

March 31, 2017

VIA HAND DELIVERY

Hon. Victor Marrero
United States Courthouse
Southern District of New York
500 Pearl Street
Courtroom 11B
New York, NY 10007

Re: *Michael Leidig and Central European News Ltd v. BuzzFeed, Inc.*, Case No. 1:16-cv-00542 (S.D.N.Y.)

Dear Judge Marrero:

We represent defendant BuzzFeed, Inc. (“BuzzFeed”) in the above-referenced action and we write to request that this Court execute the enclosed Letter of Request that seeks evidence pursuant to the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

Enclosed please find three (3) copies of the Letter of Request addressed to the Senior Master in London, attached hereto as Exhibit A. This Letter of Request seeks testimony and documents from two witnesses in the United Kingdom. Specifically, the Letter of Request seeks documents from Progressive Media International Ltd., owner of the Press Gazette, and related testimony from its Editor Dominic Ponsford (together, the “Media Witnesses”), concerning an article published by the Press Gazette on April 24, 2015 (the “Press Gazette Article”), a copy of which is attached hereto as Exhibit B.

By way of background, Plaintiffs brought this defamation action over an article that was published by BuzzFeed (the “BuzzFeed Article”), which addressed the recent phenomenon of “viral” or “fake” news and questions the accuracy of a number of articles that were sold by Plaintiffs — a news agency and its founder — to news outlets in the U.S. and U.K. Prior to its publication, BuzzFeed reached out to Plaintiff Michael Leidig for comment on the allegations that would be addressed in the BuzzFeed Article. Aware of the allegations that would be addressed by BuzzFeed, and before the BuzzFeed Article was published, Mr. Leidig then spoke to the Press Gazette in an attempt to rebut BuzzFeed’s forthcoming claims about the accuracy of Plaintiffs’ news stories. Notably, in response to BuzzFeed’s First Requests for Admission (the

Hon. Victor Marrero
March 31, 2017
Page 2

“RFAs”), Plaintiffs conceded that Mr. Leidig was a source for the Press Gazette Article. Copies of BuzzFeed’s RFAs and Plaintiffs’ responses are attached hereto as Exhibit C.

With this backdrop in mind, the Letter of Request seeks discovery that is highly relevant to this action. As an initial matter, BuzzFeed seeks evidence from the Media Witnesses concerning Plaintiffs public figure status. As this Court may be aware, whether Plaintiffs are considered private figures or public figures determines the level of fault they must establish as an element of their libel claims. The Supreme Court has reasoned that this rule is proper, in part, because “public figures usually enjoy significantly greater access to the channels of effective communication and hence have a more realistic opportunity to counteract false statements than private individuals normally enjoy.” *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 344 (1974). Thus, in this Circuit, one of the main factors to determine a defamation plaintiff’s limited purpose public figure status is their “access to the media.” *Lerman v. Flynt Distrib. Co.*, 745 F.2d 123, 136-37 (2d Cir. 1984). Here, Plaintiffs’ communications with the Media Witnesses about BuzzFeed’s claims will establish Plaintiffs’ meaningful and continuing access to the media to rebut any allegations they believe are false and defamatory — the very crux of a court’s public figure analysis.

In addition, as set forth in more detail in BuzzFeed’s Memorandum of Law in Opposition to Plaintiffs’ Motion for Partial Summary Judgment and in Support of its Motion to Compel, Dkt. No. 27, it is Plaintiffs’ burden to establish the material falsity of the BuzzFeed Article. *Celle v. Filipino Reporter Enters. Inc.*, 209 F.3d 163, 182, 188 (2d Cir. 2000). Alternatively, if BuzzFeed is able to establish that the BuzzFeed Article is substantially true, Plaintiffs’ claim will fail as a matter of law. Here, the BuzzFeed Article challenges the accuracy of Plaintiffs’ stories as well as Plaintiffs’ newsgathering practices more generally. To meet their burden as to falsity, therefore, Plaintiffs will have to prove that their stories are in fact truthful and their newsgathering efforts are sufficient to provide accurate copy to their clients. As is relevant here, Mr. Leidig’s statement to Mr. Ponsford prior to publication of the Press Gazette Article purportedly concerned “details of [CEN’s newsgathering] methods,” which is relevant to establishing the substantial truth of the BuzzFeed Article.

Finally, the requested evidence from the Media Witnesses is material to Plaintiffs’ alleged damages, including both the “significant amount of business” purportedly lost as a result of the claims made in the BuzzFeed Article, as reported in the Press Gazette Article, and their potential to mitigate any alleged damages by publicly challenging BuzzFeed’s claims in the Press Gazette Article.

For all of these reasons, Mr. Ponsford and Progressive Media International Ltd. possess documents and can provide testimony that is pertinent to dispositive issues in this litigation. Because the Letter of Request seeks discovery that is relevant to this action within the meaning of Federal Rule of Civil Procedure 26, we respectfully request that this Court please sign, date, and place the Court’s seal or stamp on the final page of this Letter of Request. Once this Court

Hon. Victor Marrero
March 31, 2017
Page 3


has executed the Letter of Request, we will send the signed originals to the relevant authorities in the United Kingdom.

Further, because of the pending July 14, 2017 cutoff for all depositions, BuzzFeed respectfully requests that this Court sign the Letter of Request as soon as possible so that we can submit it to the authorities in the United Kingdom expeditiously. We remain available at the Court's convenience should Your Honor instead require a conference on the matter.

Thank you for your consideration.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 
Katherine M. Bolger

cc: Harry H. Wise, III (via electronic mail)

Exhibit A

Katherine M. Bolger
Rachel F. Strom
Amy Wolf
LEVINE SULLIVAN KOCH & SCHULZ, LLP
321 West 44th Street
New York, NY 10036
Telephone: (212) 850-6100
Facsimile: (212) 850-6299
Attorneys for Defendant BuzzFeed, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
:
MICHAEL LEIDIG and CENTRAL EUROPEAN :
NEWS LTD, :
: No: 1:16-cv-00542
Plaintiffs, :
:
-against- :
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BUZZFEED, INC., :
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Defendant. :
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**REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE PURSUANT
TO THE HAGUE CONVENTION OF 18 MARCH 1970 ON TAKING OF EVIDENCE
ABROAD IN CIVIL OR COMMERCIAL MATTERS**

1. Sender: The Honorable Victor Marrero
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 11B
New York, NY 10007
2. Central Authority of the Requested State: The Senior Master
The Foreign Process Department
Room E16
Royal Courts of Justice
Strand, London WC2A 2LL
Foreignprocess.rcj@hmcts.gsi.gov.uk
3. Person to whom the executed request is to be returned: The Honorable Victor Marrero
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 11B
New York, NY 10007
4. Specification of the date by which the requesting authority requires receipt of the response to the Letter of Request: As soon as practicable.
- Reason for urgency: The period for taking depositions of fact witnesses is scheduled to conclude on July 14, 2017.

In conformity with Article 3 of the Convention, the undersigned applicant has the honor to submit the following request:

5. a. Requesting judicial authority: The Honorable Victor Marrero
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 11B
New York, NY 10007

- b. To the competent juridical authority of: England and Wales
- c. Names of the case and any identifying number: *Michael Leidig and Central European News Ltd v. BuzzFeed, Inc*, Case No. 1:16-cv-00542 (S.D.N.Y. filed Jan. 25, 2016).

6. Names and addresses of the parties and their representatives:

a. Plaintiffs: Michael Leidig
Hadikgasse 96
A-1140 Vienna
Austria

and

Central European News Ltd
10 Lodge Field Road
Chesterfield
Kent, CT5 3RF
United Kingdom

Attorneys for Plaintiffs: Harry H. Wise, III
Law Office of Harry H. Wise, III
43 West 43rd Street, Suite 109
New York, New York 10036
Telephone: (212) 709-8034

b. Defendant: BuzzFeed, Inc.
11 E. 18th Street, 13th Floor
New York, NY 10003

Attorneys for
Defendant:

Katherine M. Bolger
Rachel F. Strom
Amy Wolf
Levine Sullivan Koch & Schulz, LLP
321 West 44th Street
New York, NY 10036
Telephone: (212) 850-6100
Facsimile: (212) 850-6299

Of Counsel:

Allison Lucas
Nabiha Syed
BuzzFeed, Inc.
11 E. 18th Street, 13th Floor
New York, NY 10003

7. a. Nature of the proceedings: This is a civil action for libel under the Common Law and the laws of New York State by Michael Leidig, a United Kingdom citizen who resides in Austria, and Mr. Leidig's company Central European News ("CEN"), a United Kingdom entity, against BuzzFeed.
- b. Summary of complaint Leidig and CEN claim they were defamed by BuzzFeed's publication of an article entitled "The King of Bullsh*t News" (the "BuzzFeed Article"), and seek all compensatory and other damages, including punitive damages, together with costs and disbursements.

- c. Summary of defense: BuzzFeed claims that the Complaint fails to state a claim upon which relief can be granted; the BuzzFeed Article is substantially true; Leidig and CEN are public figures and cannot prove constitutional malice; some of the statements in the BuzzFeed Article are non-actionable statements of opinion; to the extent Leidig and CEN seek damages for libel by implication, they cannot prove that BuzzFeed intended the defamatory implication; the BuzzFeed Article deals with matters arguably within the sphere of legitimate public concern and were not published in a grossly irresponsible manner; Leidig and CEN have not been adversely affected or damaged in any way by publication of the BuzzFeed Article; publication of the BuzzFeed Article was privileged under the First and Fourteenth Amendments to the Constitution of the United States and under Article I, Section 8 of the New York State Constitution; exemplary or punitive damages are not recoverable because BuzzFeed did not act with either common law malice or constitutional malice; any claim for exemplary or punitive damages is barred by the due process clause of the Fourteenth Amendment to the Constitution of the United States; and any claim for exemplary or punitive damages is barred by the First Amendment to the Constitution of the United States and by Article I, Section 8 of the New York State Constitution.
- d. Other necessary information or documents: None.

8. a. Evidence to be obtained or other judicial act to be performed: This Court requests that a United Kingdom judicial authority enter an order requiring the individual named in Appendix A to attend for examination under oath or affirmation and the entity named in Appendix A to produce documents at the offices of an examiner appointed by the United Kingdom court at times and dates to be agreed upon between the execution of this Letter of Request to July 14, 2017. The evidence to be obtained relates to Leidig's and CEN's claim for damages in this action.
- b. Purpose of the evidence or judicial act sought: The purpose of the evidence sought is to secure testimony and documents regarding the subject matters described in Appendix A in a form that would be admissible for use at trial in the proceedings in the United States.
9. Identity and address of any person to be examined: See individual and the subject matter of the information to be provided, attached hereto as Appendix A.
10. Questions to be put to the persons to be examined or statement of the subject-matter about which they are to be examined: See individual and the subject matter of the information to be provided, attached hereto as Appendix A.
11. Documents or property to be inspected: See entity and the subject matter of the information to be provided, attached hereto as Appendix A.
12. Any requirement that the evidence be given on oath or affirmation and any special form to be used: The individual named in Appendix A should be examined under oath or affirmation, and/or in the alternative, should be instructed of the consequences for the giving of untruthful and false answers under the laws of the United Kingdom for the formal taking of evidence.

13. Special methods or procedure to be followed:

It is requested that:

i) the parties' representatives or their designees, the United States and United Kingdom attorneys for the parties and the witnesses, and a stenographer and a videographer be permitted to be present during the examinations;

ii) there be excluded from the examinations, if permitted under United Kingdom law, all persons other than the person appointed by the United Kingdom court to supervise the examination of the individual named in Appendix A, other officials of the United Kingdom court normally present during such proceedings, and the individuals listed in clause (i) of this section;

iii) the examinations be conducted by United Kingdom counsel instructed by Levine Sullivan Koch & Schulz, LLP, counsel for defendant BuzzFeed, with cross-examination by United Kingdom counsel instructed by Harry Wise, III, counsel for plaintiffs Leidig and CEN, or by Levine Sullivan Koch & Schulz, LLP and Harry Wise, III or as the United Kingdom court may direct, with counsel for each party permitted to place objections on the record;

iv) a stenographer or videographer be permitted to record verbatim the examination of individual named in Appendix A; and

v) the examination be held and the documents be produced at a date and time to be agreed with the individual and entity named in Appendix A in the period between the execution of this Letter of Request to July 14, 2017, at the offices of the examiner appointed by the United Kingdom court.

14. Request for notification of the time and place for the execution of the Request and identity and address of any person to be notified: Please notify the following persons when and where the examination is to be conducted:
- i) BuzzFeed, Inc.
- Attorneys for Defendant:
Katherine M. Bolger
Rachel F. Strom
Amy Wolf
Levine Sullivan Koch & Schulz, LLP
321 West 44th Street
New York, NY 10036
Telephone: (212) 850-6100
Facsimile: (212) 850-6299
- Of Counsel:
Allison Lucas
Nabiha Syed
BuzzFeed, Inc.
11 E. 18th Street, 13th Floor
New York, NY 10003
- ii) Michael Leidig and Central European News Ltd
- Attorney for Plaintiffs:
Harry H. Wise, III
Law Office of Harry H. Wise, III
43 West 43rd Street, Suite 109
New York, New York 10036
Telephone: (212) 709-8034
15. Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request: None.
16. Specification of privilege or duty to refuse to give evidence under the law of the State of origin: There shall be no limitation on the rights to assert any privileges or protections that may be available to the deponents or the parties.

17. The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under Article 26 of the Convention will be borne by:

The parties, Leidig, CEN and BuzzFeed, shall in equal parts, bear such fees and costs which are reimbursable under the Convention.

Payment of such fees and costs in accordance with this Letter of Request is without prejudice to any party making a subsequent application to an appropriate court for reimbursement.

DATE OF REQUEST:

March 31, 2017

SIGNATURE AND SEAL OF THE REQUESTING AUTHORITY:

The Honorable Victor Marrero
United States District Court Judge

APPENDIX A

INDIVIDUAL AND ENTITY TO BE EXAMINED AND PRODUCE DOCUMENTS AND THE SUBJECT MATTER OF THE INFORMATION TO BE PROVIDED

1. Name and Address of Person to be Examined:

Dominic Ponsford, Editor, Press Gazette (the “Witness”)
40-42 Hatton Garden
London EC1N 8EB
United Kingdom

Names and Address of Entity to Produce Documents:

Progressive Media International Ltd
40-42 Hatton Garden
London EC1N 8EB
United Kingdom

Subject Matter of Testimony and Documents:

The Witness will be questioned about the following subjects.

- (a) the research and production for publication of a report published by *The Press Gazette* (the “Press Gazette”) on April 24, 2015, under the Witness’ byline, entitled “*BuzzFeed Investigation emails harm business of its ‘main competitor in the UK news market’*” which continues to be published on the Press Gazette’s website (the “Press Gazette Article”);
- (b) the communications prior to the publication of the Press Gazette Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning BuzzFeed;
- (c) the communications prior to the publication of the Press Gazette Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning any CEN stories at issue in the BuzzFeed Article;
- (d) the communications following the publication of the BuzzFeed Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning BuzzFeed;
- (e) the communications following the publication of the BuzzFeed Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning any CEN stories at issue in the BuzzFeed Article;

- (f) the research and production for publication of a report published by the Press Gazette on March 8, 2017, under the Witness' byline, entitled "*Buzzfeed accused of fishing expedition over request to see ten years of emails from news agency suing it for \$11m*" which continues to be published on the Press Gazette website (the "Follow-Up Article");
- (g) the communications prior to publication of the Follow-Up Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning BuzzFeed or the litigation; and
- (h) Leidig's and CEN's reputations in the UK media sector.

Progressive Media International Ltd will be asked to produce the following documents.

- (a) communication from Leidig and/or CEN to the Witness stating that the BuzzFeed emails to CEN clients have already led to CEN losing a significant amount of business;
- (b) communication from Leidig and/or CEN to the Witness stating the Google News statistics for a CEN story about Madeleine McCann;
- (c) communication from Leidig, CEN and/or UK newspaper to the Witness containing or concerning the "lengthy email sent by a BuzzFeed journalist";
- (d) communication from Leidig and/or CEN to the Witness attaching the "legal letter sent to BuzzFeed";
- (e) communication from Leidig and/or CEN to the Witness in response to the Witness' inquiry as to how CEN obtained unique sources for "incredible" stories, which provided "further details of its methods and insisted that its quotes were based on original reporting" and addresses "information that is received in good faith but proves later to be unreliable";
- (f) statement from Leidig and/or CEN to Press Gazette concerning CEN's "laudable investigative journalism" in response to email from a BuzzFeed journalist; and
- (g) statement from Leidig and/or CEN to Press Gazette concerning the BuzzFeed Article, which was quoted in the Press Gazette Article.

It is reasonable to infer that these documents exist and can be produced by the Witness and/or other employees of Progressive Media International Ltd because they are mentioned or alluded to in the contents of the Press Gazette Article.

The testimony of the Witness and the documents to be produced by the Witness and/or Progressive Media International Ltd bear on and are material to the following issues in the case:

- (a) Leidig's and CEN's status as public figures, the analysis for which contemplates their level of access to the media, including their ability to rebut the claims made by BuzzFeed in the Press Gazette Article, and which in turn determines the level of fault they must establish as an element of their libel claims;
- (b) Leidig's and CEN's inability to establish the falsity of the BuzzFeed Article, which is one of the required elements of their libel claims, and, relatedly, BuzzFeed's affirmative defense as to the substantial truth of the BuzzFeed Article, as evidenced by their statement to the Witness concerning "details of [CEN's] methods and . . . quotes [that] were based on original reporting"; and
- (c) Leidig's and CEN's alleged damages, including the significant amount of business purportedly lost as a result of the claims made in the BuzzFeed Article and their potential to mitigate any alleged damages by publicly challenging those claims in the Press Gazette Article.

Katherine M. Bolger
Rachel F. Strom
Amy Wolf
LEVINE SULLIVAN KOCH & SCHULZ, LLP
321 West 44th Street
New York, NY 10036
Telephone: (212) 850-6100
Facsimile: (212) 850-6299
Attorneys for Defendant BuzzFeed, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MICHAEL LEIDIG and CENTRAL EUROPEAN :
NEWS LTD, :
: No: 1:16-cv-00542
Plaintiffs, :
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-against- :
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BUZZFEED, INC., :
Defendant. :
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**REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE PURSUANT
TO THE HAGUE CONVENTION OF 18 MARCH 1970 ON TAKING OF EVIDENCE
ABROAD IN CIVIL OR COMMERCIAL MATTERS**

1. Sender: The Honorable Victor Marrero
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 11B
New York, NY 10007

 2. Central Authority of the Requested State: The Senior Master
The Foreign Process Department
Room E16
Royal Courts of Justice
Strand, London WC2A 2LL
Foreignprocess.rcj@hmcts.gsi.gov.uk

 3. Person to whom the executed request is to be returned: The Honorable Victor Marrero
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 11B
New York, NY 10007

 4. Specification of the date by which the requesting authority requires receipt of the response to the Letter of Request: As soon as practicable.
- Reason for urgency: The period for taking depositions of fact witnesses is scheduled to conclude on July 14, 2017.

In conformity with Article 3 of the Convention, the undersigned applicant has the honor to submit the following request:

5. a. Requesting judicial authority: The Honorable Victor Marrero
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 11B
New York, NY 10007

- b. To the competent juridical authority of: England and Wales
- c. Names of the case and any identifying number: *Michael Leidig and Central European News Ltd v. BuzzFeed, Inc*, Case No. 1:16-cv-00542 (S.D.N.Y. filed Jan. 25, 2016).

6. Names and addresses of the parties and their representatives:

a. Plaintiffs: Michael Leidig
Hadikgasse 96
A-1140 Vienna
Austria

and

Central European News Ltd
10 Lodge Field Road
Chesterfield
Kent, CT5 3RF
United Kingdom

Attorneys for Plaintiffs: Harry H. Wise, III
Law Office of Harry H. Wise, III
43 West 43rd Street, Suite 109
New York, New York 10036
Telephone: (212) 709-8034

b. Defendant: BuzzFeed, Inc.
11 E. 18th Street, 13th Floor
New York, NY 10003

Attorneys for
Defendant:

Katherine M. Bolger
Rachel F. Strom
Amy Wolf
Levine Sullivan Koch & Schulz, LLP
321 West 44th Street
New York, NY 10036
Telephone: (212) 850-6100
Facsimile: (212) 850-6299

Of Counsel:

Allison Lucas
Nabiha Syed
BuzzFeed, Inc.
11 E. 18th Street, 13th Floor
New York, NY 10003

7. a. Nature of the proceedings: This is a civil action for libel under the Common Law and the laws of New York State by Michael Leidig, a United Kingdom citizen who resides in Austria, and Mr. Leidig's company Central European News ("CEN"), a United Kingdom entity, against BuzzFeed.
- b. Summary of complaint Leidig and CEN claim they were defamed by BuzzFeed's publication of an article entitled "The King of Bullsh*t News" (the "BuzzFeed Article"), and seek all compensatory and other damages, including punitive damages, together with costs and disbursements.

c. Summary of defense:

BuzzFeed claims that the Complaint fails to state a claim upon which relief can be granted; the BuzzFeed Article is substantially true; Leidig and CEN are public figures and cannot prove constitutional malice; some of the statements in the BuzzFeed Article are non-actionable statements of opinion; to the extent Leidig and CEN seek damages for libel by implication, they cannot prove that BuzzFeed intended the defamatory implication; the BuzzFeed Article deals with matters arguably within the sphere of legitimate public concern and were not published in a grossly irresponsible manner; Leidig and CEN have not been adversely affected or damaged in any way by publication of the BuzzFeed Article; publication of the BuzzFeed Article was privileged under the First and Fourteenth Amendments to the Constitution of the United States and under Article I, Section 8 of the New York State Constitution; exemplary or punitive damages are not recoverable because BuzzFeed did not act with either common law malice or constitutional malice; any claim for exemplary or punitive damages is barred by the due process clause of the Fourteenth Amendment to the Constitution of the United States; and any claim for exemplary or punitive damages is barred by the First Amendment to the Constitution of the United States and by Article I, Section 8 of the New York State Constitution.

d. Other necessary information or documents: None.

8. a. Evidence to be obtained or other judicial act to be performed: This Court requests that a United Kingdom judicial authority enter an order requiring the individual named in Appendix A to attend for examination under oath or affirmation and the entity named in Appendix A to produce documents at the offices of an examiner appointed by the United Kingdom court at times and dates to be agreed upon between the execution of this Letter of Request to July 14, 2017. The evidence to be obtained relates to Leidig's and CEN's claim for damages in this action.
- b. Purpose of the evidence or judicial act sought: The purpose of the evidence sought is to secure testimony and documents regarding the subject matters described in Appendix A in a form that would be admissible for use at trial in the proceedings in the United States.
9. Identity and address of any person to be examined: See individual and the subject matter of the information to be provided, attached hereto as Appendix A.
10. Questions to be put to the persons to be examined or statement of the subject-matter about which they are to be examined: See individual and the subject matter of the information to be provided, attached hereto as Appendix A.
11. Documents or property to be inspected: See entity and the subject matter of the information to be provided, attached hereto as Appendix A.
12. Any requirement that the evidence be given on oath or affirmation and any special form to be used: The individual named in Appendix A should be examined under oath or affirmation, and/or in the alternative, should be instructed of the consequences for the giving of untruthful and false answers under the laws of the United Kingdom for the formal taking of evidence.

13. Special methods or procedure to be followed:

It is requested that:

i) the parties' representatives or their designees, the United States and United Kingdom attorneys for the parties and the witnesses, and a stenographer and a videographer be permitted to be present during the examinations;

ii) there be excluded from the examinations, if permitted under United Kingdom law, all persons other than the person appointed by the United Kingdom court to supervise the examination of the individual named in Appendix A, other officials of the United Kingdom court normally present during such proceedings, and the individuals listed in clause (i) of this section;

iii) the examinations be conducted by United Kingdom counsel instructed by Levine Sullivan Koch & Schulz, LLP, counsel for defendant BuzzFeed, with cross-examination by United Kingdom counsel instructed by Harry Wise, III, counsel for plaintiffs Leidig and CEN, or by Levine Sullivan Koch & Schulz, LLP and Harry Wise, III or as the United Kingdom court may direct, with counsel for each party permitted to place objections on the record;

iv) a stenographer or videographer be permitted to record verbatim the examination of individual named in Appendix A; and

v) the examination be held and the documents be produced at a date and time to be agreed with the individual and entity named in Appendix A in the period between the execution of this Letter of Request to July 14, 2017, at the offices of the examiner appointed by the United Kingdom court.

14. Request for notification of the time and place for the execution of the Request and identity and address of any person to be notified: Please notify the following persons when and where the examination is to be conducted:
- i) BuzzFeed, Inc.
- Attorneys for Defendant:
Katherine M. Bolger
Rachel F. Strom
Amy Wolf
Levine Sullivan Koch & Schulz, LLP
321 West 44th Street
New York, NY 10036
Telephone: (212) 850-6100
Facsimile: (212) 850-6299
- Of Counsel:
Allison Lucas
Nabiha Syed
BuzzFeed, Inc.
11 E. 18th Street, 13th Floor
New York, NY 10003
- ii) Michael Leidig and Central European News Ltd
- Attorney for Plaintiffs:
Harry H. Wise, III
Law Office of Harry H. Wise, III
43 West 43rd Street, Suite 109
New York, New York 10036
Telephone: (212) 709-8034
15. Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request: None.
16. Specification of privilege or duty to refuse to give evidence under the law of the State of origin: There shall be no limitation on the rights to assert any privileges or protections that may be available to the deponents or the parties.

17. The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under Article 26 of the Convention will be borne by:

The parties, Leidig, CEN and BuzzFeed, shall in equal parts, bear such fees and costs which are reimbursable under the Convention.

Payment of such fees and costs in accordance with this Letter of Request is without prejudice to any party making a subsequent application to an appropriate court for reimbursement.

DATE OF REQUEST:

March 31, 2017

SIGNATURE AND SEAL OF THE
REQUESTING AUTHORITY:

The Honorable Victor Marrero
United States District Court Judge

APPENDIX A

INDIVIDUAL AND ENTITY TO BE EXAMINED AND PRODUCE DOCUMENTS AND THE SUBJECT MATTER OF THE INFORMATION TO BE PROVIDED

1. Name and Address of Person to be Examined:

Dominic Ponsford, Editor, Press Gazette (the “Witness”)
40-42 Hatton Garden
London EC1N 8EB
United Kingdom

Names and Address of Entity to Produce Documents:

Progressive Media International Ltd
40-42 Hatton Garden
London EC1N 8EB
United Kingdom

Subject Matter of Testimony and Documents:

The Witness will be questioned about the following subjects.

- (a) the research and production for publication of a report published by *The Press Gazette* (the “Press Gazette”) on April 24, 2015, under the Witness’ byline, entitled “*BuzzFeed Investigation emails harm business of its ‘main competitor in the UK news market’*” which continues to be published on the Press Gazette’s website (the “Press Gazette Article”);
- (b) the communications prior to the publication of the Press Gazette Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning BuzzFeed;
- (c) the communications prior to the publication of the Press Gazette Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning any CEN stories at issue in the BuzzFeed Article;
- (d) the communications following the publication of the BuzzFeed Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning BuzzFeed;
- (e) the communications following the publication of the BuzzFeed Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning any CEN stories at issue in the BuzzFeed Article;

- (f) the research and production for publication of a report published by the Press Gazette on March 8, 2017, under the Witness' byline, entitled "*Buzzfeed accused of fishing expedition over request to see ten years of emails from news agency suing it for \$11m*" which continues to be published on the Press Gazette website (the "Follow-Up Article");
- (g) the communications prior to publication of the Follow-Up Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning BuzzFeed or the litigation; and
- (h) Leidig's and CEN's reputations in the UK media sector.

Progressive Media International Ltd will be asked to produce the following documents.

- (a) communication from Leidig and/or CEN to the Witness stating that the BuzzFeed emails to CEN clients have already led to CEN losing a significant amount of business;
- (b) communication from Leidig and/or CEN to the Witness stating the Google News statistics for a CEN story about Madeleine McCann;
- (c) communication from Leidig, CEN and/or UK newspaper to the Witness containing or concerning the "lengthy email sent by a BuzzFeed journalist";
- (d) communication from Leidig and/or CEN to the Witness attaching the "legal letter sent to BuzzFeed";
- (e) communication from Leidig and/or CEN to the Witness in response to the Witness' inquiry as to how CEN obtained unique sources for "incredible" stories, which provided "further details of its methods and insisted that its quotes were based on original reporting" and addresses "information that is received in good faith but proves later to be unreliable";
- (f) statement from Leidig and/or CEN to Press Gazette concerning CEN's "laudable investigative journalism" in response to email from a BuzzFeed journalist; and
- (g) statement from Leidig and/or CEN to Press Gazette concerning the BuzzFeed Article, which was quoted in the Press Gazette Article.

It is reasonable to infer that these documents exist and can be produced by the Witness and/or other employees of Progressive Media International Ltd because they are mentioned or alluded to in the contents of the Press Gazette Article.

The testimony of the Witness and the documents to be produced by the Witness and/or Progressive Media International Ltd bear on and are material to the following issues in the case:

- (a) Leidig's and CEN's status as public figures, the analysis for which contemplates their level of access to the media, including their ability to rebut the claims made by BuzzFeed in the Press Gazette Article, and which in turn determines the level of fault they must establish as an element of their libel claims;
- (b) Leidig's and CEN's inability to establish the falsity of the BuzzFeed Article, which is one of the required elements of their libel claims, and, relatedly, BuzzFeed's affirmative defense as to the substantial truth of the BuzzFeed Article, as evidenced by their statement to the Witness concerning "details of [CEN's] methods and . . . quotes [that] were based on original reporting"; and
- (c) Leidig's and CEN's alleged damages, including the significant amount of business purportedly lost as a result of the claims made in the BuzzFeed Article and their potential to mitigate any alleged damages by publicly challenging those claims in the Press Gazette Article.

Katherine M. Bolger
Rachel F. Strom
Amy Wolf
LEVINE SULLIVAN KOCH & SCHULZ, LLP
321 West 44th Street
New York, NY 10036
Telephone: (212) 850-6100
Facsimile: (212) 850-6299
Attorneys for Defendant BuzzFeed, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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:
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MICHAEL LEIDIG and CENTRAL EUROPEAN :
NEWS LTD, :
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Plaintiffs, :
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-against- :
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BUZZFEED, INC., :
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Defendant. :
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----- X

No: 1:16-cv-00542
ECF Case

**REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE PURSUANT
TO THE HAGUE CONVENTION OF 18 MARCH 1970 ON TAKING OF EVIDENCE
ABROAD IN CIVIL OR COMMERCIAL MATTERS**

1. Sender: The Honorable Victor Marrero
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 11B
New York, NY 10007
2. Central Authority of the Requested State: The Senior Master
The Foreign Process Department
Room E16
Royal Courts of Justice
Strand, London WC2A 2LL
Foreignprocess.rcj@hmcts.gsi.gov.uk
3. Person to whom the executed request is to be returned: The Honorable Victor Marrero
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 11B
New York, NY 10007
4. Specification of the date by which the requesting authority requires receipt of the response to the Letter of Request: As soon as practicable.

Reason for urgency: The period for taking depositions of fact witnesses is scheduled to conclude on July 14, 2017.

In conformity with Article 3 of the Convention, the undersigned applicant has the honor to submit the following request:

5. a. Requesting judicial authority: The Honorable Victor Marrero
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 11B
New York, NY 10007

- b. To the competent juridical authority of: England and Wales
- c. Names of the case and any identifying number: *Michael Leidig and Central European News Ltd v. BuzzFeed, Inc*, Case No. 1:16-cv-00542 (S.D.N.Y. filed Jan. 25, 2016).

6. Names and addresses of the parties and their representatives:

- a. Plaintiffs: Michael Leidig
Hadikgasse 96
A-1140 Vienna
Austria

and

Central European News Ltd
10 Lodge Field Road
Chesterfield
Kent, CT5 3RF
United Kingdom

Attorneys for Plaintiffs: Harry H. Wise, III
Law Office of Harry H. Wise, III
43 West 43rd Street, Suite 109
New York, New York 10036
Telephone: (212) 709-8034
- b. Defendant: BuzzFeed, Inc.
11 E. 18th Street, 13th Floor
New York, NY 10003

Attorneys for
Defendant:

Katherine M. Bolger
Rachel F. Strom
Amy Wolf
Levine Sullivan Koch & Schulz, LLP
321 West 44th Street
New York, NY 10036
Telephone: (212) 850-6100
Facsimile: (212) 850-6299

Of Counsel:

Allison Lucas
Nabiha Syed
BuzzFeed, Inc.
11 E. 18th Street, 13th Floor
New York, NY 10003

7. a. Nature of the proceedings: This is a civil action for libel under the Common Law and the laws of New York State by Michael Leidig, a United Kingdom citizen who resides in Austria, and Mr. Leidig's company Central European News ("CEN"), a United Kingdom entity, against BuzzFeed.
- b. Summary of complaint Leidig and CEN claim they were defamed by BuzzFeed's publication of an article entitled "The King of Bullsh*t News" (the "BuzzFeed Article"), and seek all compensatory and other damages, including punitive damages, together with costs and disbursements.

c. Summary of defense:

BuzzFeed claims that the Complaint fails to state a claim upon which relief can be granted; the BuzzFeed Article is substantially true; Leidig and CEN are public figures and cannot prove constitutional malice; some of the statements in the BuzzFeed Article are non-actionable statements of opinion; to the extent Leidig and CEN seek damages for libel by implication, they cannot prove that BuzzFeed intended the defamatory implication; the BuzzFeed Article deals with matters arguably within the sphere of legitimate public concern and were not published in a grossly irresponsible manner; Leidig and CEN have not been adversely affected or damaged in any way by publication of the BuzzFeed Article; publication of the BuzzFeed Article was privileged under the First and Fourteenth Amendments to the Constitution of the United States and under Article I, Section 8 of the New York State Constitution; exemplary or punitive damages are not recoverable because BuzzFeed did not act with either common law malice or constitutional malice; any claim for exemplary or punitive damages is barred by the due process clause of the Fourteenth Amendment to the Constitution of the United States; and any claim for exemplary or punitive damages is barred by the First Amendment to the Constitution of the United States and by Article I, Section 8 of the New York State Constitution.

d. Other necessary information or documents: None.

8. a. Evidence to be obtained or other judicial act to be performed: This Court requests that a United Kingdom judicial authority enter an order requiring the individual named in Appendix A to attend for examination under oath or affirmation and the entity named in Appendix A to produce documents at the offices of an examiner appointed by the United Kingdom court at times and dates to be agreed upon between the execution of this Letter of Request to July 14, 2017. The evidence to be obtained relates to Leidig's and CEN's claim for damages in this action.
- b. Purpose of the evidence or judicial act sought: The purpose of the evidence sought is to secure testimony and documents regarding the subject matters described in Appendix A in a form that would be admissible for use at trial in the proceedings in the United States.
9. Identity and address of any person to be examined: See individual and the subject matter of the information to be provided, attached hereto as Appendix A.
10. Questions to be put to the persons to be examined or statement of the subject-matter about which they are to be examined: See individual and the subject matter of the information to be provided, attached hereto as Appendix A.
11. Documents or property to be inspected: See entity and the subject matter of the information to be provided, attached hereto as Appendix A.
12. Any requirement that the evidence be given on oath or affirmation and any special form to be used: The individual named in Appendix A should be examined under oath or affirmation, and/or in the alternative, should be instructed of the consequences for the giving of untruthful and false answers under the laws of the United Kingdom for the formal taking of evidence.

13. Special methods or procedure to be followed:

It is requested that:

i) the parties' representatives or their designees, the United States and United Kingdom attorneys for the parties and the witnesses, and a stenographer and a videographer be permitted to be present during the examinations;

ii) there be excluded from the examinations, if permitted under United Kingdom law, all persons other than the person appointed by the United Kingdom court to supervise the examination of the individual named in Appendix A, other officials of the United Kingdom court normally present during such proceedings, and the individuals listed in clause (i) of this section;

iii) the examinations be conducted by United Kingdom counsel instructed by Levine Sullivan Koch & Schulz, LLP, counsel for defendant BuzzFeed, with cross-examination by United Kingdom counsel instructed by Harry Wise, III, counsel for plaintiffs Leidig and CEN, or by Levine Sullivan Koch & Schulz, LLP and Harry Wise, III or as the United Kingdom court may direct, with counsel for each party permitted to place objections on the record;

iv) a stenographer or videographer be permitted to record verbatim the examination of individual named in Appendix A; and

v) the examination be held and the documents be produced at a date and time to be agreed with the individual and entity named in Appendix A in the period between the execution of this Letter of Request to July 14, 2017, at the offices of the examiner appointed by the United Kingdom court.

14. Request for notification of the time and place for the execution of the Request and identity and address of any person to be notified: Please notify the following persons when and where the examination is to be conducted:
- i) BuzzFeed, Inc.

Attorneys for Defendant:
Katherine M. Bolger
Rachel F. Strom
Amy Wolf
Levine Sullivan Koch & Schulz, LLP
321 West 44th Street
New York, NY 10036
Telephone: (212) 850-6100
Facsimile: (212) 850-6299

Of Counsel:
Allison Lucas
Nabiha Syed
BuzzFeed, Inc.
11 E. 18th Street, 13th Floor
New York, NY 10003
 - ii) Michael Leidig and Central European News Ltd

Attorney for Plaintiffs:
Harry H. Wise, III
Law Office of Harry H. Wise, III
43 West 43rd Street, Suite 109
New York, New York 10036
Telephone: (212) 709-8034
15. Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request: None.
16. Specification of privilege or duty to refuse to give evidence under the law of the State of origin: There shall be no limitation on the rights to assert any privileges or protections that may be available to the deponents or the parties.

17. The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under Article 26 of the Convention will be borne by:

The parties, Leidig, CEN and BuzzFeed, shall in equal parts, bear such fees and costs which are reimbursable under the Convention.

Payment of such fees and costs in accordance with this Letter of Request is without prejudice to any party making a subsequent application to an appropriate court for reimbursement.

DATE OF REQUEST:

March 31, 2017

SIGNATURE AND SEAL OF THE REQUESTING AUTHORITY:

The Honorable Victor Marrero
United States District Court Judge

APPENDIX A

INDIVIDUAL AND ENTITY TO BE EXAMINED AND PRODUCE DOCUMENTS AND THE SUBJECT MATTER OF THE INFORMATION TO BE PROVIDED

1. Name and Address of Person to be Examined:

Dominic Ponsford, Editor, Press Gazette (the “Witness”)
40-42 Hatton Garden
London EC1N 8EB
United Kingdom

Names and Address of Entity to Produce Documents:

Progressive Media International Ltd
40-42 Hatton Garden
London EC1N 8EB
United Kingdom

Subject Matter of Testimony and Documents:

The Witness will be questioned about the following subjects.

- (a) the research and production for publication of a report published by *The Press Gazette* (the “Press Gazette”) on April 24, 2015, under the Witness’ byline, entitled “*BuzzFeed Investigation emails harm business of its ‘main competitor in the UK news market’*” which continues to be published on the Press Gazette’s website (the “Press Gazette Article”);
- (b) the communications prior to the publication of the Press Gazette Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning BuzzFeed;
- (c) the communications prior to the publication of the Press Gazette Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning any CEN stories at issue in the BuzzFeed Article;
- (d) the communications following the publication of the BuzzFeed Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning BuzzFeed;
- (e) the communications following the publication of the BuzzFeed Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning any CEN stories at issue in the BuzzFeed Article;

- (f) the research and production for publication of a report published by the Press Gazette on March 8, 2017, under the Witness' byline, entitled "*Buzzfeed accused of fishing expedition over request to see ten years of emails from news agency suing it for \$11m*" which continues to be published on the Press Gazette website (the "Follow-Up Article");
- (g) the communications prior to publication of the Follow-Up Article between the Witness and other employees of the Press Gazette, on the one hand, and Leidig, CEN and/or CEN-affiliated entities, on the other hand, concerning BuzzFeed or the litigation; and
- (h) Leidig's and CEN's reputations in the UK media sector.

Progressive Media International Ltd will be asked to produce the following documents.

- (a) communication from Leidig and/or CEN to the Witness stating that the BuzzFeed emails to CEN clients have already led to CEN losing a significant amount of business;
- (b) communication from Leidig and/or CEN to the Witness stating the Google News statistics for a CEN story about Madeleine McCann;
- (c) communication from Leidig, CEN and/or UK newspaper to the Witness containing or concerning the "lengthy email sent by a BuzzFeed journalist";
- (d) communication from Leidig and/or CEN to the Witness attaching the "legal letter sent to BuzzFeed";
- (e) communication from Leidig and/or CEN to the Witness in response to the Witness' inquiry as to how CEN obtained unique sources for "incredible" stories, which provided "further details of its methods and insisted that its quotes were based on original reporting" and addresses "information that is received in good faith but proves later to be unreliable";
- (f) statement from Leidig and/or CEN to Press Gazette concerning CEN's "laudable investigative journalism" in response to email from a BuzzFeed journalist; and
- (g) statement from Leidig and/or CEN to Press Gazette concerning the BuzzFeed Article, which was quoted in the Press Gazette Article.

It is reasonable to infer that these documents exist and can be produced by the Witness and/or other employees of Progressive Media International Ltd because they are mentioned or alluded to in the contents of the Press Gazette Article.

The testimony of the Witness and the documents to be produced by the Witness and/or Progressive Media International Ltd bear on and are material to the following issues in the case:

- (a) Leidig's and CEN's status as public figures, the analysis for which contemplates their level of access to the media, including their ability to rebut the claims made by BuzzFeed in the Press Gazette Article, and which in turn determines the level of fault they must establish as an element of their libel claims;
- (b) Leidig's and CEN's inability to establish the falsity of the BuzzFeed Article, which is one of the required elements of their libel claims, and, relatedly, BuzzFeed's affirmative defense as to the substantial truth of the BuzzFeed Article, as evidenced by their statement to the Witness concerning "details of [CEN's] methods and . . . quotes [that] were based on original reporting"; and
- (c) Leidig's and CEN's alleged damages, including the significant amount of business purportedly lost as a result of the claims made in the BuzzFeed Article and their potential to mitigate any alleged damages by publicly challenging those claims in the Press Gazette Article.

Exhibit B



APRIL 24, 2015 DIGITAL JOURNALISM NEWS SOCIAL MEDIA WEBSITES WIRES AND AGENCIES

Buzzfeed investigation emails harm business of its 'main competitor in UK news market'

By [Dominic Ponsford](#)



TWEET

SHARE 0

REDDIT

COMMENTS 2

An as-yet unpublished investigation by BuzzFeed has harmed the business of a news agency which sees itself as the 'main competitor' for the website in the UK.

UPDATE: [Buzzfeed has now published its story about CEN.](#)



MOST POPULAR



1 **Met Police PR chief says officers were 'extremely upset' by Times front page image**



2 **Telegraph titles to outsource sub-editing to Press Association with more than 20 journalists believed at risk of redundancy**



3 **Spot the difference: Guardian sends 'bullying' legal letter to Martial Arts Guardian**

TIMELINE

MARCH 13, 2017

News agency suing BuzzFeed applies to join press regulator IPSO to counter 'fake news' claims against stories

Buzzfeed has written to a number of UK news organisations that buy stories from Central European News (CEN) and raised questions over accuracy.

CEN denies the allegations made by a BuzzFeed journalist. But Press Gazette understands the BuzzFeed emails have already led to CEN losing a significant amount of business.

CEN has operated for 20 years and

MARCH 8, 2017

Buzzfeed accused of fishing expedition over request to see ten years of emails from news agency suing it for \$11m

JANUARY 13, 2017

You just published fake news. BuzzFeed: 'This was a real document that was really being circulated'

employs some 35 journalists in bureaux around Europe. It sees itself as a major competitor for BuzzFeed because it sells hundreds of similar "viral" style news stories to UK national newspaper websites.

According to CEN, Google News figures show that one story it syndicated last week about an offensive joke which appeared in a German magazine about Madeleine McCann appeared on 17,000 different news websites.

Buzzfeed claims to have a global audience of 200m and employs some 40 journalists in the UK.

ADVERTISEMENT

Press Gazette has seen a lengthy email sent by a BuzzFeed journalist to one of the UK's biggest news organisations. Other major clients of CEN are understood to have received similar communications.

The BuzzFeed email says it is set to publish a story saying that articles syndicated by CEN "have subsequently been proven false either in part or in their entirety, or contain quotes of questionable provenance".



The stories questioned by BuzzFeed in its emails to CEN clients include:

- A man who was saved from a bear attack in Russia by his Justin Bieber ringtone
- A thief in Paraguay who broke into peoples' homes by pretending to be a baby

- An underwear thief in Singapore who was forced to walk around a block of flats in Singapore with bras and underpants hanging from his neck.

The BuzzFeed email questions the veracity of quotes used in the stories. In the Paraguay story it notes that the quotes used do not appear in earlier Spanish-language media reports.

Press Gazette has seen a legal letter sent to BuzzFeed, and various news organisations, by CEN rejecting the claims.

The letter says: "CEN is BuzzFeed's main competitor for viral news content in the UK market. Our client is not therefore prepared to engage with BuzzFeed about the detail of any of your questions as to do so would involve giving information about its sources and practices to a competitor..."

because titles could be 'confused'



Daily Mail's Sarah Vine on 'Legs-it': 'Snowflakes stuck in 1970s need to catch up' - for 'vicious prejudice' read The Observer



Telegraph hires convicted former News of the World editor Andy Coulson's PR firm

LATEST JOBS



City Reporters, Daily Mail



Head of news, Department of International

Development



News editor, NS Tech

“Our client denies absolutely that it makes up false stories or fabricates quotes. It relies on trusted contributors to source content. None of the stories upon which you rely in your questions provide evidence, to support your claims.

“Our clients are not aware of any complaint having been made either by the subjects of the articles or by its customers about any of the stories to which you refer.

"In relation to your statement that you find it 'incredible' that CEN gets quotes from sources that no-one else does, the fact that you have been unable to find quotes online does not provide any basis for any suspicion that our client fabricates quotes."

Press Gazette asked CEN for clarification on this point. It provided further details of its methods and insisted that its quotes were based on original reporting.

In the letter, CEN reiterates that it does not accept BuzzFeed's claims but adds "as BuzzFeed will itself be aware, on occasion, mistakes are made about information that is received in good faith but proves later to be unreliable, in which case our clients will promptly correct their story".

The letter also complains that early approaches from a BuzzFeed journalist were “disingenuous”. It says that a reporter initially said “that you wanted to write an article about the great way the agency was expanding and ‘to explore the challenges of reporting in the digital age in depth”.

In an email on 15 April to CEN a BuzzFeed journalist apparently spoke about CEN’s “laudable investigative journalism”.

Press Gazette asked CEN for a comment on the BuzzFeed allegations.

⊙

CEN owner Michael Leidig said: "I can confirm that at the start of April we had a call from a BuzzFeed breaking news reporter congratulating us on having a fast expanding and successful news agency, and telling us he would like to do a news feature on our firm.

"I told him that I wasn't in the habit of talking to rivals about the way we did our business, and that there was no interest. He then called me again to attempt to arrange an interview, and sent me an email. Each time his request was rejected.

"Two weeks later the tone of the questioning changed, and we were sent two emails revealing that he had carried an investigation into our news output including digital analysis of our pictures. I discovered that they had applied to become a customer of ours and in that time had received over 8,000 of stories.

“The emails identified just 17 stories where they alleged there was a problem. When we chose not to comment on the matter, they contacted our key clients and repeated the allegations as questions, leading us to the suspicion that this was an attempt to damage our reputation as rivals. Sadly this left us with no choice but to seek legal advice.

"An internal review here quickly revealed little substance to their claims. When properly analysed, all they had found was that on two occasions we had re-used archive pictures.

————— ADVERTISEMENT —————

“Their repeated assertion that, simply because one of our quotes did not appear in local media, it

must have been made up, suggests they don't have any idea of the real potential to generate good news in the modern landscape. We regard it as an obligation to check where possible local media stories, and we do make calls to police, hospitals, and have alternative sources. We are not paid by our clients just to translate. We are paid to do journalism.

"When I looked at the work of the BuzzFeed reporter who was carrying out the investigation I found two stories that he covered and had posted more than 24 hours after we had already sold them to BuzzFeed's UK rivals."

Buzzfeed faced questions over its own methods earlier this month after editor-in-chief Ben Smith admitted taking down two comment pieces which were critical of advertisers.

He reinstated them after media coverage, admitting “I blew it”, but denied the posts were removed because of commercial pressure. He said was because they were personal opinion.

Press Gazette asked BuzzFeed for a comment at 2.30pm. At time of publication (4pm) it had yet to respond.

Exhibit C

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MICHAEL LEIDIG and CENTRAL EUROPEAN	:	
NEWS LTD,	:	No: 1:16-cv-00542
	:	
Plaintiffs,	:	
	:	
	:	ECF Case
-against-	:	
	:	
	:	
BUZZFEED, INC.,	:	
	:	
Defendant.	:	
	:	
	:	
	:	
-----	x	

BUZZFEED INC.’S REQUESTS FOR ADMISSION TO PLAINTIFFS

Defendant BuzzFeed, Inc. (“BuzzFeed”) hereby propounds the following Requests for Admission to Plaintiffs Michael Leidig (“Leidig”) and Central European News Ltd. (“CEN” and, together, “Plaintiffs”), pursuant to Rule 36 of the Federal Rules of Civil Procedure, and demands that they be answered separately and fully in writing, under oath, within thirty days after service.

If a request is not admitted, your answer must specifically deny it or state in detail why you cannot truthfully admit or deny it. A denial of a request must fairly respond to the substance of the matter; and when good faith requires that you qualify an answer or deny only a part of a matter, your answer must specify the part admitted and qualify or deny the rest. You may assert lack of knowledge or information as a reason for failing to admit or deny only if you state that you have made reasonable inquiry and that the information you know or can readily obtain is insufficient to enable you to admit or deny.

DEFINITIONS

1. “You” or “you” or “your” or “Plaintiffs” means Plaintiffs Michael Leidig (“Leidig”) and/or Central European News (“CEN”) together with any of their agents, officers, directors, employees, partners, parent companies, subsidiaries, affiliates, successors and/or any persons acting on their behalf.
2. “Book” means the book entitled “Buzz Bottom Feeders: An Insider Look At How BuzzFeed Tried To Destroy a Rival Business,” authored by CEN and published in 2015.
3. “BuzzFeed” means Defendant BuzzFeed, Inc., together with any of its agents, officers, directors, employees, partners, parent companies, subsidiaries, affiliates, successors and/or any persons acting on their behalf.
4. “Complaint” means the Complaint filed in this action.
5. “Article” means the article entitled “The King of Bullsh*t News”, which was published by BuzzFeed and is the subject of Plaintiffs’ Complaint.
6. “Cabbage Story” means the CEN story about Chinese teenagers reportedly walking cabbages because they were lonely, as referred to in Paragraph 27 of the Complaint and pages 12 through 17 of the Book.
7. “Tapeworm Story” means the CEN story about the Chinese man who reportedly got tapeworm from eating too much sashimi, entitled “Sashimi Fan Infected With Parasites,” as referred to in Paragraph 38 of the Complaint and pages 32 through 34 of the Book.
8. “Pink Kitten Story” means the CEN story about Elena Lenina, who reportedly dyed her kitten pink, subsequently resulting in the kitten’s blood poisoning and death, entitled “Pretty in Pink Kitten Dies from Toxic Shock” as referred to in Paragraphs 45 and 46 of the Complaint and pages 17 through 26 of the Book.

9. “Naked Lunch Story” means the CEN story about Russian women who were reportedly fired from their jobs after being photographed naked on their lunch breaks, as referred to in Paragraph 55 of the Complaint and pages 42 through 43 of the Book.

10. “Two-Headed Goat Story” means the CEN story about the reported birth of a two-headed goat, as referred to in Paragraph 62 of the Complaint and pages 34 through 36 of the Book.

11. “Sandoval Story” means the CEN story about Lucita Sandoval, the teacher who reportedly had sex with her 16-year-old student, entitled “Schoolboys Porn Tape Lands Teacher in Trouble,” as referred to in Paragraph 46 of the Complaint and pages 26 through 29 of the Book.

12. “Bieber Story” means the CEN story about a Russian man who reportedly survived a bear attack because of a Justin Bieber ringtone, as referred to on pages 70 through 77 of the Book.

13. “Sex Holiday Story” means the CEN story about a Chinese backpacker who reportedly had sex with men in every city to fund her trip around the country, entitled “Bed and Bawd,” as referred to on pages 29 through 32 of the Book.

14. “Underwear Thief Story” means the CEN story about an underwear thief who was reportedly forced to walk around Singapore with undergarments hanging from his neck, as referred to on page 37 of the Book.

15. “Nephew Castration Story” means the CEN story about a woman in China who reportedly castrated her nephew when he interrupted her in the bathroom, as referred to on page 37 of the Book.

16. “Double Castration Story” means the CEN story about a Chinese man who reportedly had his penis chopped off twice by his wife, as referred to on page 37 of the Book.

17. “Self-Castration Story” means the CEN story about a Macedonian man who reportedly cut off his own penis and threw it in the garbage after his girlfriend told him it was “inadequate,” as referred to on page 41 of the Book.

18. “Public Castration Story” means the CEN story about an Indian man who reportedly had his penis chopped off by a crowd after he was caught trying to rape a woman, as referred to on page 37 of the Book.

19. “Twin Cheating Story” means the CEN story about a wife who reportedly discovered that her husband had cheated on her with her twin sister, as referred to on page 38 of the Book.

20. “Naked Sunbathing Story” means the CEN story about a woman in Vienna who reportedly caused a car crash when sunbathing naked, as referred to on pages 40-42 of the Book.

21. “Press Gazette” means the UK media trade publication that published a story on April 24, 2015 concerning BuzzFeed’s allegations against CEN and Leidig prior to BuzzFeed’s publication of the Article, as referred to on pages 5 through 6 of the Book.

REQUESTS FOR ADMISSION

1. Admit that the Cabbage Story is the article entitled “Chinas Cabbage Patch Kids”, available at

https://web.archive.org/web/20140506001711/http://austriantimes.at/news/Around_the_World/2014-05-02/50857/Chinas_Cabbage_Patch_Kids, and was published by the Austrian Times.

2. Admit that the Tapeworm Story was published by CEN.

3. Admit that the Pink Kitten Story was published by CEN.

4. Admit that the Naked Lunch Story was published by CEN.
5. Admit that the Two-Headed Goat Story is the article entitled “No Kidding – Baby Goat Has Two Heads”, available at https://web.archive.org/web/20141204181355/http://www.croatiantimes.com/news/Around_the_World/2014-11-17/36409/No_Kidding_-_Baby_Goat_Has_Two_Heads, and was published by the Croatian Times.
6. Admit that the Sandoval Story was published by CEN.
7. Admit that the Bieber Story is the article entitled “Justin Bieber Helps Defend Russian Fisherman From Bear”, produced at bates number BuzzFeed_004714, and was published by the Austrian Times.
8. Admit that the Sex Holiday Story was published by CEN.
9. Admit that the Underwear Thief Story is the article entitled “Bra Bandit Caught and Shamed by Angry Locals”, produced at bates number BuzzFeed_004702, and was published by the Austrian Times.
10. Admit that the Nephew Castration Story was the article entitled “Evil Aunt Hacks Off Toddlers Penis”, available at https://web.archive.org/web/20150425161649/http://www.croatiantimes.com/news/Around_the_World/2014-11-17/36408/Evil_Aunt_Hacks_Off_Toddlers_Penis, and was published by the Croatian Times.
11. Admit that the Self-Castration Story was the article entitled “Man Severed Penis That Failed To Impress Girls”, available at https://web.archive.org/web/20141104075900/http://austriantimes.at/news/Around_the_World/2014-10-23/51884/Man_Severed_Penis_That_Failed_To_Impress_Girls, and was published by the Austrian Times.

12. Admit that the Public Castration Story was published by CEN.
13. Admit that the Twin Cheating Story was published by CEN.
14. Admit that the Naked Sunbathing Story was published by CEN.
15. Admit that You owned and operated the websites for the following entities:
 - a. Austrian Times
 - b. Croatian Times
 - c. Europe Pics
 - d. Austrian Independent
 - e. Journalism without Borders
 - f. Vienna Times
 - g. Salzburg Times
 - h. German Herald
 - i. Austria Today
 - j. NAPA Pool
 - k. Vienna New Centre
 - l. Yousdesk
 - m. Journalism and Photographers Rights Society
16. Admit that You disabled the websites in Request No. 15 prior to filing the Complaint in this action.
17. Admit that You are the creator of the Wikipedia entry for Michael Leidig, currently available at https://en.wikipedia.org/wiki/Michael_Leidig.
18. Admit that You authored and published the Book.
19. Admit that You operate the Twitter account with the username “Bylinebandit.”

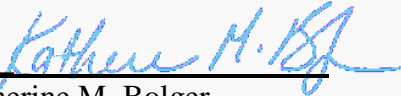
20. Admit that You were involved in reporting, drafting and/or publication of the Press Gazette article entitled *Buzzfeed investigation emails harm business of its 'main competitor in the UK news market'*, published on April 24, 2015.

21. Admit that You were a source for the Press Gazette article entitled *Buzzfeed investigation emails harm business of its 'main competitor in the UK news market'*, published on April 24, 2015.

Dated: February 1, 2017

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 

Katherine M. Bolger

Rachel F. Strom

Amy Wolf

321 West 44th Street, Suite 1000

New York, NY 10036

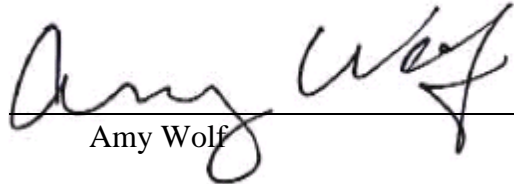
(212) 850-6100

Counsel for Defendant BuzzFeed, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of February, 2017, I caused a copy of the foregoing **BUZZFEED INC.'S REQUESTS FOR ADMISSION TO PLAINTIFFS** to be served on the following counsel of record in via electronic and U.S. mail:

Harry H. Wise, III, Esq.
43 West 43rd Street, Suite 109
New York, NY 10036-7424
(212) 709-8034
hwiselaw@aol.com



Amy Wolf

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MICHAEL LEIDIG and CENTRAL EUROPEAN
NEWS LTD,

Plaintiffs,

-against-

BUZZFEED, INC.,

Defendant.

:
: 16-CV-0542(RWS)

-----X
PLAINTIFFS' ANSWERS TO DEFENDANT'S REQUESTS FOR ADMISSION

Plaintiffs, Michael Leidig and Central European News Ltd., by the undersigned attorney, pursuant to Rule 36, FRCP, make the following answers to defendant's requests for admission:

1. Admitted.

2. Admitted, if "published" is defined to include preparing the story and selling it to one or more clients. Clients may publish a story as is, publish an edited version, or do their own version with or without additional research. CEN does not generally "publish" stories—the only occasional exception occurred when a story was published on one of CEN's web sites.

3. Admitted, if "published" is defined to include preparing the story and selling it to one or more clients. Clients may publish a story as is, publish an edited version, or do their own version with or without additional research. CEN does not generally "publish" stories—the only occasional exception occurred when a story was published on one of CEN's web sites.

4. Admitted, if "published" is defined to include preparing the story and selling it to one or more clients. Clients may publish a story as is, publish an edited version, or do their own version with or without additional research. CEN does not generally "publish" stories—the only occasional exception occurred when a story was published on one of CEN's web sites.

5. Admitted.

6. Admitted, if “published” is defined to include preparing the story and selling it to one or more clients. Clients may publish a story as is, publish an edited version, or do their own version with or without additional research. CEN does not generally “publish” stories—the only occasional exception occurred when a story was published on one of CEN’s web sites.

7. Admitted.

8. Admitted, if “published” is defined to include preparing the story and selling it to one or more clients. Clients may publish a story as is, publish an edited version, or do their own version with or without additional research. CEN does not generally “publish” stories—the only occasional exception occurred when a story was published on one of CEN’s web sites.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted, if “published” is defined to include preparing the story and selling it to one or more clients. Clients may publish a story as is, publish an edited version, or do their own version with or without additional research. CEN does not generally “publish” stories—the only occasional exception occurred when a story was published on one of CEN’s web sites.

13. Admitted, if “published” is defined to include preparing the story and selling it to one or more clients. Clients may publish a story as is, publish an edited version, or do their own version with or without additional research. CEN does not generally “publish” stories—the only occasional exception occurred when a story was published on one of CEN’s web sites.

14. Admitted, if “published” is defined to include preparing the story and selling it to one or more clients. Clients may publish a story as is, publish an edited version, or do their own

version with or without additional research. CEN does not generally “publish” stories—the only occasional exception occurred when a story was published on one of CEN’s web sites.

15.
 - a. Admitted
 - b. Denied. This site’s name was licensed by a Croatian journalist, who operated the site.
 - c. If “Europics” is meant, admitted.
 - d. Admitted
 - e. Admitted
 - f. Admitted
 - g. Admitted
 - h. Denied. The site was set up for a German freelancer who never really used it.
 - i. Denied. This was an independently owned venture. In the last year of its operation CEN tried to run it when the owner wanted to close it down.
 - j. Denied. This was a project set up by NAPA that was never developed.
 - k. Can neither admit nor deny. Name not recognized.
 - l. Admit, except deny that it was ever operational.
 - m. Admitted

16. Admitted. Mr. Leidig instructed his IT company to close the news sites—Austrian Times, Croatian Times, Romanian Times, Vienna Times, Salzburg Times, German Herald, and Austria Today, in a meeting on May 7, 2015, because the BuzzFeed article two weeks earlier had destroyed their utility. All other sites were gone by October, 2015.

17. Denied. The entry was created, on her initiative, by a freelance journalist in CEN's office, who had to borrow plaintiff Leidig's password. Plaintiff Leidig has attempted to modify the entry using the Bylinebandit username, with only limited success.

18. Admitted, together with others.

19. Admitted.

20. Denied, except that plaintiff Leidig admits to being a source for the story.

21. Admitted.

Dated: February 8, 2017



Harry H. Wise, III (HW6841)

Attorney for Plaintiffs

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