of destination, received requests for service upon your State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for your State or a State-owned company?

[] YES – please indicate:

a. which channel(s) of transmission under the Service Convention has(ve) most commonly been used in this context?

Service upon the United States, its departments, agencies or instrumentalities, or officers and employees of the United States for actions taken in their official capacities, is almost exclusively received through formal diplomatic channels. Occasionally, service has been attempted by means of Article 3 of the Service Convention. Such service is deemed ineffective unless it otherwise complies with the applicable principles of customary international law for service upon foreign states, including the requirement that at least 60 days be provided within which to make an initial response. In addition, Article 3 service is considered ineffective and will not be executed, if service is directed to a U.S. governmental entity that, in accordance with U.S. governmental organizing law, has no legal personality that would permit it to be sued independently from the United States. For example, attempted service on a U.S. Embassy would be rejected since it is considered part of the U.S. government and as such does not have a separate juridical identity.

No fee is charged by the Department of Justice's contractor for service to be made upon the United States or its departments, agencies or instrumentalities.

b. from which State(s), or which agents representing that State, such requests for service were received:

Among the states that have attempted to serve the United States through this channel include Italy, Germany, Turkey, Mexico, and the Netherlands. Other states may have similarly served the United States under Article 3.

c. if service was eventually effected after such requests for service were received, and if so, by what method:

When service is otherwise proper as noted above, the Central Authority has forwarded the conforming service request to the appropriate office within the U.S. Department of Justice that represents the United States and all constituent governmental entities in litigation, and certificates of service were returned to the appropriate forwarding authority. If the request does not comply with customary international law with respect to service upon

foreign states, or is addressed to a U.S. governmental entity that has not juridical existence in the forum state, the request would be returned to the forwarding authority unexecuted with an explanation as to why it could not be executed.

To the extent the state has included the fee ordinarily imposed by the Department of Justice's contractor, that fee is always returned to the requesting state since there is no fee for service upon the United States.

- d. any difficulties that were encountered in any of these cases:
See response to question 26 (a) and 26 (c) above.

- [] NO – if applicable, please indicate the method(s) of transmission that was(were) used, not under the Service Convention, by other States to transmit requests for service upon your State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for your State or a State-owned company, whether or not service was eventually effected, and, if so, by what method:

III. The main channel of transmission

A. Forwarding Authority (Art. 3)

- 27) In Conclusion and Recommendation No 49, the 2003 Special Commission advised that in case of doubt as to the competence of the forwarding authority, rather than rejecting the request for service, the authorities in the requested State should seek to confirm that competence by either consulting the HCCH website or by making informal enquiries, including by way of e-mail.

Has your State, as a requested State, experienced any difficulties in determining whether a specific forwarding authority was in fact a legitimate forwarding authority under the law of the requesting State?

- [**X**] NO **Unless not clearly stated.**

- YES – please specify whether or not the authorities of your State followed Conclusion and Recommendation No 49 of the 2003 Special Commission:
 YES
 NO – why not? The issue has not arisen.

- 28) The Service Convention does not specify how requests for service should be sent by the forwarding authority of the requesting State to the relevant Central Authority of the requested State.
- a. Do the forwarding authorities of your State use the official postal mail service of your State to send most of their requests for service abroad?
 YES
 NO
- b. Do the forwarding authorities of your State also use *private* courier services to send requests for service abroad?
 YES – please explain in what circumstances they use private courier services:

 NO – please explain why:
- c. Do(es) the Central Authority(ies) of your State, as a requested State, accept requests for service when they are sent via a private courier service?
 YES
 NO – why not?

See also Question 33) regarding the use of modern technologies, in particular sub-questions b. and c.

B. Methods of service (Art. 5)

- 29) Please complete:
- a. Formal service (Art. 5(1) a))
- (i) Please describe the methods of service prescribed by the domestic law of your State to effect formal service of documents upon persons who are within the territory of your State (Art. 5(1) a)):
- Although not required by our domestic laws, all formal service pursuant to Article 5(1)(a) is made by means of personal service by the private contractor employed by the U.S. Central Authority. In the event personal service is not possible, service will be made by the contractor using such other method as may be permitted under the law of the local jurisdiction where the service is to be made, including mail service, if authorized. The private contractor, however, does not serve papers upon the United States or its departments, agencies or instrumentalities. Such service requests will be directed to the U.S. Department of Justice for handling.*

- (ii) Please indicate the method(s) generally used by your State when service is requested under Article 5(1) *a*) and no preference has been indicated as to the manner in which service should be effected (*e.g.*, personal service, by post, etc. See also below Question 29) c. (ii) and (iii)). Please also indicate your State's reasons behind any such default choice:

See preceding answer.

- b. Service by a particular method (Art. 5(1) *b*))

Pursuant to Article 5(1) *b*), service may be effected by a particular method requested by the applicant unless such a method is incompatible with the law

of the requested State (requests for the use of a particular method are fairly rare in practice, see para. 132 of the Service Handbook). The purpose of this provision is to enable requests for a particular method of service *contemplated by the law of the requesting State* to be applied in the requested State so that the validity requirements for service in the requesting State are met. However, it appears that some forwarding authorities are systematically requesting that their request for service be executed under Article 5(1) *b*) even in circumstances where they intend to have service effected by a method that is recognised under the laws of the *requested* State (such as personal service). The Permanent Bureau believes that this practice is erroneous and that such a request should instead be made and specified under Article 5(1) *a*).

- (i) Does your State agree with the position of the Permanent Bureau that a request for a method of service that is recognised by the law of the requested State (such as personal service) may be specified and effected under Article 5(1) *a*) and that Article 5(1) *b*) serves a separate purpose?

YES

NO – please explain why:

Because of the flexibility of the laws of the United States with regard to service, requests to make service under Article 5(1)(b) have either been consistent with the service mechanism that the Central Authority would routinely use, or would otherwise be considered effective service within the United States. Accordingly, service requests made pursuant to Article 5(1)(b) have not caused the Central Authority any difficulties or concern.

- (ii) If relevant, please describe the particular methods of service which your forwarding authorities have requested other States to use under Article 5(1) *b*) and whether these particular methods have in fact been used to effect service:

Personal service

- (iii) If relevant, please describe the particular methods of service by which your State has been requested to effect service under Article 5(1) *b*) and whether these particular methods have in fact been used to effect service:

Those requests that sought service in accordance with Article 5(1)(b) that might be different from the method normally utilized by the Central Authority involved methods that were already fully compliant with applicable local court rules and therefore presented no difficulties.

c. Informal delivery (Art. 5(2))

- (i) Does the law of your State provide for *informal delivery* of documents (understood to be a method of service where the documents to be served are delivered to an addressee who accepts them voluntarily)?

YES – please describe how service of documents via informal delivery is made in your State (Art. 5(2)):

Informal service is permitted within the United States in a variety of ways: through members of diplomatic or consular missions in the United States; through the mails or by private persons if that would be effective under applicable law, provided no compulsion is used. The requesting authority, not the U.S. Central Authority, would make

arrangements for service using one of these informal means.

NO

- (ii) As a matter of practice, does your State systematically attempt service of process by informal delivery if and when no particular method of service has been requested under Article 5(1) *a*) or *b*)?

YES

NO

- (iii) As a matter of practice, does your State systematically attempt service of documents via a *formal* method of service when informal delivery has proven to be unsuccessful?

YES – please specify if your State imposes any additional requirements before such formal service will be attempted (*e.g.*, a translation):

All service is by personal service. The Central Authority does not use informal methods of service unless specifically requested by the forwarding authority under Article 5(1)(b).

Formal requests for the service of documents made pursuant to Article 5(1), and submitted to the contractor used by the U.S. Central Authority, must be translated into English, along with a translation of the underlying documents, although papers solely in French will be served as well.

NO

C. Translation requirements (Art. 5(3))

30) Please indicate if your State, as a requested State, imposes any language or translation requirements for documents to be served in your State under Article 5(1) (see Conclusions and Recommendations Nos 67 and 68 of the 2003 Special Commission):

NO requirements

YES – please indicate what these requirements are, in each of the following set of circumstances: *Formal requests for the service of documents made pursuant to Article 5(1), and submitted to the contractor used by the U.S. Central Authority, must be translated into English, along with a translation of the underlying documents, although papers solely in French will be served as well.*

a. Formal service (Art. 5(1) a)):

In circumstances where the / a Central Authority of your State, as a requested State, is in a position to assess the content and nature of the request for service based on the “Summary” section of the Model Form and where there is evidence that the addressee is fluent in the language in which the document to be served is written. Would your State then still insist, under Article 5(1) a), that the document be translated into another language (*i.e.*, one of the official languages of your State)?

YES – please indicate why:

Because ultimately the language spoken or understood by the addressee is a factual question that is outside of the definitive knowledge of the Central Authority or its contractor, it will not make any assumptions regarding the fact.

NO

b. Particular method requested by the applicant (Art. 5(1) b)):

In circumstances where the / a Central Authority of your State, as a requested State, is in a position to assess the content and nature of the request for service based on the “Summary” section of the Model Form and where there is evidence that the addressee is fluent in the language in which the document to be served is written. Would your State then still insist, under Article 5(1) b) that the document be translated into another language (*i.e.*, one of the official languages of your State)?

YES – please indicate why:

See response to 30(b).

NO

c. Informal delivery (Art. 5(2)):

NO translation requirement for informal delivery

Although all formal requests for service of documents made pursuant to Article 5(1), and submitted to the Central Authority's contractor, must be translated into English, along with a translation of the underlying documents, there is no similar requirement that service made directly by the sending states or interested parties through informal means such as mail, consular channels, or privately retained process server be translated. Some courts may rule, however, and typically only if challenged by the defendant, that service of documents not translated into English and made through these informal mechanisms may not provide the recipient with sufficient notice of the nature of the proceeding an opportunity to respond, and therefore, not be enforceable as a matter of due process.

31) The Service Convention does not state how any translation of the documents to be served under Article 5(1) should be prepared or who should prepare it. According to your State, which law determines these issues?

[] The domestic law of the requesting State

[] The domestic law of the requested State

[] Both laws

Please specify / comment if needed:

D. Costs (Art. 12)

32) Please indicate the costs incurred (if any) for each of the following methods of service under the law of your State (as a requested State) in accordance with Articles 5 and 12:

a. Formal service (Art. 5(1) a)):

(i) Who bears these costs?

[] Your State (requested State)

[X] The applicant / forwarding authority / requesting State – please explain whether or not service will only be effected in your State, as the requested State, only once any costs have been reimbursed. Also, please explain the modalities of any reimbursement (to whom the costs are reimbursed (relevant Competent Authority of your State, judicial officer, other person, etc.), and how the reimbursement is effected (electronic bank transfers, cheques, etc.))

All service under Article 5(1) must be sent directly to the contractor identified by the Central Authority and are assessed a flat fee. As of December 2008, the cost of personal service or service by mail is \$95. A new contract will be issued prior to the February 2009 Special Commission and any changes in the flat fee will be provided to the Hague Conference Permanent Bureau when they become available.

No fee is required, however, if the party to be served is the United States, or its departments or instrumentalities.

The United States notes, however, that there is no requirement under U.S. federal law that requests for judicial assistance be referred to the Department of State or the Department of Justice's contractor for execution. The United States has no objection to the informal delivery of such documents by members of diplomatic or consular missions in the United States, through the mails or by private persons if such methods would be effective under applicable law, provided no compulsion is used. The costs or fees associated with the use of privately contracted authorized persons to effect service would be individually negotiated, and unknown to the United States government.

b. Particular method requested by the applicant (Art. 5(1) b)):

(i) Who bears these costs?

[] Your State (requested State)

[X] The applicant / forwarding authority / requesting State – please explain whether or not service will only be effected in your State, as the requested State, only once any costs have been reimbursed. Also, please explain the modalities of any reimbursement (to whom the costs are reimbursed (relevant Competent Authority of your State,

judicial officer, other person, etc.), and how the reimbursement is effected (electronic bank transfers, cheques, etc.)

See preceding answer.

c. Informal delivery (Art. 5(2)):

(i) Who bears these costs?

[] Your State (requested State)

[X] The applicant / forwarding authority / requesting State – please explain whether or not service will only be effected in your State, as the requested State, only once any costs have been reimbursed. Also, please explain the modalities of any reimbursement (to whom the costs are reimbursed (relevant Competent Authority of your State, judicial officer, other person, etc.), and how the reimbursement is effected (electronic bank transfers, cheques, etc.))

As noted above, informal service is permitted within the United States in a variety of ways: by members of diplomatic or consular missions in the United States, through the mails or by private persons if that would be effective under applicable law, provided no compulsion is used. Because the requesting authority, not the U.S. Central Authority, would make arrangements for service using one of these informal means, any costs associated with it must be born by the requesting authority.

E. Modern Technologies

33) In Conclusions and Recommendations Nos 60 to 62, the 2003 Special Commission noted that the Service Convention does not on its terms prevent or prescribe the use of modern technologies to assist in further improving the operation of the Convention and that States Parties should explore all ways in which they can use modern technology. In Conclusion and Recommendation No 63, a variety of steps were identified for the exploration and use of modern technologies: in communications between a requesting party and a forwarding authority, in communications between a forwarding authority and a Central Authority of a requested State, and in the retransmission of the certificate of execution by the Central Authority or the designated authority (Art. 6). In light of these Conclusions, and in the context of the main channel of transmission, please comment on the following (see also below Part Three, Section II. C.):

a. Does the law of your State, as a requesting State, allow for documents to be forwarded *from a requesting party to a forwarding authority* by fax, e-mail or a similar technology?

[X] YES – please specify what technologies are used in practice (*e.g.*, (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (*e.g.*, obtaining the consent of all / some of the authorities or parties involved, etc.):

U.S. law does not impose any restrictions on the methods by which documents may be forwarded from a requesting party to a forwarding

authority. However, no reliable information is available on the specific means which are in fact used in practice.

[] NO – please explain / specify:

- b. Does the law of your State, as a requesting State, allow for documents to be forwarded *from a forwarding authority to a Central Authority of a requested State* by fax, e-mail or a similar technology? **U.S. law does not impose any restrictions on the methods by which document may be sent by a forwarding authority to a Central Authority. However, for the reasons explained above (see, for instance, the response to question 10), the United States has no reliable information on the specific means which are in fact used in practice.**

[] YES – please specify what technologies are used in practice (*e.g.*, (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (*e.g.*, obtaining the consent of all / some of the authorities or parties involved, confirming any requirements and / or capabilities of the Central Authority of the requested State in this regard, etc.).

[] NO – please explain / specify:

- c. Does the law of your State, as a requested State, allow for documents to be *received by your (one of your) Central Authority(ies) from a forwarding authority abroad* by fax, e-mail or a similar technology?

[] YES – please specify what technologies are used in practice (*e.g.*, (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (*e.g.*, obtaining the consent of all / some of the authorities or parties involved, etc., before being able to accept such documents for service).

[**X**] NO – please explain / specify:

Although U.S. law imposes no legal restrictions on the means by which documents may be sent by a forwarding authority, the U.S. Central Authority through its contractor, will only accept service requests received by mail or courier. Requests submitted in any other fashion will not be accepted or executed.

- d. Does the law of your State, as a requested State, allow for *the certificate of execution to be transmitted* from the relevant Central Authority of your State or the authority designated under Article 6 to the applicant by fax, e-mail or a similar technology?

[] YES – please specify what technologies are used in practice (*e.g.*, (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (*e.g.*, obtaining the consent of all / some of the

authorities or parties involved, etc., before being able to transmit the certificate of execution):

NO – please explain / specify:

There is no U.S. law that prohibits the transmission of the certificate of execution by fax, e-mail, or a similar technology. However, the practice of the Central Authority is to transmit the certificates of execution by postal channels. Because the Central Authority's contractor maintains a public website where the status of each service request can be monitored by the forwarding authority, and electronic copies of certificates of execution, once prepared, can be found, forwarding authorities are able to obtain electronic copies of the certificates if needed.

e. Does the law of your State, as a requesting State, allow for the certificate of execution to be received from the requested State by fax, e-mail or a similar technology? See the preceding answer.

YES – please specify what modern technologies are used in practice (e.g., (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (e.g., obtaining the consent of all / some of the authorities or parties involved, etc., before being able to receive the certificate of execution):

NO – please explain / specify:

IV. Alternative Channels of Transmission (Arts 8, 9, 10)

A. Translation requirements

34) In Conclusion and Recommendation No 65, the 2003 Special Commission recognised that whilst no translation is required under the Service Convention for documents transmitted under the alternative channels of transmission, in isolated cases, translations are sometimes required in these circumstances by the domestic law of States. Does the domestic law of your State impose translation requirements on documents that are transmitted for service through an alternative channel of transmission?

NO

YES – please provide to the Permanent Bureau all relevant information pertaining to these internal legal requirements and to which alternative channel they relate. If this information is not in either French or English then a translation into one of these languages would be appreciated:

In connection with both incoming and outgoing transmittals for service through alternative channels, the necessity and degree of translation is ultimately determined by a due process standard. If the recipient can understand the nature of the papers and proceedings, the minimum due process standard may be satisfied. If service is made under an alternative channel without a

translation requirement and the recipient voluntarily accepts service (or waives it), service will generally be considered effective, absent a showing of a denial of due process.

The sufficiency of translation is generally raised if at all in United States courts, federal and state, in two contexts: (1) when the plaintiff has made service through an alternative means under Rule 4(f) of the Federal Rules of Civil Procedure and the foreign recipient challenges sufficiency as a part of overall due process and notice; or (2) in subsequent proceedings to enforce a judgment where service was made through alternative means and the recipient challenges the basic notice and due process in the earlier proceedings as a result of service with untranslated documents. The majority of such challenges fail, especially when the transaction involved English agreements or the parties have had significant negotiations in English.

B. Model Form

- 35) The Fourteenth Session of the HCCH (held in 1980) recommended that the part of the Model Form that contains the "Summary", accompanied by the "Warning", not only be used under the main channel of transmission but also under the alternative channels of transmission of the Service Convention (the Recommendation and the accompanying Report established by Gustaf Möller are available on the "Service Section" of the HCCH website (< www.hcch.net >). Please indicate whether the forwarding authorities in your State systematically send the "Summary" accompanied by the "Warning" when requests for service are sent abroad using an alternative channel of transmission.

[] YES

[] NO – why not?

- 36) The Permanent Bureau approves and encourages the practice of certain States to return the Certificate to the applicant even if transmission of the request for service occurred via an alternative channel of transmission provided for in Article 10 *b*) and *c*) (see para. 119 of the Service Handbook). This practice may even be extended to Article 10 *a*), depending on the postal mail service used in the State of destination. Is it a practice within your State, as a State of destination, to use the "Certificate" part of the Model Form and to transmit this to the applicant in the

State of origin when the transmission of the request for service occurred under one of the alternative channels of transmission contained within Article 10 *a)*, *b)* and *c)*? [The persons and entities within the United States competent to forward service requests pursuant to Article 3 include any court official, any attorney, or any other person or entity authorized by the rules of the relevant court. Because this is decentralized, the United States is not in a position to respond to this question.](#)

YES, the Certificate is transmitted to the applicant when the transmission of the request for service occurred under Article 10 *a)* – please provide further details:

YES, the Certificate is transmitted to the applicant when the transmission of the request for service occurred under Article 10 *b)* and / or *c)* – please provide further details, *i.e.*, what category of or which judicial officers, officials or competent persons exercise this practice:

NO

C. Diplomatic and Consular Channels

Article 8 – Direct Channels

37) Have the diplomatic and consular agents of your State been used to directly effect service of judicial documents upon persons abroad in accordance with Article 8(1) in the past five years?

NO – why not?

[Title 22, Code of Federal Regulations, Part 92.85](#)

http://edocket.access.gpo.gov/cfr_2008/apr_qtr/22cfr92.85.htm provides that service of process and legal papers is not normally a U.S. Foreign Service function. Except when directed by the U.S. Department of State, officers of the U.S. Foreign Service are prohibited from serving process or legal papers or appointing others to do so.

Yes – please specify:

a. on how many occasions your diplomatic and consular agents abroad have been used to effect service in accordance with Article 8(1):

b. in which States these diplomatic and consular agents were based:

c. the average time taken between the transmission of the documents for service and the execution of service:

d. whether your State considers this channel to be efficient and effective:

YES

NO – why not?

e. whether there have been situations whereby the diplomatic and consular agents of your State have attempted to directly effect service of judicial

documents upon persons abroad but were unable to as a result of the addressee not voluntarily accepting delivery of the document:

YES – please indicate how this matter was dealt with:

NO

- f. whether the transmission of judicial documents to the diplomatic agents or consular officers of your State posted abroad, or the actual service of these judicial documents upon an addressee, have been executed by using electronic means (*e.g.*, by fax or e-mail):
- [] YES
- [] NO – why not?

Article 9 – Indirect Channels

- 38) In the past five years, has your State used consular channels to forward documents, for the purpose of service, to those authorities of another Contracting State which were designated by the latter for this purpose in accordance with Article 9(1)?
- [**X**] NO – why not?
This has never been requested.
- [] YES – please specify:
- a. on how many occasions this channel has been used in the past five years:
- b. in which States these diplomatic and consular agents were based:
- c. the average time taken between the first transmission of the documents to be served and the execution of service:
- d. whether your State considers this channel to be efficient and effective?
- [] YES
- [] NO – why not?
- 39) In the past, have there been “exceptional circumstances” in accordance with Article 9(2) that required your State to use diplomatic channels to forward documents to another State Party for the purpose of service?
- [**X**] NO
- [] YES – please describe what these exceptional circumstances were that warranted the use of diplomatic channels to forward documents for the purpose of service in another State Party. In particular, did any exceptional circumstances relate to the service of a claim on a foreign State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for a State or a State-owned company (see para. 193 of the Service Handbook):
- 40) Has the transmissions of documents to either diplomatic agents or consular officers of your State located abroad for the purpose of service in the State in which they are based, or the actual service on these documents upon the addressee, occurred via electronic means (*e.g.*, by fax or e-mail)?

- YES For service of subpoena on U.S. citizens abroad in accordance with 28 U.S. Code 1783 scanned or faxed copies of subpoenas and courts orders have been transmitted to U.S. embassies for service of subpoenas on U.S. citizens or residents.
- NO – why not?

D. Article 10 a) – Postal Channel Not Applicable

41) If your State has opposed “the freedom to send judicial documents, by postal channels, directly to persons abroad” (Art. 10 a)), please indicate:

- a. the reason(s) that motivated this opposition:
- b. whether your State uses this channel of transmission to send judicial documents abroad for service by mail despite having filed an opposition under Article 10 a) (see paras 206-210 of the Service Handbook):
- [] NO
- [] YES – please explain:

Please go to Question 45).

42) Has the interpretation and application of Article 10 a) given rise to any difficulties in your State?

[] YES – please specify / comment:

[**X**] NO

43) If possible, please comment upon how frequently judicial documents are sent for service upon persons abroad, by parties in your State, via postal channels:

The United States does not have information necessary to respond to this question.

44) In Conclusion and Recommendation No 56, the 2003 Special Commission concluded that for the purposes of Article 10 a), the use of a private courier was the equivalent of using the postal channel under the Service Convention.

a. Does the law of your State, as a State of origin, allow for private courier services to be used under Article 10 a), *i.e.*, are judicial documents sent from your State for service abroad via private courier services:

[**X**] YES

[] NO – why not?

b. Does the law of your State, as a State of destination, allow for private courier services to be used under Article 10 a), *i.e.*, are judicial documents received from abroad and served within your State by private courier services:

[**X**] YES

[] NO – why not?

E. Article 10 b) – Judicial Officers, Officials or Other Competent Persons

- 45) If your State has opposed “the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination” (Art. 10 b)), please indicate the reason(s) that motivated this opposition: **Not Applicable**

If your State does hold an opposition, please go to Question 47).

- 46) Provided the application of Article 10 b) has not been objected to by your State and that the law of your State presumably allows for service to be effected by “judicial officers, officials or other competent persons”, please answer the following:

- a. Which of the following would be considered to be “judicial officers, officials or other competent persons” under the law of your State (please tick all relevant boxes)? Please also note whether these categories differ depending on whether your State is a State of origin or a State of destination:

- Attorneys or solicitors
- Bailiffs
- Huissiers*
- Process servers
- Court officials
- Notaries
- Officials of the executive branch
- Other – please specify

- b. How does this channel of transmission operate in practice – in particular, do (any of) the judicial officers, officials or other competent persons mentioned above send (or receive) the judicial documents *directly* to (or from) their counterparts abroad, or do they have to use some other channel? Please also indicate whether these channels differ depending on whether your State is a State of origin or a State of destination.

Service in the United States by such persons would be arranged privately and would not involve the U.S. Central Authority. We therefore have no information to respond to this question.

- c. Are there any costs associated with the use of this alternative channel of transmission in your State, either in terms of sending or receiving judicial documents?

If there are such costs they would be contracted privately and the U.S. Central Authority would not have information about this.

- d. How frequently is this channel of transmission used in your State (either as a State of origin or as a State of destination)?

Unknown.

- e. May any transmission between the judicial officers, officials or other competent persons be done via electronic means (e.g., by fax or e-mail)?

- YES
- NO – why not?

The answer would depend on the specific jurisdiction, since in some instances such methods are specifically permitted, and in others not permitted.

F. Article 10 c) – Interested Persons

- 47) If your State has opposed “the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through judicial officers, officials or other competent persons of the State of destination” (Art. 10 c)), please indicate the reason(s) that motivated this opposition: **Not Applicable**

If your State does hold an opposition, please go to Question 49).

48) Provided the application of Article 10 *c*) has not been objected to by your State, please answer the following: **The United States does not have information necessary to respond to this question.**

- a. Which of the following would be considered to be “any person interested in a judicial proceeding” under the law of your State (please tick all relevant boxes):
- Attorneys or solicitors
 - Bailiffs
 - Huissiers*
 - Process servers
 - Court officials
 - Notaries
 - Officials of the executive branch
 - Other – please specify
- b. How does this channel of transmission operate in practice – in particular is any person interested in a judicial proceedings able to send the judicial documents *directly* to the judicial officers, officials or other competent persons of the State of destination or does another channel have to be used?
- c. Are there any costs associated with the use of this channel of transmission in your State, either in terms of sending or receiving judicial documents?
- d. How frequently is this channel of transmission used in your State (either as a State of origin or as a State of destination)?
- e. May any transmission between a person interested in a judicial proceeding and the judicial officer, official or other competent person be done via electronic means (*e.g.*, by fax or e-mail):
- YES
 - NO – why not?

V. Final refusal to execute the request (Art. 13)

49) According to Article 13 of the Service Convention a requested State may refuse to execute a request for service when this would infringe the “sovereignty or security” of the requested State.

- a. In the past five years, has your State, as a requested State, rejected the execution of any request for service under Article 13?
- YES – please specify the grounds upon which your State rejected the execution. Please specify whether there is case law in your State that relates to this issue:
 - NO

b. In the past five years, is your State aware of whether a(ny) request(s) for service forwarded by your State has(have) been refused by a requested State under Article 13?

[] YES – please specify the precise grounds upon which the(se) request(s) for service were rejected: **Sovereignty and public policy were cited in cases involving service on a Foreign State under the Foreign Sovereign Immunities Act.**

[] NO

VI. Protection of the interests of the Plaintiff and Defendant (Arts 15 and 16)

50) When a writ of summons or an equivalent document has been transmitted abroad for the purpose of service under the Service Convention, and the defendant has not appeared, Article 15(1) requires States not to give judgment unless certain requirements have been met. Nonetheless, and subject to States' declarations on this matter, a judge may give judgment if the conditions specified in Article 15(2) are fulfilled. One of these conditions is Article 15(2) c) which states that "no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed" [emphasis added]. Please comment on the interpretation in your State of the expression "no certificate of any kind". In particular, would your State, as a requesting State, consider that the receipt of a certificate that stated that *no service* has occurred could nevertheless trigger the application of Article 15(2)?

[] YES, the receipt of a certificate that states that no service has occurred may trigger the application of Article 15(2) (if all the other conditions are fulfilled). **However, some cases have required a strong demonstration of compliance with "every reasonable effort" and a strong showing of reasonable diligence.**

[] NO, the receipt of a certificate that states that no service has occurred may not trigger the application of Article 15(2) – please explain why:

51) If a requesting State has made a declaration in accordance with Article 15(2) and considers that all conditions of Article 15(2) have been fulfilled and accordingly enters a default judgment, would your State, as a requested State, recognise and enforce the resulting judgment in these circumstances (assuming that all other conditions for the recognition and enforcement of the judgment are fulfilled)?

[] YES

[] NO – please indicate the grounds upon which your State would refuse to enforce a judgment in these circumstances:

The decision of the court asked to enforce the default judgment would, however, depend on the relevant circumstances. Possible grounds for refusal of enforcement would include (a) lack of adequate proof of actual service, (b) lack of actual notice, and (c) other due process considerations,

such as sufficient opportunity to respond. When service of process has been made under the Convention consistent with the domestic laws and court procedures, courts would typically consider the service effective. This does not preclude a judgment defendant from later challenging the judgment based upon some factual infirmity in the service not otherwise apparent to the court. Thus, for example, if the addressee accepts mail service of an untranslated pleading or document, a U.S. court could still find, if challenged, that the defendant had not been provided reasonable due process and deny enforcement of a resulting judgment. However, there appear to be no reported cases of this happening, in fact. In addition, of course, other procedural or substantive infirmities may exist in the underlying action that might render the judgment also unenforceable.

For its part, the United States made the following declaration: In accordance with the second paragraph of Article 15, it is declared that the judge may, notwithstanding the provisions of the first paragraph of Article 15, give judgment even if no certificate of service or delivery has been received, if all the conditions specified in subdivisions (a), (b) and (c) of the second paragraph of Article 15 are fulfilled.

- 52) If your State has not made a declaration under Article 15(2), please explain: **Not Applicable**
- a. why your State has not made such a declaration:
 - b. whether or not your State is assessing the possibility of making such a declaration:
- 53) If your State has *not* made a declaration under Article 15(2), what actions would a judge in your State take (as a requesting State) if your State has not received a certificate of service and the defendant has not appeared? For example, would the

law of your State enable a judge to enter a default judgment, despite the absence of a declaration under Article 15(2)? Upon what grounds would such a judgment be made? If there were some evidence that service had actually been effected, would this change the options that may be available to a judge?

[] Not applicable (my State made a declaration under Art. 15(2))

54) If your State has not made a declaration under Article 16(3), please explain:

a. why your State has not made a declaration:

b. whether or not your State is assessing the possibility of making a declaration:

Not applicable.

VII. Date of service

55) The Service Convention does not include a provision that determines the date of service (*i.e.*, the precise moment when the documents have actually been or are deemed to have been served). As a result, it is for the domestic law of the State(s) involved to determine the date of service.

a. How is the date of service of documents determined in your State:

(i) in relation with the execution of a request for service forwarded under the main channel of transmission (please also specify whether your State relies on the date mentioned under point 1 of the Certificate to determine the actual date of service)?

(ii) when one of the alternative channels of transmission has been used?

U.S. courts will typically look to the *actual date on which the defendant received service, whether service is made domestically or effected abroad, and whether it is made through the main channel for transmission or the alternative channels for transmission.*

b. When the law of your State requires that documents be served within a specific period, does the law of your State also provide effective means to protect the interests of the applicant when the documents have to be served abroad and are thus subject to the effective operation of authorities or professionals abroad (*e.g.*, does the law of your State provide for extended periods of service or for fictitious dates of service based on the date when the documents are sent or ready to be sent abroad, etc.; see Conclusion and Recommendation No 75 of the 2003 Special Commission)?

[] YES – please specify:

[] NO

U.S. courts are divided on the degree of leniency shown when service has been made abroad. Some courts have been rigid about both the issue of statute of limitations (which is independent of the issue of effective service under the Hague Service Convention) and service that exceeds the 120 day limit under Federal Rule 4(m). Other courts have been sympathetic to plaintiffs who cannot control the timing of the service.

- c. Has the absence of an explicit rule on the date of service in the Convention caused any practical difficulties in your State?

YES – please specify:

NO

PART THREE – OTHER OPERATIONAL ISSUES

I. Model Form annexed to the Service Convention

A. Fillable PDF versions of the Model Form

- 56) The Permanent Bureau has made the Model Form annexed to the Convention available as a fillable PDF document on the HCCH website. This fillable version of the Model Form is currently available in English, French and in two trilingual versions (English / French / Ukrainian and English / French / Russian). These fillable forms have proven to be very useful. The Permanent Bureau would be pleased to make available other trilingual Model Forms in the same format (English / French / one of the official languages of a State Party). States that are interested in producing a Model Form with (one of) their official language(s) available as fillable PDF documents are invited to send to the Permanent Bureau a document in MS-Word with the text of the Model Form in the relevant official language. The Permanent Bureau will then create the fillable version and upload it onto the HCCH website.

Please feel free to comment further on the above:

B. Request Form (Art. 3)

- 57) The first box on the Model Form asks for the “[i]dentity and address of the *applicant*” [emphasis added]. The Permanent Bureau’s interpretation of the word “applicant” is that it refers to the *forwarding authority* referred to in Article 3(1) (see Service Handbook, paras 112-114). Does your State agree with this interpretation?

YES

NO – what then is the interpretation of this word in your State?

The plaintiff in the proceedings

Counsel representing the plaintiff (if different from the forwarding authority)

The court where the proceeding is taking place in the requesting State

Other – please specify:

- 58) In Conclusion and Recommendation No 48, the 2003 Special Commission unanimously approved the suggestion that the information regarding the forwarding authorities and their competences be included in the Model Form. Does your State systematically follow this Conclusion and Recommendation when sending a request for service? **The persons and entities within the United States competent to forward service requests pursuant to Article 3 include any court official, any attorney, or any other person or entity authorized by the rules of the relevant court. Because this is decentralized, the United States is not in a position to respond to this question. The material on the Department of State Bureau of Consular Affairs web page about service of process includes the recommendation that forwarding authorities cite their authority under U.S. state law where applicable.**

YES

NO – why not?

C. Certificate (Art. 6)

59) Article 6(4) indicates that the Certificate shall be “forwarded directly to the *applicant*” [emphasis added]. The Permanent Bureau’s interpretation of the word “applicant” is again that it refers to the *forwarding authority* referred to in Article 3(1). Does your State agree with this interpretation?

YES

NO – to whom then do(es) the Central Authority(ies) of your State or the authority designated for this purpose forward the Certificate:

The plaintiff in the proceedings

Counsel representing the plaintiff (if different from the forwarding authority)

The court where the proceedings are taking place in the requesting State

The nearest Embassy representing the requesting State

Other – please specify:

II. E-service

A. In strictly domestic situations

60) Does the law of your State, in strictly domestic situations, allow for documents to be served by fax, e-mail, SMS, the posting of a message on a website, or by a similar modern technology?

NO – are there plans to introduce service by using such technologies?

YES – please specify:

NO

YES – please specify:

a. the legal framework and practical circumstances in which such technologies may be used (please describe for each if necessary):

b. whether a secured transmission has to be used for any / each of these technologies, and if so, which kind of secured transmission is used in practice:

c. if and how service upon the addressee is acknowledged or proven in such circumstances:

In the United States, service of process by electronic means (including facsimile and email) is being used with some frequency, although it remains an exception to the normal requirement of personal service. (Service by SMS, text-messages to cell-phones, or web-posting – such as through “Facebook” or similar accounts – has not gained currency or

approval.) The Federal Rules of Civil Procedure do not expressly permit or restrict service of a summons and complaint via email, although Fed. R. Civ. P. 5(b)(2)(E) now provides for service of other documents (such as pleadings) by electronic means (including facsimile) when consented to in writing by the person served. The laws in only a few states address the issue specifically. However, the decision to permit alternative methods of service such as email or facsimile typically remains within the discretion of the courts, and judges have been receptive to requests to use electronic means of effecting service where justified under the circumstances (for example, when more traditional methods are not practical or have proven ineffective and service by electronic means is likely to provide actual and timely notice of the proceedings).

For example, in *Snyder v. Alternate Energy Inc.*, 19 Misc.3d 954, 857 N.Y.S.2d 442 (2008), the Civil Court of the City of New York permitted "alternative service" by email where despite their best efforts plaintiffs had been unable to locate a physical address where they could make personal service on two defendants. The court noted that, in order to meet the constitutional requirements of due process, service of process must be accomplished by a legally approved method that is reasonably calculated to give the defendant notice of the pending lawsuit. In this situation, the only address plaintiffs could find was an e-mail address. Acknowledging some uncertainty that an e-mailed summons and complaint would in fact make its way across the internet to its intended target, the court found that "such concerns are not reason enough to summarily reject an application for alternate service simply because the method sought involves e-mail....Of course, the mere fact that a defendant has a computer and an e-mail address is not [by itself] a basis to allow a plaintiff to resort to e-mail service. In this case, however, plaintiffs have shown that [the defendant] is regularly online using an e-mail address that by all indications is his. Under these particular facts, a court could readily conclude that service by e-mail is reasonably calculated, under all the circumstances, to apprise the defendants of the action brought against them."

See also *D.R.I., Inc. v. Dennis*, 2004 WL 1237511 (S.D. N.Y. 2004), where the court permitted alternate service of the summons and complaint pursuant to Fed. R. Civ. P. 4 and N.Y. C.P.L.R. § 308(5) where the plaintiff had already attempted, without success, to serve the defendant at his last known address; *Hollow v. Hollow*, 193 Misc.2d 691, 747 N.Y.S.2d 704 (S.Ct., Oswego County 2002).

A growing number of states allow facsimile machines to play some role in service of process. See, for example, West's Annotated California Code of Civil Procedure § 1013, Florida Rules of Civil Procedure 1.080(b), Washington Rev. Code Annotated § 59.18.365.

As the court in *Snyder* acknowledged, there are still no reliable means for confirming that e-mail or fax service has in fact been received by the person to whom it was sent, nor is there an effective way to prove the

date when such service was made. Nevertheless, if a party accepts service of process through electronic channels and does not subsequently challenge the service, it is unlikely that a U.S. court would find the service of process to be ineffective.

B. In cross-border situations outside of the Service Convention

61) Have the relevant authorities of your State served documents by fax, e-mail, SMS, the posting of a message on a website or by a similar modern technology in cross-border situations that did not fall within the scope of the Service Convention?

[] YES – please specify:

- a. the legal framework and practical circumstances in which this occurred – in particular, whether the terms of a regional or bilateral instrument

provided for or otherwise allowed this (please describe for each if necessary):

- b. whether a secured transmission has to be used for any / each of these technologies, and if so, which kind of secured transmission is used in practice:
- c. if and how service upon the addressee was acknowledged or proven in such circumstances:

[] NO

In the court's discretion, service of process by electronic means may also be permissible on foreign defendants (i.e., those outside the territory of the United States) under Fed. R. Civ. P. 4(f)(3). For example, in *Philip Morris USA Inc. v. Veles Ltd.*, 2007 WL 725412 (S.D. N.Y. 2007), the federal district court held that service via electronic mail was sufficient in a trademark infringement action brought by a Virginia corporation, as owner of several trademarks on brand-name cigarettes, against foreign defendants who operated online cigarette stores, where (i) the defendants conducted business extensively, if not exclusively, through their Internet web sites and corresponded regularly with customers via e-mail, (ii) the defendants did not disclose their physical addresses or location of incorporation on their web sites, and (iii) the defendants appeared to be foreign corporations of unknown citizenship. The court concluded that service by e-mail was reasonably calculated to inform the defendants of the pendency of this action, and noted that the defendants themselves did not dispute having received e-mail service.

See also *Williams v. Advertising Sex LLC.*, 231 F.R.D. 483 (N.D.W.Va., 2005) (service by e-mail appropriate where (i) foreign defendants were sophisticated participants in e-commerce and maintained e-mail addresses linked to established web sites used to conduct business and (ii) the defendants had eluded service through traditional means); *Rio Properties, Inc. v. Rio Intern. Interlink*, 284 F.3d 1007 (9th Cir. 2002) (in trademark infringement suit against a foreign Internet business entity, email service permitted where plaintiff's prior attempts to serve by conventional means in the United States had been unsuccessful, due to refusal of attorney and courier service to accept service on entity's behalf, and investigator was unable to locate entity's whereabouts in Costa Rica); *Williams-Sonoma Inc. v. Friendfinder Inc.*, 2007 WL 1140639 (N.D.Cal. 2007) (email service permitted on defendants in the Ukraine, the Czech Republic, Israel, Switzerland, the Philippines, Norway, Canada, India and England since physical addresses for a number of the named defendants could not be located, specific defendants had refused to accept service, and plaintiff established that the email accounts had been effective means of communicating with the defendants, which would serve the purposes of ensuring the defendants receive adequate notice of this action and an opportunity to be heard).

In general, U.S. courts appear inclined to authorize email service in cross-border situations when the foreign defendant has successfully evaded traditional methods of service and is utilizing e-mail as its preferred or sole method of communication. By the same token, requests for such service have been rejected when the plaintiff has not previously attempted to serve the defendant through traditional methods of service before requesting the court to authorize e-mail service. The courts have also been reluctant to authorize e-mail service when they are not satisfied that e-mail is the mode of communication most likely to give the defendant notice of the action. Courts have taken different approaches to the question of how much weight to give to the legality of e-mail service in the foreign country in which the defendant resides. Compare *Prewitt Enterprises, Inc. v. Org. of Petroleum Exporting Countries*, 353 F.3d 916, 927-28 (11th Cir. 2003) with *Rio Properties, Inc. v. Rio Int'l Interlink*, 284 F.3d 1007 (9th Cir. 2002). Generally, see Stewart and Conley, "E-mail Service on Foreign Defendants: Time for an International Approach?", 38 *Georgetown Journal of International Law* 755 (2007).

C. E-service and the main channel of transmission under the Service Convention

- 62) Has the / a Central Authority of your State received requests for service that expressly asked for documents to be served by fax, e-mail, SMS, the posting of a message on a website or by a similar modern technology?

The Central Authority, through its contractor, will only accept service requests received by mail or courier. Requests submitted in any other fashion will not be accepted or executed. We do not maintain the necessary information to otherwise respond to this question.

NO – please indicate how the Central Authority would respond if it were to receive such requests:

YES

a. From which State(s) did these requests emanate?

b. Did the requests for service provide any particular circumstances or explanations as to why the execution of using such technologies was requested?

YES – what were these circumstances or explanations? (please tick all relevant boxes)

Urgency

Failure of previous attempts to serve process by traditional means

- Use of such technologies approved by judicial authority of the forum or the domestic law of the forum
- All parties involved gave their (prior or subsequent) consent
- Other – please specify:

NO

c. Did your State in fact execute any of these requests for service by using any of these modern technologies?

NO – why not?

YES – please specify:

(i) the legal basis upon which these requests for service were executed:

(ii) whether a secured transmission was used or required or requested to be used, and if so, which kind:

(iii) if and how service upon the addressee was acknowledged or proven in such circumstances:

63) Has your State, as a requesting State under the Service Convention, sent requests for service abroad that expressly asked for documents to be served by fax, e-mail, SMS, the posting of a message on a website or by using a similar modern technology?

The Central Authority does not have information concerning outgoing requests for service under the Convention. It is likely, however, that in some situations U.S. litigants have in fact made requests for service abroad expressly asking for documents to be served by one of the enumerated methods.

NO

YES

a. To which State(s) were these requests sent?

b. Did the requests for service provide any particular circumstances or otherwise provide explanations as to why the execution of service using such technologies was requested?

YES – what were these circumstances or explanations? (please tick all relevant boxes)

Urgency

Failure of previous attempts to serve process by traditional means

- Use of such technologies approved by the relevant judicial authority or the domestic law of your State
- All parties involved gave their (prior or subsequent) consent
- Others – please specify:

NO

c. Were these requests for service in fact executed by using any of these modern technologies?

YES

NO – please provide any information you may have as to why these requests were not executed:

64) How likely is it that your State would recognise and execute a foreign judgment if the related writ of summons was served abroad by fax, e-mail, SMS, the posting of a message on a website or by using a similar modern technology (all other conditions for recognition being of course fulfilled)?

Very likely

Likely

Very unlikely

It depends on the technology used – please indicate which modern technology method of service your State would accept:

A U.S. court asked to enforce a foreign judgment in an action where service of process had been accomplished by fax or email would likely be guided by basic concepts of due process. (Since service by SMS, text messaging to cell phones, posting messages on a website or by similar methods is not yet practiced in the United States, it would be difficult to predict the acceptability of those methods in any particular circumstance.) Where the method in question was effective in providing actual notice of the proceedings to the defendant and sufficient time for the defendant to respond, a court would not be likely to refuse enforcement simply on the basis that service had been made by means other than personal service. A more serious question might be raised where the chosen method of service was (i) illegal under the law of the state where the judgment had been rendered or (ii) specifically impermissible under the law of the jurisdiction in which enforcement was sought.

65) How likely is it that your State would recognise and enforce an agreement made by parties to a contract to the effect that they agree in advance to serve documents by fax, e-mail, SMS, the posting of a message on a website or by using a similar modern technology?

Very likely

Likely

Very unlikely

Please explain / comment:

It is likely that U.S. courts would give effect to a prior contractual agreement freely entered into by the parties to accept service of process by electronic or other modern technological means, since there is no general mandatory rule in the U.S. against service by such means, although (i) it is possible that in some jurisdictions the permissible methods of service are restricted by law and (ii) in a specific case it would certainly be open to a party to argue that the chosen means did not in fact result in actual notice of the proceedings and appropriate time to respond.

D. E-service and the alternative channels of transmission under the Service Convention

66) Does your State interpret the expression "postal channels" in Article 10 a) as including transmissions by:

a. Fax

YES

NO

Comments:

b. E-mail

YES

NO

Comments:

c. SMS

YES

NO

Comments:

d. The posting of a message on a website

YES

NO

Comments:

As a general matter, the term “postal channels” would not be interpreted to include any of the four specified alternatives. However, we are aware of at least one judicial decision in which the court denied plaintiff's request to serve a summons and complaint via email or facsimile by analogizing such service to service by “postal channels.” In that case, the defendants were located in the Federal Republic of Germany, and the court’s decision turned on the Federal Republic’s objection under Article 10 of the Hague Service Convention. *Agha v. Jacobs*, Slip Copy, 2008 WL 2051061 (N.D.Cal., 2008). To date, that decision does not appear to have been followed by other courts.

E. Miscellaneous

- 67) Have there been any other recent developments in your State in relation to the service of documents by fax, e-mail, SMS, the posting of a message on a website or by using a similar modern technology (including in situations involving one of the alternative channels of transmission under the Service Convention where applicable)? Please describe below and provide the citations for and / or a copy of any relevant decision or article in this regard (if this information is not in English or French, a summary into one of these languages would be appreciated):

[See the cases and materials cited in the foregoing responses.](#)

- 68) In Conclusions and Recommendations Nos 60 to 62, the 2003 Special Commission noted, amongst other matters, that the Service Convention does not on its terms prevent or prescribe the use of modern technologies to assist in further improving

its operation and that States Parties to the Service Convention should explore all ways in which they could use modern technology. Does your State think that the use of modern technologies under the Service Convention should be further encouraged by the adoption of:

- a. Specific Conclusions and Recommendations to that effect by the 2009 Special Commission

YES

NO

Comments:

- b. A Protocol to the Service Convention:

YES

NO

Comments:

The United States believe that it would clearly be worthwhile to have a discussion about the emergence of new technologies and methods of communication which are relevant to the service of process in trans-border situations. The rapid development and deployment of new and technologically sophisticated means of communication, and their worldwide acceptance and expanding use in the business and legal communities, makes such a discussion essential. Ignoring these developments simply increases the risk of conflict and controversy, while threatening to marginalize the mechanisms established by the Service Convention.

The object of the discussion could be, in the first instance, the formulation of a non-binding statement of principles or best practices aimed at encouraging states to update their domestic laws and practices to take account of these new technological facts and business practices, authorizing courts to permit "e-service" in appropriate cases, domestically as well as internationally, and providing that "e-service" from abroad is not automatically illegal.

While we are not adverse to discussing how these modern technologies might best be integrated into the operation of the Service Convention, we believe that requiring Central Authorities to respond to requests for "e-service" is a different and potentially more difficult question.

Thank you!

* * *

**ANNEX A
CASES SINCE PRACTICAL HANDBOOK
CITING THE HAGUE SERVICE CONVENTION**

FEDERAL

1. *Jenkins & Gilchrist a Prof'l Corp. v. Groia & Co.*, No. 07-20296, UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, 542 F.3d 114; 2008 U.S. App. LEXIS 18237, August 26, 2008
2. *Hubei Gezhouba Sanlian Indus. Co. v. Robinson Helicopter Co.*, No. 07-55649, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 287 Fed. Appx. 599; 2008 U.S. App. LEXIS 15625, July 22, 2008
3. *De Manez v. Bridgestone Firestone N. Am. Tire, LLC*, No. 07-1126, UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 533 F.3d 578; 2008 U.S. App. LEXIS 14802, July 11, 2008
4. *Good v. Fuji Fire & Marine Ins. Co.*, No. 07-2068, No. 07-2175, UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT, 271 Fed. Appx. 756; 2008 U.S. App. LEXIS 6622, March 27, 2008
5. *Carrascosa v. McGuire*, No: 07-1748/4130, UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT, 520 F.3d 249; 2008 U.S. App. LEXIS 5850; 70 Fed. R. Serv. 3d (Callaghan) 149, March 20, 2008, US Supreme Court certiorari denied by *Carrascosa v. McGuire*, 2008 U.S. LEXIS 7944 (U.S., Nov. 3, 2008)
6. *In re Teknek, LLC*, No. 07-1498, UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 512 F.3d 342; 2007 U.S. App. LEXIS 29856; Bankr. L. Rep. (CCH) P81,084; 49 Bankr. Ct. Dec. 69, December 28, 2007
7. *SEC v. Internet Solutions for Bus., Inc.*, No. 06-15204, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 509 F.3d 1161; 2007 U.S. App. LEXIS 28560, December 11, 2007
8. *Lisson v. ING Groep N.V.*, No. 06-50955 Summary Calendar, UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, 262 Fed. Appx. 567; 2007 U.S. App. LEXIS 24915, October 11, 2007
9. *Boston Telcoms. Group, Inc. v. Deloitte Touche Tohmatsu*, No. 04-15983, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 249 Fed. Appx. 534; 2007 U.S. App. LEXIS 23188, September 27, 2007

10. e360 Insight v. Spamhaus Project, Nos. 06-3779 & 06-4169, UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, 500 F.3d 594; 2007 U.S. App. LEXIS 20725, August 30, 2007...
11. S.A.R.L. Louis Feraud Int'l v. Viewfinder, Inc., Docket No. 05-5927-cv , UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, 489 F.3d 474; 2007 U.S. App. LEXIS 12926; 83 U.S.P.Q.2D (BNA) 1105; 35 Media L. Rep. 1879, June 5, 2007
12. Bd. of Regents of the Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp., No. 05-51432 , UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, 478 F.3d 274; 2007 U.S. App. LEXIS 2262, February 1, 2007
13. United States v. First Coast Meat & Seafood, Court No. 05-00281, UNITED STATES COURT OF INTERNATIONAL TRADE, 452 F. Supp. 2d 1348; 28 Int'l Trade Rep. (BNA) 2311; 2006 Ct. Intl. Trade LEXIS 135; SLIP OP. 2006-135, September 6, 2006,
14. Yahoo! Inc. v. La Ligue Contre Le Racisme, No. 01-17424 , UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 433 F.3d 1199; 2006 U.S. App. LEXIS 668, January 12, 2006 ,US Supreme Court certiorari denied by La Ligue Contre Le Racisme v. Yahoo!, 2006 U.S. LEXIS 4180 (U.S., May 30, 2006)
15. Tuazon v. R.J. Reynolds Tobacco Co., No. 04-35618 , UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 433 F.3d 1163; 2006 U.S. App. LEXIS 579, January 11, 2006, US Supreme Court certiorari denied by R.J. Reynolds Tobacco Co. v. Tuazon, 2006 U.S. LEXIS 9246 (U.S., Dec. 4, 2006)
16. Preci-Dip, SA v. Tri-Star Elecs. Int'l, Inc., No. 08 C 4192, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, 2008 U.S. Dist. LEXIS 98465, December 4, 2008
17. Maclean-Fogg Co. v. Ningbo Fastlink Equip. Co., No. 08 CV 2593, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, 2008 U.S. Dist. LEXIS 97241, December 1, 2008
18. Kuklachev v. Gelfman, 08-CV-2214 (CPS), UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, 2008 U.S. Dist. LEXIS 95327, November 24, 2008
19. Emine Tech. Co. v. Aten Int'l Co., No. C 08-3122 PJH, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2008 U.S. Dist. LEXIS 95136, November 21, 2008
20. Flo & Eddie, Inc. v. Settler, Case No. 08-80356-CIV-RYSKAMP/VITUNAC, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, 2008 U.S. Dist. LEXIS 95939, November 19, 2008

21. 1st Tech., LLC v. Digital Gaming Solutions S.A., No. 4:08 CV 586 DDN, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, 2008 U.S. Dist. LEXIS 88341, October 31, 2008

22. Hatami v. KIA Motors Am., Inc., Case No. SA CV 08-226 DOC (MLGx), UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, 2008 U.S. Dist. LEXIS 89909, October 29, 2008

23. Lazaridis v. Wehmer, Civ. Action No. 06-793 SLR, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, 2008 U.S. Dist. LEXIS 88544, October 28, 2008

24. Rae Group, Inc. v. AIESEC Int'l, CASE NUMBER: 08-10364, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION, 2008 U.S. Dist. LEXIS 83519, October 20, 2008

25. Estrada v. Nat'l Diamond Corp., No. 4:07CV00267 JLH, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION, 2008 U.S. Dist. LEXIS 91954, October 16, 2008

26. Marine Geotechnics, LLC v. Acosta, CIVIL ACTION NO. H-07-3499, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION, 2008 U.S. Dist. LEXIS 75218, September 29, 2008.

27. Tabb v. Journey Freight Internations, C.A. NO. 07-30009-MAP, (Dkt. Nos. 25, 31 & 69), UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, 2008 U.S. Dist. LEXIS 75717, September 26, 2008, Decided

28. Harvey v. Sav-U-Car Rental, 2007-CV-0115, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX, 2008 U.S. Dist. LEXIS 72115, September 22, 2008

29. Team Enters., LLC v. Western Inv. Real Estate Trust, CASE NO. CV F 08-1050 LJO SMS, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, 2008 U.S. Dist. LEXIS 82883, September 23, 2008, Amended by Team Enters., LLC v. W. Inv. Real Estate Trust, 2008 U.S. Dist. LEXIS 84351 (E.D. Cal., Oct. 7, 2008)

30. Retractable Techs., Inc. v. Occupational & Med. Innovations, Ltd., CASE NO. 6:08 CV 120, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS, TYLER DIVISION, 253 F.R.D. 404; 2008 U.S. Dist. LEXIS 70470, September 11, 2008

31. Faux Effects Int'l, Inc. v. Selkirk Painting Co., Case No. 07-14248-CV-GRAHAM/LYNCH, UNITED STATES DISTRICT COURT FOR THE SOUTHERN

DISTRICT OF FLORIDA, FORT PIERCE DIVISION, 2008 U.S. Dist. LEXIS 67094, September 3, 2008

32. Coombs v. Iorio, Case No. CIV-06-060-SPS, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA, 2008 U.S. Dist. LEXIS 66251, August 28, 2008

33. Gidding v. Anderson, No. C 07-04755 JSW, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2008 U.S. Dist. LEXIS 65898, August 27, 2008, , Reconsideration denied by Gidding v. Anderson, 2008 U.S. Dist. LEXIS 70830 (N.D. Cal., Sept. 19, 2008) Costs and fees proceeding at John Gidding & Pivotal, Inc. v. Anderson, 2008 U.S. Dist. LEXIS 95691 (N.D. Cal., Nov. 24, 2008)

34. Star Navigation Sys. Group, Ltd. v. Aeromechanical Servs., No. C-07-4820 MMC, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2008 U.S. Dist. LEXIS 79444, August 18, 2008

35. Crescent Towing & Salvage Co. v. M/V Chios Beauty, CIVIL ACTION NO. 05-4207 SECTION "K"(5), UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA, 2008 U.S. Dist. LEXIS 62247, August 14, 2008

36. Fordham Fin. Servs. v. Ventramex S.A. DE C.V., NO. 1:06-CV-00513, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION, 2008 U.S. Dist. LEXIS 54577, July 16, 2008

37. Zelasko v. Comerio, Civil No. 08-366-MJR, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS, 2008 U.S. Dist. LEXIS 53316, July 14, 2008

38. Albo v. Suzuki Motor Corp., No. 3:08-cv-0139-KC, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, EL PASO DIVISION, 2008 U.S. Dist. LEXIS 62913, July 2, 2008

39. UNITE Nat'l Ret. Fund v. Ariela, Inc., 06-cv-0055 (BSJ), UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2008 U.S. Dist. LEXIS 66717, June 25, 2008

40. In re LDK Solar Secs. Litig., No. C 07-05182 WHA, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2008 U.S. Dist. LEXIS 90702, June 12, 2008

41. Gray v. Mazda Motor of Am., Inc., SACV 08-279 JVS (ANx), UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, 560 F. Supp. 2d 928; 2008 U.S. Dist. LEXIS 87642, June 2, 2008

42. Tabb v. Journey Freight Internations, Civil Action No. 07-30009-MAP, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, 2008 U.S. Dist. LEXIS 75718, May 29, 2008, Adopted by, Motion granted by, Dismissed by Tabb v. Journey Freight Internations, 2008 U.S. Dist. LEXIS 75717 (D. Mass., Sept. 26, 2008)

43. Digisound-WIE, Inc. v. BeStar Techs., Inc., Case No. 07 C 6535, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, 2008 U.S. Dist. LEXIS 39860, May 16, 2008

44. Lamm v. Bumbo, No. C 07-04807 MHP, No. C 07-05597 MHP, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2008 U.S. Dist. LEXIS 39042; CCH Prod. Liab. Rep. P18,006, May 14, 2008

45. Wong v. Partygaming Ltd., Case No. 1:06-CV-2376, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION, 2008 U.S. Dist. LEXIS 37039, May 6, 2008

46. United States CFTC v. Lake Shore Asset Mgmt., 07 C 3598, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, 2008 U.S. Dist. LEXIS 33773, April 24, 2008

47. Grynberg v. Homm, Civil Case No. 08-cv-00227-REB-BNB, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO, 2008 U.S. Dist. LEXIS 31794, April 10, 2008

48. Punch Clock, Inc. v. Smart Software Dev., Case No. 07-61684-CIV-COHN/SELTZER, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, 553 F. Supp. 2d 1353; 2008 U.S. Dist. LEXIS 27849, April 7, 2008

49. In re Polyester Staple Antitrust Litig., MDL DOCKET NO: 3:03CV1516 ALL CASES, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA, CHARLOTTE DIVISION, 2008 U.S. Dist. LEXIS 43865; 2008-1 Trade Cas. (CCH) P76,119, April 1, 2008, Filed, Summary judgment denied by In re Polyester Staple Antitrust Litig., 2008 U.S. Dist. LEXIS 29870 (W.D.N.C., Apr. 8, 2008)

50. Windt v. Qwest Communs. Int'l, Inc., Civil Action No. 04-3026 (GEB), UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, 2008 U.S. Dist. LEXIS 78003, March 28, 2008

51. Almetals, Inc. v. Wickeder Westfalenstahl, GMBH, Case No. 08-10109, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION, 2008 U.S. Dist. LEXIS 17183, March 6, 2008

52. Allstate Ins. Co. v. Funai Corp., CIVIL ACTION NO. 1:07-CV-799 (Consolidated Cases), UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, 249 F.R.D. 157; 2008 U.S. Dist. LEXIS 14173, February 25, 2008
53. Arista Records LLC v. Media Servs. LLC, 06 Civ. 15319 (NRB), UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2008 U.S. Dist. LEXIS 16485; 69 Fed. R. Serv. 3d (Callaghan) 1623, February 25, 2008
54. Bodyup Fitness, LLC v. 2080039 Ontario, Inc., Case No. 07-22223-CIV-LENARD/TORRES, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, 2008 U.S. Dist. LEXIS 13494, February 23, 2008
55. Gabbanelli Accordions & Imps., L.L.C. v. Italo-American Accordion Mfg. Co., No. 02 C 4048, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, 2008 U.S. Dist. LEXIS 10036, February 8, 2008
56. Tableau Software, Inc. v. AnyAspect KFT, No. C 06-04639 CRB, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2008 U.S. Dist. LEXIS 11364, February 1, 2008
57. TPCO Enter., Inc. v. Rickmers-Linie GmbH, CIVIL ACTION NO. H-07-2001, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION, 2008 U.S. Dist. LEXIS 3253, January 16, 2008
58. Studio A Entm't, Inc. v. Active Distribs., Case No. 1:06cv2496, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION, 2008 U.S. Dist. LEXIS 5883; 85 U.S.P.Q.2D (BNA) 1847, January 15, 2008
59. Cincinnati Ins. Co. v. Belkin Corp., CIVIL ACTION 07-0615-WS-C, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION, 2008 U.S. Dist. LEXIS 134, January 2, 2008
60. Aqua Shield, Inc. v. Inter Pool Cover Team, 05 CV 4880 (CBA), UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 90319, December 7, 2007
61. Garg v. Winterthur, 07CV0510 (ADS) (AKT), UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, 525 F. Supp. 2d 315; 2007 U.S. Dist. LEXIS 89250, November 23, 2007, Motion denied by Garg v. Winterthur Life, 2008 U.S. Dist. LEXIS 70526 (E.D.N.Y., Aug. 26, 2008)
62. Ojea v. Mazda Motor Corp., No. 07 C 3635, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, 2007 U.S. Dist. LEXIS 78621, October 18, 2007

63. Mitchell v. Theriault, NO. 3:07-CV-1241, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, 516 F. Supp. 2d 450; 2007 U.S. Dist. LEXIS 76684, October 12, 2007
64. United States Aviation Underwriters, Inc. v. Nabtesco Corp., Case No. C07-1221RSL, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, 2007 U.S. Dist. LEXIS 79278, October 11, 2007
65. Nabulsi v. Nahyan, CIVIL ACTION NO. H-06-2683, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION, 2007 U.S. Dist. LEXIS 75077, October 9, 2007, Motion denied by Nabulsi v. Zayed Al Nahyan, 2008 U.S. Dist. LEXIS 35131 (S.D. Tex., Apr. 29, 2008)
66. Anderson-Tully Lumber Co. v. Int'l Forest Prods., S.r.L., CIVIL ACTION NO. 5:05-cv-68(DCB)(JCS), UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, WESTERN DIVISION, 2007 U.S. Dist. LEXIS 72348, September 26, 2007
67. Mones v. Commercial Bank of Kuwait, 18 Misc. 0302 (SAS), UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 72701, September 25, 2007
68. Haun v. HTC, Inc., No. 3:07-cv-180 (Phillips/Shirley), UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE, 2007 U.S. Dist. LEXIS 69495, September 19, 2007, Motion denied by Haun v. HTC Sweden AB, 2008 U.S. Dist. LEXIS 5997 (E.D. Tenn., Jan. 28, 2008)
69. Haskell Co. v. Radiant Energy Corp., 05-CV-04403 (DLI)(MDG), UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 69425, September 19, 2007
70. Premium Iowa Pork, L.L.C. v. Banss Schlacth- Und Foerdertechnik, GMBH, No. C 06-4051-MWB, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF IOWA, WESTERN DIVISION, 2007 U.S. Dist. LEXIS 68264, September 14, 2007
71. Higgins v. Black, Civil Action No. 3:06-02193-CMC-BM, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA, COLUMBIA DIVISION, 2007 U.S. Dist. LEXIS 67970, September 13, 2007
72. Royal Chem. Corp. v. Weeda Protective B.V., CIVIL ACTION NO. 06-7244, SECTION "T", UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA, 2007 U.S. Dist. LEXIS 66570, September 7, 2007
73. Universal Trading & Inv. Co. v. Kiritchenko, No. C-99-3073 MMC, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2007 U.S. Dist. LEXIS 66317, September 7, 2007

74. Koninklijke Philips Elecs. N.V. v. KXD Tech., Inc., Case No.: 2:05-cv-01532-RLH-GWF, Case No.: 2:06-cv-00101-RLH-GWF, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA, 245 F.R.D. 470; 2007 U.S. Dist. LEXIS 60708, August 15, 2007

75. RSM Prod. Corp. v. Fridman, 06 Civ. 11512 (DLC), UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 58194, August 10, 2007

76. Chen v. China Cent. TV, 06 Civ. 414 (PAC), UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 58503, August 9, 2007

77. In re Bulk [Extruded] Graphite Prods. Antitrust Litig., Civ. No. 02-6030 (WHW), UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, 2007 U.S. Dist. LEXIS 54906, July 30, 2007

78. Mones v. Commer. Bank of Kuwait, 18 Misc. 0302 (SAS), UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 502 F. Supp. 2d 363; 2007 U.S. Dist. LEXIS 55651, July 31, 2007

79. Raza v. Siemens Med. Solutions USA, Inc., Civil Action No. 06-132-JJF, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, 2007 U.S. Dist. LEXIS 53302, July 23, 2007

80. Moore v. Irving Materials Inc., CIVIL ACTION NO. 4:05-CV-184, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY, 2007 U.S. Dist. LEXIS 52422, July 18, 2007, Dismissed without prejudice by Moore v. Irving Materials Inc., 2007 U.S. Dist. LEXIS 76628 (W.D. Ky., Oct. 15, 2007)

81. Conax Fla. Corp. v. Astrium, LTD, CASE No. 8:07-CV-76-T-TGW, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION, 499 F. Supp. 2d 1287; 2007 U.S. Dist. LEXIS 51854, July 18, 2007

82. May v. Ruyan, Case Number 06-11309-BC, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, NORTHERN DIVISION, 2007 U.S. Dist. LEXIS 50794, July 12, 2007

83. PLS-Pacific Laser Sys. v. TLZ Inc., No. C-06-04585 RMW, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION, 2007 U.S. Dist. LEXIS 53176, July 9, 2007

84. Treeline Inv. Partners, LP v. Koren, 07 Civ. 1964 (DLC), UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 47748, July 3, 2007

85. Pollen v. Comer, Civil No. 05-1656 (JBS), UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, 2007 U.S. Dist. LEXIS 46906, June 28, 2007

86. Dryco, LLC v. Portable HVAC Equipment, Inc., No. 07 C 0069, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, 2007 U.S. Dist. LEXIS 47656, June 28, 2007

87. Guy Carpenter & Co., LLC v. Samengo-Turner, 07 Civ. 3580 (DLC) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 42730, June 14, 2007

88. Dreyer v. Exel Indus., Case Number 05-10285-BC , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, NORTHERN DIVISION, 2007 U.S. Dist. LEXIS 39350, May 31, 2007

89. Bekaert Progressive Composites Corp. v. Wave Cyber, Ltd., CASE NO. 06cv2440-LAB (LSP), UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA, 2007 U.S. Dist. LEXIS 39442, May 31, 2007

90. Lewis v. Vollmer of Am., Civil Action No. 05-1632 , UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA, 2007 U.S. Dist. LEXIS 38317, May 25, 2007, Motion granted by Lewis v. Vollmer of Am., 2008 U.S. Dist. LEXIS 9039 (W.D. Pa., Feb. 7, 2008)

91. RSM Prod. Corp. v. Fridman, 06 Civ. 11512 (DLC) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 37713, May 24, 2007

92. Koss Corp. v. Pilot Air Freight Corp., Case No. 06C501 , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN, 242 F.R.D. 514; 2007 U.S. Dist. LEXIS 37808, May 23, 2007

93. Man Ferrostaal, Inc. v. M/V Lokris, 05 Civ. 9138 (DC) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 38493, May 22, 2007

94. Illustro Sys. Int'l, LLC v. IBM, Civil Action No. 3:06-CV-1969-L , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION, 2007 U.S. Dist. LEXIS 33324, May 4, 2007

95. Headstrong Corp. v. Jha, Civil Action No. 3:05CV813-HEH , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, RICHMOND DIVISION, 2007 U.S. Dist. LEXIS 31135, April 27, 2007

96. Nisonger v. Schwenk, CASE NO. 07-CV-10808-DT , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION, 2007 U.S. Dist. LEXIS 31047, April 27, 2007

97. Barnhill v. Teva Pharms. USA, Inc., CIVIL ACTION NO. 06-0282-CB-M , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION, 2007 U.S. Dist. LEXIS 44771, April 24, 2007

98. High Island Health, LLC v. Libertybelle Mktg., CIVIL ACTION NO. H-06-2931 , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION, 2007 U.S. Dist. LEXIS 28631, April 18, 2007

99. Thomas & Thomas Rodmakers, Inc. v. Sharpe's, Inc., Case No. 1:06-CV-421 , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION, 2007 U.S. Dist. LEXIS 25594, April 5, 2007

100. Zipper v. Nichtern, 03-CV-5796 (NGG)(VVP) , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 24761, March 30, 2007

101. Lykes Lines Ltd. LLC v. Bringer Corp., 04 Civ. 4460 (RMB) (FM) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 19785, March 12, 2007

102. Philip Morris USA Inc. v. Veles Ltd., 06 CV 2988 (GBD) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 19780, March 13, 2007

103. Fla. State Bd. of Admin. v. Am. Int'l Group, Inc. (In re Am. Int'l Group, Inc. Sec. Litig.), Master File No. 04 Civ. 8141 (JES), 05 Civ. 7886 (JES) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK , 240 F.R.D. 608; 2007 U.S. Dist. LEXIS 15624, March 5, 2007, Filed , Motion denied by In re Am. Int'l Group, Inc. Sec. Litig., 2008 U.S. Dist. LEXIS 55106 (S.D.N.Y., July 17, 2008)

104. Universal Trading & Inv. Co. v. Kiritchenko, No. C-99-3073 MMC , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2007 U.S. Dist. LEXIS 18431, February 28, 2007

105. Telequip Corp. v. Change Exch., 5:01-CV-1748 (FJS/GJD) , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK, 2007 U.S. Dist. LEXIS 13047, February 26, 2007

106. Rice v. Van Stipdonk, No. 4:06-CV-817 CEJ , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, 2007 U.S. Dist. LEXIS 9535, February 9, 2007

107. Fujitsu Ltd. v. Nanya Tech. Corp., No. C 06-6613 CW , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2007 U.S. Dist. LEXIS 13132, February 9, 2007

108. Universal Trading & Inv. Co. v. Kiritchenko, No. C-99-3073 MMC , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2007 U.S. Dist. LEXIS 9776, January 30, 2007

109. Nanya Tech. Corp. v. Fujitsu, Ltd., Civil Case No. 06-00025 , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF GUAM, 2007 U.S. Dist. LEXIS 5754, January 26, 2007

110. Seiko Epson Corp. v. Glory S. Software Mfg., 06-CV-477-BR , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON, 2007 U.S. Dist. LEXIS 6250, January 24, 2007

111. Seiko Epson Corp. v. Glory S. Software Mfg., 06-CV-236-BR , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON, 2007 U.S. Dist. LEXIS 6251, January 24, 2007

112. Fordham v. Agusta Westland N.V., CIVIL ACTION NO. 06-CV-3915 , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 2007 U.S. Dist. LEXIS 2979, January 12, 2007

113. Overseas Food Trading, Ltd. v. Agro Aceitunera S.A., CIVIL ACTION NO. 06-800 (JAP) , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, 2007 U.S. Dist. LEXIS 954, January 8, 2007

114. Alu, Inc. v. Kupo Co., Case No. 6:06-cv-327-Orl-28DAB , UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, ORLANDO DIVISION, 2006 U.S. Dist. LEXIS 96138, December 15, 2006

115. Pimentel v. Denman Inv. Corp., Civil Action No. 05-cv-00702-MSK-MEH , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO, 2006 U.S. Dist. LEXIS 89517, December 8, 2006

116. Stutts v. De Dietrich Group, 03-CV-4058 (ILG) , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, 465 F. Supp. 2d 156; 2006 U.S. Dist. LEXIS 84750, November 21, 2006

117. Univ. of Pittsburgh v. Hedrick, 06-MC-176 (NG) (KAM) , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, 2006 U.S. Dist. LEXIS 84193, November 20, 2006

118. Advanced Lipo Dissolve Centers, LLC v. Karkkainen, No. 4:06-CV-199 CAS , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, 2006 U.S. Dist. LEXIS 80959, November 6, 2006
119. Vinewood Capital, L.L.C. v. Dar Al-Maal Al-Islami, CIVIL ACTION NO.4:06-CV-316-Y , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, FORT WORTH DIVISION, 2006 U.S. Dist. LEXIS 80104, November 2, 2006
120. Lewis v. Vollmer of Am., Civil Action No. 05-1632 , UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA, 2006 U.S. Dist. LEXIS 85692, October 25, 2006
121. United States ex rel. Goulooze v. Levit, No. CV 05-1011-PHX-JAT , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA, 2006 U.S. Dist. LEXIS 77913, October 24, 2006
122. 898 5th Ave. S. Corp. v. Marolax Handels-Und Verwaltungsgesellschaft Mbh, Case No. 2:06-cv-372-FtM-99SPC , UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, FORT MYERS DIVISION, 2006 U.S. Dist. LEXIS 78361, October 18, 2006
123. Windt v. Qwest Communs. Int'l, Inc., Civil Action No. 04-3026 (GEB) , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, 2006 U.S. Dist. LEXIS 75335, October 17, 2006
124. Rogers v. Kasahara, Civil Action No.: 06-2033 (PGS) , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, 2006 U.S. Dist. LEXIS 74870, October 16, 2006
125. Darko, Inc. v. MegaBloks, Inc., CASE NO. 5:06CV1374 , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION, 2006 U.S. Dist. LEXIS 74542, October 13, 2006
126. In re Oxus Gold PLC, MISC: 06-82 , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, 2006 U.S. Dist. LEXIS 74118, October 10, 2006
127. Ferrostaal, Inc. v. Haci Hassan Yardim, 03 CV 4886 (GBD) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2006 U.S. Dist. LEXIS 73994, September 29, 2006
128. So-Pak-Co, Inc. v. Thomson, CIV. NO. 1:05CV268 , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT, 2006 U.S. Dist. LEXIS 65927, September 14, 2006

129. Click v. Dorman Long Tech., Ltd., No. C 06-1936 PJH , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2006 U.S. Dist. LEXIS 68978, September 14, 2006

130. Deirmenjian v. Deutsche Bank, A.G., CASE NO. CV 06-00774 MMM (CWx), UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, 2006 U.S. Dist. LEXIS 96772, September 25, 2006

131. Westport Petroleum, Inc. v. Stena Bulk, Ltd., CIVIL ACTION NO. H-05-4158 , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION, 2006 U.S. Dist. LEXIS 63159; 2007 AMC 1170, September 5, 2006

132. Palladin Partners v. Gaon, 05-CV-3305 (WJM) , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, 2006 U.S. Dist. LEXIS 59844, August 22, 2006

133. Am. Bank & Trust Co. v. Bond Int'l Ltd., Case No. 06-CV-0317-CVE-FMH , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA, 2006 U.S. Dist. LEXIS 58361, August 17, 2006

134. SVC-Napa, L.P. v. Strategy Resort Fin., Inc., No. C 06-03561 SI , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2006 U.S. Dist. LEXIS 60821, August 16, 2006

135. United States v. Betonsports PLC, No. 4:06CV1064 (CEJ) , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, 2006 U.S. Dist. LEXIS 55553, August 9, 2006

136. Big Sky Network Can., Ltd. v. Sichuan Provincial Gov't, Case No. 2:06-CV-00265 PGC , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH, CENTRAL DIVISION, 2006 U.S. Dist. LEXIS 56275, August 9, 2006

137. Gateway Overseas, Inc. v. Nishat (Chunian) Ltd., 05 CV 4260 (GBD) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2006 U.S. Dist. LEXIS 49272, July 13, 2006

138. Fagan v. Deutsche Bundesbank, 05 Civ. 10114 (CSH) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 438 F. Supp. 2d 376; 2006 U.S. Dist. LEXIS 48373; 65 Fed. R. Serv. 3d (Callaghan) 997, July 11, 2006

139. RLI Ins. Co. v. Pohl, Inc., Civ. Action No. 04-0427 (RJL) , UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, 468 F. Supp. 2d 91; 2006 U.S. Dist. LEXIS 45958, July 7, 2006

140. Saturn Biomedical Sys. v. Aircraft Med. Ltd., Case No. C06-0202RSL , UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, 2006 U.S. Dist. LEXIS 39775, June 14, 2006

141. Smith v. Alter, No. 06 C 2888 , UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, 2006 U.S. Dist. LEXIS 41169, June 5, 2006

142. BP Prods. N. Am. v. Dagra, Civil Action No. 3:04CV445-HEH , UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, RICHMOND DIVISION, 236 F.R.D. 270; 2006 U.S. Dist. LEXIS 38100; 65 Fed. R. Serv. 3d (Callaghan) 611, May 31, 2006

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153. Kwon v. Yun, 05 Civ. 1142 (GEL) , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, 2006 U.S. Dist. LEXIS 7386, February 21, 2006
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156. Johnson v. Gustav Weeke Maschinenbau GmbH, CIVIL ACTION NO: 05-0380-P-D , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION, 2006 U.S. Dist. LEXIS 44027, January 17, 2006
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3. Vincent v. N & S Tractor Co., F053108, COURT OF APPEAL OF CALIFORNIA, FIFTH APPELLATE DISTRICT, 2008 Cal. App. Unpub. LEXIS 3176, April 17, 2008
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6. BENYAHIA v. WERTZBERGER, A113395, COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION THREE, 2006 Cal. App. Unpub. LEXIS 11371, December 19, 2006,
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11. Corapcioglu v. Roosevelt, No. 1313, September Term, 2005 , COURT OF SPECIAL APPEALS OF MARYLAND, 170 Md. App. 572; 907 A.2d 885; 2006 Md. App. LEXIS 219, September 20, 2006

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18. Miller v. Staples the Off. Superstore E., Inc., 3389N, 3389NA, 112236/04, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT, 2008 NY Slip Op 5357; 52 A.D.3d 309; 860 N.Y.S.2d 51; 2008 N.Y. App. Div. LEXIS 5292, June 12, 2008

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24. DDJ Capital Mgt., LLC v. Rhone Group L.L.C., 601832/07, SUPREME COURT OF NEW YORK, NEW YORK COUNTY, 2008 NY Slip Op 50839U; 19 Misc. 3d 1124A; 2008 N.Y. Misc. LEXIS 5563; 239 N.Y.L.J. 103, April 24, 2008

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28. Linqvist v. Allstate Ins. Co., Case No. 2006CA00391, COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, STARK COUNTY, 2007 Ohio 4587; 2007 Ohio App. LEXIS 4121, August 27, 2007

29. In re D. C., C. A. No. 23484 , COURT OF APPEALS OF OHIO, NINTH APPELLATE DISTRICT, SUMMIT COUNTY, 2007 Ohio 2344; 2007 Ohio App. LEXIS 2205, May 16, 2007

30. Linqvist v. Drossel, Case No. 2006 CA 00119 , COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, STARK COUNTY, 2006 Ohio 5712; 2006 Ohio App. LEXIS 5698, October 30, 2006, Related proceeding at Linqvist v. Allstate Ins. Co., 2007 Ohio 4587, 2007 Ohio App. LEXIS 4121 (Ohio Ct. App., Stark County, Aug. 27, 2007)

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36. Skadden v. Alfonso, NO. 14-05-00488-CV, NO. 14-05-00489-CV , COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT, HOUSTON, 217 S.W.3d 611; 2006 Tex. App. LEXIS 9429, October 31, 2006

37. In re Carnival Corp., NO. 01-05-01154-CV , COURT OF APPEALS OF TEXAS, FIRST DISTRICT, HOUSTON, 193 S.W.3d 229; 2006 Tex. App. LEXIS 2751, April 6, 2006

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ANNEX B

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1. Brockmeyer v. May, No. 02-56283 , UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 383 F.3d 798; 2004 U.S. App. LEXIS 18349; 2004 AMC 2269, August 31, 2004
2. Thomas & Thomas Rodmakers, Inc. v. Sharpe's, Inc., Case No. 1:06-CV-421 , UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION, 2007 U.S. Dist. LEXIS 25594, April 5, 2007
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4. Denlinger v. Chinadotcom Corp., H024577 , COURT OF APPEAL OF CALIFORNIA, SIXTH APPELLATE DISTRICT, 110 Cal. App. 4th 1396; 2 Cal. Rptr. 3d 530; 2003 Cal. App. LEXIS 1161; 2003 Cal. Daily Op. Service 6738; 2003 Daily Journal DAR 8518, July 30, 2003

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2. George Washington International Law Review, 2005, 37 Geo. Wash. Int'l L. Rev. 769, NOTE: PRIVATIZING THE DUTIES OF THE CENTRAL AUTHORITY: SHOULD INTERNATIONAL SERVICE OF PROCESS BE UP FOR BID?, Emily Fishbein Johnson
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