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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

BANK JULIUS BAER & CO. LTD, a Swiss entity; and **JULIUS BAER BANK AND TRUST CO. LTD**, a Cayman Islands entity,

Plaintiffs,

v.

WIKILEAKS, an entity of unknown form, **WIKILEAKS.ORG**, an entity of unknown form; **DYNADOT, LLC**, a California limited liability corporation, and **DOES 1 through 10**, inclusive,

Defendants.

CASE NO. CV08-0824 JSW
[Hon. Jeffrey S. White]

[PROPOSED] ORDER DEEMING SERVICE EFFECTED [OR] PERMITTING ALTERNATIVE METHOD OF SERVICE OF SUMMONS AND COMPLAINT AND OF THE APPLICATION FOR TRO AND OSC PRELIMINARY INJUNCTION

Date: [Submission]
Time: [Submission]
CTRM: 2, 17th FL

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on February ____, 2008, at _____ .m., in Courtroom 2 of the above entitled Court, Plaintiffs **BANK JULIUS BAER & CO. LTD's ("BJB")** and **JULIUS BAER BANK AND TRUST CO. LTD's ("JBBT")** (collectively, "Julius Baer" and/or "Plaintiffs") Ex Parte Application came before

1 the Court for an order: (i) deeming Plaintiffs' service of the Summons and Complaint
2 on Defendants WIKILEAKS and WIKILEAKS.ORG (the "Wikileaks Defendants")
3 valid and effective; and (ii) deeming Plaintiffs' service on the Wikileaks Defendants
4 of the Application for TRO and OSC Preliminary Injunction and OSC re TRO, and
5 supporting papers thereon (collectively, the "Application for OSC"), valid and
6 effective; *or in the alternative*, (iii) permitting alternative methods of service of
7 process on the anonymous hidden Defendants, pursuant to Fed.R.Civ.Proc., Rule
8 4(f)(3) and (h)(2), by means of e-mail to the Defendants' last known valid e-mail
9 addresses without requirement of return receipt; *or* (iv) for additional time in which
10 to effect service on the Defendants, pursuant to Fed.R.Civ.Proc., Rule 4(m); and
11 (v) for leave to conduct limited pre-service discovery on third-parties and defendant
12 Dynadot related to the issue of locating the Wikileaks Defendants' physical local,
13 and their owners and operators, in order to effect service of process (this
14 "Application").

15 AND, the Court having considered the Application, the declarations and
16 memorandum of points and authorities presented by Plaintiffs in support of the
17 Application, and any other papers, evidence or arguments presented by the parties
18 in connection with Plaintiffs' Application;

19 AND, it appearing to the satisfaction of the Court upon hearing that good
20 cause exists for the relief requested in that Plaintiffs will suffer prejudice should
21 Plaintiffs' service of the Summons and Complaint and/or the Application for TRO
22 and OSC on the Defendants not be deemed valid and effected; *or in the alternative*,
23 Plaintiffs not be permitted to engage in alternative methods of service of process on
24 the Defendants, pursuant to Fed.R.Civ.Proc., Rule 4(f)(3) and (h)(2), due to the fact
25 that Defendants are avoiding service, are actively engaged in efforts to hide and
26 conceal their true identities and locations and their counsel has previously
27 acknowledged notice of the action and possession of a copy of the Summons and
28 Complaint and the Application for TRO and OSC;

1 AND, it appearing to the satisfaction of the Court upon hearing that good
2 cause exists for the issuance of the requested relief;

3 **IT IS HEREBY ORDERED THAT:**

4 (1) Plaintiffs' service, via e-mail, of the Summons and Complaint on the
5 Wikileaks Defendants is deemed valid and effective; and

6 (2) Plaintiffs' service, via e-mail, of the Application for TRO and OSC on
7 the Wikileaks Defendants is deemed valid and effective; and

8 *or in the alternative,*

9 (3) Plaintiffs are permit to engage in alternative methods of service of
10 process on the foreign Defendants, pursuant to Fed.R.Civ.Proc., Rule 4(f)(3) and
11 (h)(2), by means of e-mail delivery to the Defendants' last known valid e-mail
12 addresses without requirement of return receipt; *or*

13 (4) Plaintiff is granted additional time in which to effect service on the
14 Defendants, pursuant to Fed.R.Civ.Proc., Rule 4(m), and is granted leave to
15 conduct limited pre-service discovery on third-parties and defendant Dynodat
16 related to the issue of locating the Wikileaks Defendants' physical local, and their
17 owners and operators, in order to effect service of process.

18 **IT IS FURTHER ORDERED THAT:**

19 _____
20 _____
21 _____
22 _____

23 **IT IS SO ORDERED.**

24
25 Dated: _____, 2008

26 Hon. Jeffrey S. White
27 UNITED STATES DISTRICT JUDGE
28