Maßnahmen zur Identifizierung der Betreiber ohne Erfolg

Das Evidence Pack der Incopro Ltd. vom 18. Februar 2021 enthält keine Informationen zur Identität der Betreiber der SUW. Die auf der SUW angebotenen Kontaktmöglichkeiten führten nicht zu einer Identifikation der Betreiber (siehe hierzu I.). Auch Auskunftsgesuche gegenüber den von Incopro Ltd. identifizierten Providern konnten die Identität der Betreiber der SUW nicht klären (siehe hierzu II.).

I. Kontaktmöglichkeiten über die Internetseite

Auf der SUW bestehen zwei Kontaktmöglichkeiten:

- Nachricht als Support-Ticket
- Nachricht an den "Admin" per Direktnachricht im Bereich "Forum"

Für beide Kontaktmöglichkeiten musste ein kostenloser Account erstellt werden. Die Kanzlei erstellte, um ihre IT-Infrastruktur nicht zu gefährden, eine nur für diesen Account genutzte E-Mail-Adresse des Anbieters Microsoft (@outlook.com).

Unter diesem Account wurden – unter Offenlegung der Identität der Kanzlei und der Antragstellerin – folgende Abmahnungen über die o.g. Kommunikationswege versendet:

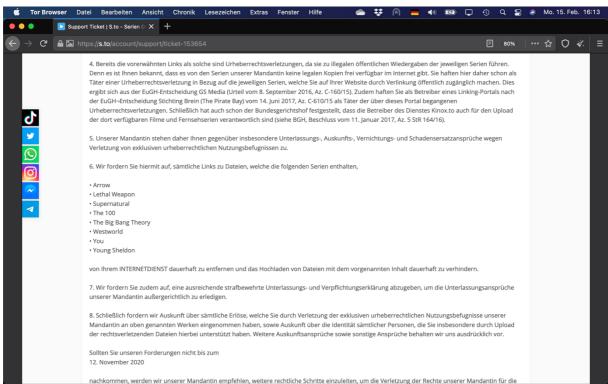
Nr.	Datum	Uhrzeit	Art der Nachricht	Antwort
1	11.11.2020	15:40	Abmahnung per Support-	12.11.2020 – 13:59:
		Uhr	Ticket	Support wird von allen
				Nutzern des Internetdienstes gemeinsam bearbeitet. Eine Nachricht an die Betreiber müsse über das Forum gesendet werden. Ferner sei die Frist zu kurz.
2	12.11.2021		Abmahnung an Admin über das Forum	[keine Antwort]

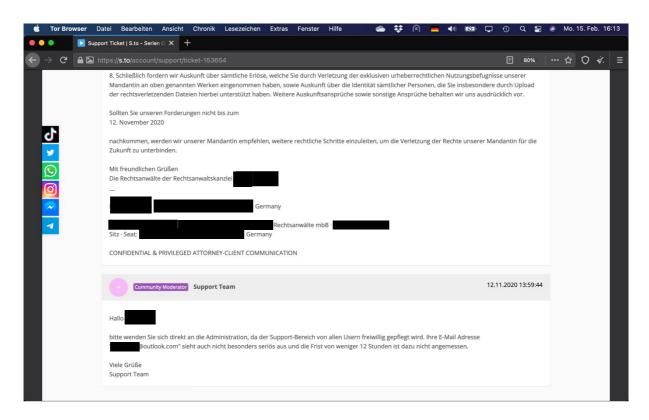
Auf die Abmahnung über das Support-Ticket erhielt der Absender lediglich die Aufforderung, sich direkt an die Administration zu wenden. Auf die Abmahnung an Admin erhielt der Absender bis zur Einreichung des Antrags keine Antwort.

Zum Nachweis werden nachfolgend Screenshots der o.g. Schreiben vorgelegt:

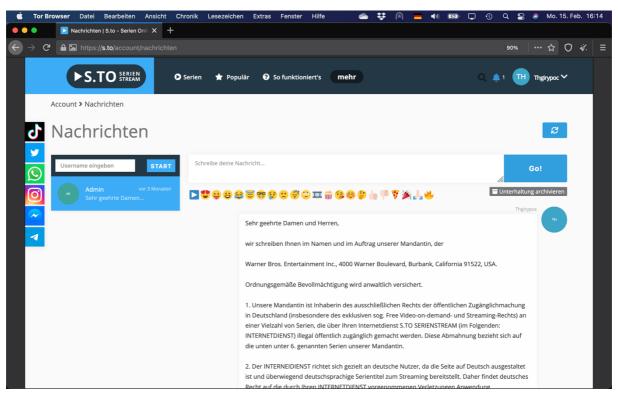
1. Abmahnung über Support-Ticket und Antwort:

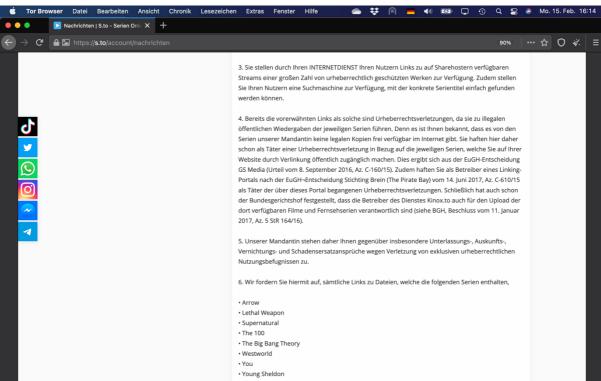


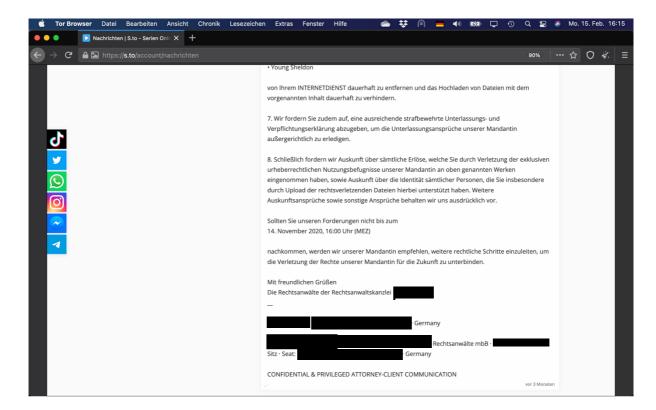




2. Abmahnung an "Admin" per Direktnachricht im Forum







3. Kontakt per E-Mail

Der Kanzlei war zudem eine E-Mail-Adresse (<u>contact@s.to</u>) aus früheren Verfahren bekannt.

Eine an diese E-Mail-Adresse versandte Abmahnung vom 10. November 2020, 15:29 Uhr, blieb unbeantwortet:

Tuesday, February 16, 2021 at 11:52:58 Central European Standard Time

Betreff: EILT! Rechtsanwaltliche Abmahnung - Urheberrechtsverletzung durch Betrieb von S.TO

SERIENSTREAM

Datum: Dienstag, 10. November 2020 um 15:29:15 Mitteleuropäische Normalzeit

Von: Copyright

An: contact@s.to

Sehr geehrte Damen und Herren,

wir schreiben Ihnen im Namen und im Auftrag unserer Mandantin, der

Warner Bros. Entertainment Inc., 4000 Warner Boulevard, Burbank, California 91522, USA,

Ordnungsgemäße Bevollmächtigung wird anwaltlich versichert.

- Unsere Mandantin ist Inhaberin des ausschließlichen Rechts der öffentlichen Zugänglichmachung in Deutschland (insbesondere des exklusiven sog. Free Video-ondemand- und Streaming-Rechts) an einer Vielzahl von Serien, die über Ihren Internetdienst S.TO SERIENSTREAM (im Folgenden: INTERNETDIENST) illegal öffentlich zugänglich gemacht werden. Diese Abmahnung bezieht sich auf die unten unter 6. genannten Serien unserer Mandantin.
- Der INTERNEIDIENST richtet sich gezielt an deutsche Nutzer, da die Seite auf Deutsch ausgestaltet ist und überwiegend deutschsprachige Serientitel zum Streaming bereitstellt. Daher findet deutsches Recht auf die durch Ihren INTERNETDIENST vorgenommenen Verletzungen Anwendung.
- Sie stellen durch Ihren INTERNETDIENST Ihren Nutzern Links zu auf Sharehostern verfügbaren Streams einer großen Zahl von urheberrechtlich geschützten Werken zur Verfügung. Zudem stellen Sie Ihren Nutzern eine Suchmaschine zur Verfügung, mit der konkrete Serientitel einfach gefunden werden können.
- 4. Bereits die vorerwähnten Links als solche sind Urheberrechtsverletzungen, da sie zu illegalen öffentlichen Wiedergaben der jeweiligen Serien führen. Denn es ist Ihnen bekannt, dass es von den Serien unserer Mandantin keine legalen Kopien frei verfügbar im Internet gibt. Sie haften hier daher schon als Täter einer Urheberrechtsverletzung in Bezug auf die jeweiligen Serien, welche Sie auf Ihrer Website durch Verlinkung öffentlich zugänglich machen. Dies ergibt sich aus der EuGH-Entscheidung GS Media (Urteil vom 8. September 2016, Az. C-160/15). Zudem haften Sie als Betreiber eines Linking-Portals nach der EuGHEntscheidung Stichting Brein (The Pirate Bay) vom 14. Juni 2017, Az. C-610/15 als Täter der über dieses Portal begangenen Urheberrechtsverletzungen. Schließlich hat auch schon der Bundesgerichtshof festgestellt, dass die Betreiber des Dienstes Kinox.to auch für den Upload der dort verfügbaren Filme und Fernsehserien verantwortlich sind (siehe BGH, Beschluss vom 11. Januar 2017, Az. 5 StR 164/16).
- Unserer Mandantin stehen daher Ihnen gegenüber insbesondere Unterlassungs-, Auskunfts-, Vernichtungs- und Schadensersatzansprüche wegen Verletzung von exklusiven urheberrechtlichen Nutzungsbefugnissen zu.
- 6. Wir fordern Sie hiermit auf, sämtliche Links zu Dateien, welche die folgenden Serien enthalten,
 - · Arrow
 - Lethal Weapon
 - Supernatural
 - · The 100

Page 1 of 2

- · The Big Bang Theory
- Westworld
- · You
- · Young Sheldon

von Ihrem INTERNETDIENST dauerhaft zu entfernen und das Hochladen von Dateien mit dem vorgenannten Inhalt dauerhaft zu verhindern.

- 7. Wir fordern Sie zudem auf, eine ausreichende strafbewehrte Unterlassungs- und Verpflichtungserklärung abzugeben, um die Unterlassungsansprüche unserer Mandantin außergerichtlich zu erledigen.
- 8. Schließlich fordern wir Auskunft über sämtliche Erlöse, welche Sie durch Verletzung der exklusiven urheberrechtlichen Nutzungsbefugnisse unserer Mandantin an oben genannten Werken eingenommen haben, sowie Auskunft über die Identität sämtlicher Personen, die Sie insbesondere durch Upload der rechtsverletzenden Dateien hierbei unterstützt haben. Weitere Auskunftsansprüche sowie sonstige Ansprüche behalten wir uns ausdrücklich vor.

Sollten Sie unseren Forderungen nicht bis zum

12. November 2020

nachkommen, werden wir unserer Mandantin empfehlen, weitere rechtliche Schritte einzuleiten, um die Verletzung der Rechte unserer Mandantin für die Zukunft zu unterbinden.



CONFIDENTIAL & PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

II. Provider der Betreiber

Die Kanzlei kontaktierte ferner alle im Evidence Pack benannten Provider (siehe dort Ziffer II.5.2.1.a.) der SUW, um die Identität der Betreiber zu ermitteln.

Sämtliche ergriffenen Maßnahmen blieben ohne Erfolg.

1. Host-Provider (siehe ausführlich Anlage II.5.2.3.)

Das Evidence Pack ordnet den bekannten Domains folgende IP-Adressen zu (siehe Evidence Pack Ziffer II.5.1.1.):

Domains	Zugeordnete IP-Adressen
S.TO	186.2.163.237
SERIENSTREAM.TO (Weiterleitung auf	186.2.163.190
S.TO)	186.2.163.191
SERIENSTREAM.SX	

Die IP-Adressen gehören zum AS262254, dessen Inhaber Ddos-Guard ist. Ob Ddos-Guard tatsächlich Host-Provider oder CDN-Provider ist, konnte nicht ermittelt werden. Ddos Guard und der benannte Kontakt, Herr @mail.ru) wurden durch die Kanzlei angeschrieben, um die Identität des Host-Providers zu klären. Es erfolgte bis zur Einreichung des Antrags keine Reaktion. Siehe dazu ausführlich (mit Belegen) Anlage II.5.2.3.

2. TLS-Certificate Provider

Alle Domains nutzen TLS-Zertifikate des Dienstleisters "Let's encrypt". Der Anbieter ist unter folgenden E-Mail-Adressen kontaktierbar:

- press@letsencrypt.org
- sponsor@letsencrypt.org
- security@letsencrypt.org

Die Kanzlei hat Let's encrypt kontaktiert und Auskunft zur Identität der Betreiber des Internetdienstes gefordert. Let's encrypt hat geantwortet, das Auskunftsersuchen jedoch abgelehnt. Auch der Aufforderung, die Zurverfügungstellung von Zertifikaten zu unterlassen ist der Anbieter nicht nachgekommen.

Die Korrespondenz im Überblick:

Nr.	Datum	Uhrzeit	Art der Nachricht	Antwort
(1)	28.01.2021	13:05	Anwaltliches	28.01.21 – 16:16: Let's
		Uhr	Informationsschreiben &	encrypt könne aufgrund
			Auskunftsersuchen	seiner
			(Domains: Serienstream.sx)	Vertragsbestimmungen
				keine Maßnahmen gegen
				Websites mit
				rechtsverletzenden Inhalten
				unternehmen.
(2)	16.02.2021	11:50	Anwaltliches	16.02.21 – 14:33: Antwort
		Uhr	Informationsschreiben &	identisch mit Antwort zu (1).
			Auskunftsersuchen (alle	
			Domains)	

Die Nachrichten und Antworten werden nachfolgend eingefügt:

(1) Anwaltliches Informationsschreiben und Auskunftsersuchen (Serienstream.sx)

Tuesday, February 16, 2021 at 11:55:23 Central European Standard Time

Betreff: URGENT! Attorney letter - Clear rights infringements on the internet service "SERIENSTREAM"

for which you provide a TLS certificate

Datum: Donnerstag, 28. Januar 2021 um 13:05:55 Mitteleuropäische Normalzeit

Von: Copyright

An: press@letsencrypt.org, sponsor@letsencrypt.org, security@letsencrypt.org

Dear Sir or Madam.

We are writing to you in the name and on behalf of Our Client, namely Warner Bros. Entertainment Inc., 4000 Warner Boulevard, Burbank, California 91522, United States of America;

hereinafter "Our Client". We hereby affirm, in our capacity as attorneys, that we possess the due authority to represent Our Client.

This is a notice-and-take-down letter about copyright infringements occurring on the internet service **SERIENSTREAM** (in the following: the Website), under the IP addresses **186.2.163.191**, a website for which you are providing TLS-certificate services, currently available, inter alia, via the domains

SERIENSTREAM.SX

Our Client owns the exclusive making available rights, in particular for the territory of Germany, in and to the following series

- Arrow
- · Lethal Weapon
- Supernatural
- The 100
- · The Big Bang Theory
- · Westworld
- · You
- · Young Sheldon

(in the following: the Series)

The Website offers a vast amount of copyright-protected content, consisting of series. The Website almost entirely consists of copyright-infringing material, i.e. content, the rights of which are owned by rightsholders, such as Our Client. On the Website, the copyright-protected content of Our Client is made available, in particular the Series. See e.g. the following links on s.to:

- https://s.to/serie/stream/arrow
- https://s.to/serie/stream/lethal-weapon
- <u>https://s.to/serie/stream/supernatural-zur-hoelle-mit-dem-boesen</u>
- <u>https://s.to/serie/stream/the-100</u>
- https://s.to/serie/stream/the-big-bang-theory
- <u>https://s.to/serie/stream/westworld</u>
- https://s.to/serie/stream/you
 - https://s.to/serie/stream/young-sheldon

By making available Our Client's Series on the Website, the Website is clearly infringing Our Client's copyright. Pursuant to the CJEU decision GS Media (judgment of 8 September 2016, Case C-160/15, n. 55), already the linking to copyright protected content is a copyright infringement. The posting of hyperlinks to protected works, which are freely available on another website without the consent of the copyright holder, constitutes a 'communication to the public' if those links are provided with the pursuit of financial gain and the posting person knew or could have reasonably known the illegal nature of the publication of those works on that other website. Also, as operators of a linking portal site, the operators of the Website are infringing copyrights pursuant to the CJEU decision

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Stichting Brein (The Pirate Bay) of 14 June 2017 (case C-610/15, n. 47). Please note that German courts have also ruled that the operators of structurally infringing sites - like the Website - infringe copyrights and can even be held responsible based on criminal law charges (see German Federal Supreme Court, decision of 11 January 2017, case 5 StR 164/16). The operators of the Website violate copyright themselves (German Federal Supreme Court, decision of 11 January 2017, case 5 StR 164/16; Regional District Court Leipzig, judgment of 14 December 2015, case 11 KLs 390 Js 9/15; see also CJEU GS Media, judgment of 8 September 2016, Case C-160/15, n. 55 and CJEU Stichting Brein (The Pirate Bay), judgment of 14 June 2017, Case C-610/15, n. 47). We hereby inform you, that Our Client has already unsuccessfully tried to enforce their claims against the operators of the Website as well as their host providers. Our Client has sent qualified notification letters and cease-and-desist-letters to all contact options available on the Website and has done the same towards the host providers of the Website. The letters remain unanswered. An internet investigator contracted by Our Client was unable to reveal the identity of the operators of the Website. Therefore, a legal enforcement against the the operators of the Website is - to date - not possible. In light of the copyright infringements described above, Our Client has inter alia injunction claims under the principle of breach of duty of care under German copyright as well as information claims pursuant to Sec. 101 para. 2 sentence 1 no. 3 German Copyright Act against you as the TLS-certificate provider of the Website.

In the name of and on behalf of Our Client, we ask you

to cease providing the Website with a TLS-certificate as long as Our Client's Series remain available on the Website.

Moreover, we ask you

to provide detailed information on the identity of all persons for whom you provide TLS-certificate services for the Website and with whom you have contractual relationships, including, but not limited to, their name, address, e-mail-address and phone number.

Furthermore, we request

that you preserve any and all records related to your contractual relationship with respect to the Website, including, but not limited to any transactional information, agreements or correspondence between you and your customer.

We expect fulfillment of the aforementioned demands

no later than 1 February 2021, 2 pm CET.

This letter is not a complete statement of Our Client's rights in connection with this matter, and nothing contained herein constitutes an express or implied waiver of any rights, remedies, or defenses of Our Client in connection with this matter, all of which are expressly reserved.

Sincerely,

the attorneys of

Germany

Rechtsanwälte mbB ·

Sitz · Seat:

Germany

CONFIDENTIAL & PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

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Antwort zu (1)

Tuesday, February 16, 2021 at 12:03:52 Central European Standard Time

Betreff: Re: URGENT! Attorney letter - Clear rights infringements on the internet service

"SERIENSTREAM" for which you provide a TLS certificate

Datum: Donnerstag, 28. Januar 2021 um 16:16:51 Mitteleuropäische Normalzeit

Von:

An: Copyright

CC: press@letsencrypt.org, sponsor@letsencrypt.org, security@letsencrypt.org

Thanks for the report. Our current policy does not allow us to revoke certificates based on the content of websites, including for suspected phishing, malware, fraud, abuse, or otherwise objectionable content.

We recommend reporting such sites to Google Safe Browsing and the Microsoft Smart Screen program, which are able to more effectively protect users. Here are some reporting URLs:

https://safebrowsing.google.com/safebrowsing/report_badware/

https://safebrowsing.google.com/safebrowsing/report_phish/

https://www.microsoft.com/en-us/wdsi/support/report-unsafe-site-guest

If you'd like to read more about our policies and rationale, you can do so here:

https://letsencrypt.org/2015/10/29/phishing-and-malware.html

(2) Anwaltliches Informationsschreiben und Auskunftsersuchen (alle Domains)

Tuesday, February 16, 2021 at 11:51:29 Central European Standard Time

Betreff: URGENT! Attorney letter - Clear rights infringements on the internet service "SERIENSTREAM"

for which you provide a TLS certificate

Datum: Dienstag, 16. Februar 2021 um 11:50:29 Mitteleuropäische Normalzeit

Von: Copyright

An: press@letsencrypt.org, sponsor@letsencrypt.org, security@letsencrypt.org

Dear Sir or Madam,

We are writing to you in the name and on behalf of Our Client, namely

Warner Bros. Entertainment Inc., 4000 Warner Boulevard, Burbank, California 91522, United States of America;

hereinafter "Our Client". We hereby affirm, in our capacity as attorneys, that we possess the due authority to represent Our Client.

This is a notice-and-take-down letter about copyright infringements occurring on the internet service **SERIENSTREAM** (in the following: the Website), a website for which you are providing TLS-certificate services, currently available, inter alia, via the domains

- SERIENSTREAM.SX
- SERIENSTREAM.TO
- S.TO

Our Client owns the exclusive making available rights, in particular for the territory of Germany, in and to the following series

- Arrow
- · Lethal Weapon
- Supernatural
- · The 100
- · The Big Bang Theory
- · Westworld
- · You
- · Young Sheldon

(in the following: the Series)

The Website offers a vast amount of copyright-protected content, consisting of series. The Website almost entirely consists of copyright-infringing material, i.e. content, the rights of which are owned by rightsholders, such as Our Client. On the Website, the copyright-protected content of Our Client is made available, in particular the Series. See e.g. the following links on s.to:

- https://s.to/serie/stream/arrow
- https://s.to/serie/stream/lethal-weapon
- https://s.to/serie/stream/supernatural-zur-hoelle-mit-dem-boesen

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- https://s.to/serie/stream/supernatural-zur-hoelle-mit-dem-boesen
- <u>https://s.to/serie/stream/the-100</u>
- https://s.to/serie/stream/the-big-bang-theory
- https://s.to/serie/stream/westworld
- https://s.to/serie/stream/you
- <u>https://s.to/serie/stream/young-sheldon</u>

By making available Our Client's Series on the Website, the Website is clearly infringing Our Client's copyright. Pursuant to the CJEU decision GS Media (judgment of 8 September 2016, Case C-160/15, n. 55), already the linking to copyright protected content is a copyright infringement. The posting of hyperlinks to protected works, which are freely available on another website without the consent of the copyright holder, constitutes a 'communication to the public' if those links are provided with the pursuit of financial gain and the posting person knew or could have reasonably known the illegal nature of the publication of those works on that other website. Also, as operators of a linking portal site, the operators of the Website are infringing copyrights pursuant to the CJEU decision Stichting Brein (The Pirate Bay) of 14 June 2017 (case C-610/15, n. 47).

Please note that German courts have also ruled that the operators of structurally infringing sites - like the Website - infringe copyrights and can even be held responsible based on criminal law charges (see German Federal Supreme Court, decision of 11 January 2017, case 5 StR 164/16). The operators of the Website violate copyright themselves (German Federal Supreme Court, decision of 11 January 2017, case 5 StR 164/16; Regional District Court Leipzig, judgment of 14 December 2015, case 11 KLs 390 Js 9/15; see also CJEU GS Media, judgment of 8 September 2016, Case C-160/15, n. 55 and CJEU Stichting Brein (The Pirate Bay), judgment of 14 June 2017, Case C-610/15, n. 47). We hereby inform you, that Our Client has already unsuccessfully tried to enforce their claims against the operators of the Website as well as their host providers. Our Client has sent qualified notification letters and cease-and-desist-letters to all contact options available on the Website and has done the same towards the host providers of the Website. The letters remain unanswered. An internet investigator contracted by Our Client was unable to reveal the identity of the operators of the Website. Therefore, a legal enforcement against the the operators of the Website is - to date - not possible. In light of the copyright infringements described above, Our Client has inter alia injunction claims under the principle of breach of duty of care under German copyright as well as information claims pursuant to Sec. 101 para. 2 sentence 1 no. 3 German Copyright Act against you as the TLS-certificate provider of the Website.

In the name of and on behalf of Our Client, we ask you

to cease providing the Website with a TLS-certificate as long as Our Client's Series remain available on the Website.

Moreover, we ask you

to provide detailed information on the identity of all persons for whom you provide TLS-certificate services for the Website and with whom you have contractual relationships, including, but not limited to, their name, address, e-mail-address and phone number.

Furthermore, we request

that you preserve any and all records related to your contractual

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relationship with respect to the Website, including, but not limited to any transactional information, agreements or correspondence between you and your customer.

We expect fulfillment of the aforementioned demands no later than 17 February 2021, 2 pm CET.

This letter is not a complete statement of Our Client's rights in connection with this matter, and nothing contained herein constitutes an express or implied waiver of any rights, remedies, or defenses of Our Client in connection with this matter, all of which are expressly reserved.

Sincerely, the attorneys of	
	Germany
	Rechtsanwälte mbB ·
Sitz · Seat:	Germany

CONFIDENTIAL & PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Antwort zu (2)

Tuesday, February 16, 2021 at 15:40:52 Central European Standard Time

Betreff: Re: URGENT! Attorney letter - Clear rights infringements on the internet service

"SERIENSTREAM" for which you provide a TLS certificate

Datum: Dienstag, 16. Februar 2021 um 14:33:07 Mitteleuropäische Normalzeit

Von: Copyright

CC: press@letsencrypt.org, sponsor@letsencrypt.org, security@letsencrypt.org

Thanks for the report. Our current policy does not allow us to revoke certificates based on the content of websites, including for suspected phishing, malware, fraud, abuse, or otherwise objectionable content.

We recommend reporting such sites to Google Safe Browsing and the Microsoft Smart Screen program, which are able to more effectively protect users. Here are some reporting URLs:

https://safebrowsing.google.com/safebrowsing/report_badware/ https://safebrowsing.google.com/safebrowsing/report_phish/ https://www.microsoft.com/en-us/wdsi/support/report-unsafe-site-guest

If you'd like to read more about our policies and rationale, you can do so here:

https://letsencrypt.org/2015/10/29/phishing-and-malware.html

3. Registrar (SERIENSTREAM.SX)

Registrar der Domain SERIENSTREAM.SX ist das deutsche Unternehmen EPAG Domainservices GmbH, das zur kanadischen Unternehmensgruppe Tucows, Inc. gehört. Durch Abmahnungen (von Herrn Rechtsanwalt der Betreiber nicht ermittelt werden.

Nr.	Datum	Uhrzeit	Art der Nachricht	Antwort
(1)	02.02.21		Anwaltliche Abmahnung an EPAG Domainservices GmbH – per Einschreiben sowie vorab per E-Mail an support@epag.de	- Keine Antwort -
(2)	02.02.21	11:59	Anwaltliches Auskunftsgesuch an Tucows Inc.	E-Mail von Herrn) mit Aufforderung, Auskunftsgesuch an tieredaccess@tucows.com zu richten
(3)	03.02.21		Anwaltliches Auskunftsgesuch an Tucows Inc. an die vom Compliance Officer angegebene E-Mail- Adresse tieredaccess@tucows.com	Auf anwaltliche Erinnerung von Herrn Rechtsanwalt vom 12. Februar 2021 erteilte Tucows Inc. über Tiered Access Auskunft. Daraus ergab sich, dass die Betreiber den Dienst NJALLA nutzen (siehe Screenshot vom 17. Februar 2021 unter (3)).

Dieser Dienst, der mit einem der Mitbegründer von ThePirateBay () assoziiert wird, erlaubt die anonyme Registrierung von Domains. Er ist auf die Anonymisierung von Domaininhabern spezialisiert (siehe nur www.njal.la). Er hat seinen Sitz auf dem föderalen Karibikstaat Sankt Kitts und Nevis. Auch dieser Weg erwies sich damit als
Weg erwies sich damit als erfolglos.

(1) Abmahnung an EPAG Domainservices GmbH



RΑ

per Einschreiben Einwurf EPAG Domainservices GmbH Rechtsabteilung Niebuhrstr. 16b 53113 Bonn

vorab per E-Mail: support@epag.de

Rechtsanwalt

Fax:
E-Mail: info@ aw

02.02.2021

Tel.:

(bitte stets angeben)

D1/21-21

Auskunftsanspruch § 101 Abs. 2 UrhG Domain "serienstream.sx"

Sehr geehrte Damen und Herren,

hiermit zeige ich die anwaltliche Vertretung der Firma

WARNER BROS. ENTERTAINMENT INC., 4000 Warner Blvd, Burbank, California 91522, USA,

an. Auf mich lautende Vollmacht wird anwaltlich versichert.

Gegenstand meines Schreibens ist ein Auskunftsanspruch meiner Mandantin nach § 101 Abs. 2 UrhG mit Blick auf den Kunden der EPAG Domainservices GmbH, der die Adresse

serienstream.sx

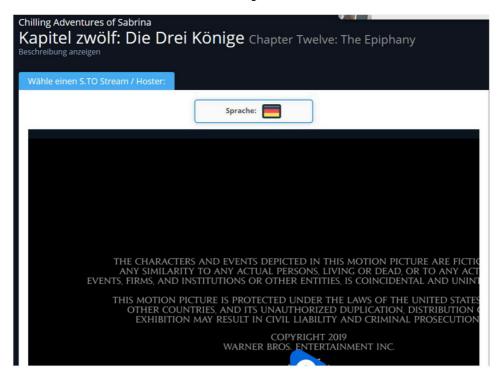
nutzt bzw. über sie registriert hat.

Die Webseite serienstream.sx ist eine illegale Streaming-Seite, ähnlich der bekannten Webseite "kinox.to". Sie stellt ihren Nutzern Links zu tausenden von Filmen, Serien und anderen urheberrechtlich geschützten Inhalten zur Verfügung. Diese können kostenlos und ohne die erforderliche Zustimmung der Rechteinhaber im Browser im Wege des Streaming-On-Demand angesehen werden. Der EuGH hat für die Seite "The Pirate Bay" festgehalten, dass die Betreiber einer solchen Seite selbst eine Handlung der öffentlichen Wiedergabe im Sinne des Art. 3 der Richtlinie Richtlinie 2001/29/EG vornehmen und somit als Täter haften (Az. C-610/15). Der Bundesgerichtshof hat die Betreiber von kinox.to zu mehrjährigen Haftstrafen verurteilt (BGH 5 StR 164/16).

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Unter den vielen Tausend über "Serienstream" verfügbar gemachten Werken befinden sich zahlreiche Filmwerke, an denen meiner Mandantin für das Gebiet der Bundesrepublik Deutschland die ausschließlichen Verwertungsrechte nach §§ 16, 19a UrhG zustehen. Meine Mandantin hat der Vervielfältigung und der öffentlichen Zugänglichmachung ihrer Inhalte durch den Betreiber von "Serienstream" nicht zugestimmt, diese erfolgt daher rechtswidrig, was hiermit zum Zwecke der Glaubhaftmachung anwaltlich versichert wird (§ 294 I ZPO).

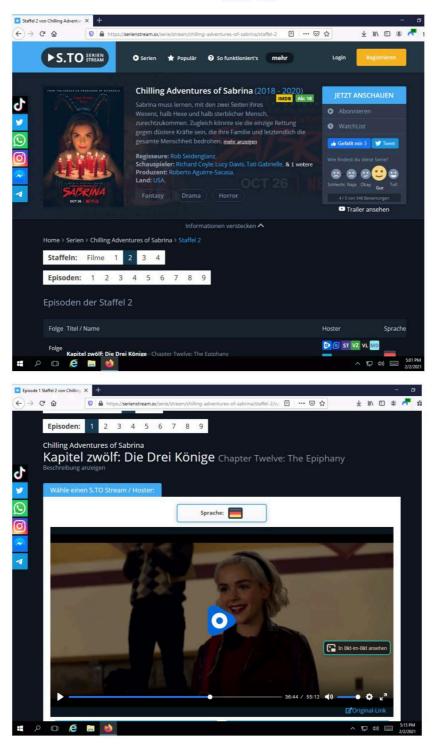
Dies gilt auch und insbesondere für das Filmwerk "Chilling Adventures Of Sabrina", Staffel 2, Episode 1. Meine Mandantin wird im Abspann des Werks im ©-Vermerk als Inhaberin der ausschließlichen Rechte genannt:



Dieses Filmwerk wird derzeit über die Webseite serienstream.sx ohne Zustimmung meiner Mandantin und daher rechtswidrig öffentlich zugänglich gemacht, konkret mittels der URL https://serienstream.sx/serie/stream/chilling-adventures-of-sabrina/staffel-2/episode-1:

www.

Seite 3 von 5

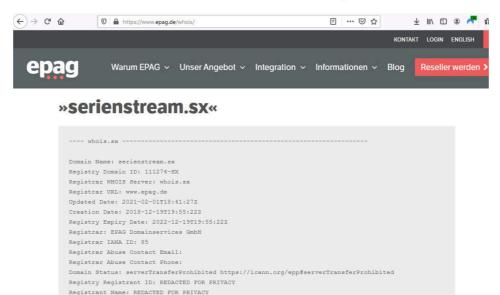


www.

Seite 4 von 5

Meine Mandantin hat der Vervielfältigung und öffentlichen Zugänglichmachung ihres Filmwerkes (§§ 16, 19a UrhG) über die Seite serienstream.sx nicht zugestimmt, diese Handlungen sind daher rechtswidrig.

Aus naheliegenden Gründen verfügt die Webseite über kein Impressum oder sonstige Anbieterkennzeichnung. Ausweislich des Domain-WhoIs wurde die Domain serienstream.sx durch die EPAG Domainservices GmbH registriert:



Mit der Registrierung der Domain für den unbekannten Registranten hat die EPAG Domainservices GmbH in gewerblichem Ausmaß Dienstleistungen erbracht, die durch den Kunden für rechtsverletzende Tätigkeiten genutzt werden. Hieraus ergibt sich ein Auskunftsanspruch meiner Mandantin nach § 101 Abs. 2 UrhG.

Ich fordere die EPAG Domainservices GmbH hiermit namens und in Vollmacht meiner Mandantin auf, ihr gem. § 101 Abs. 2 UrhG **Auskunft zu erteilen** über **den Namen, die Anschrift und die E-Mail-Adresse** desjenigen Kunden, der die Domain serienstream.sx registriert hat.

Als Frist für Ihre Antwort, die nach dem Gesetz unverzüglich zu erfolgen hat, habe ich mir den

08.02.2021

vorgemerkt.

Registrant Organization:

Registrant Country: US

e 🗎 👂 🗇

Registrant Street: REDACTED FOR PRIVACY
Registrant City: REDACTED FOR PRIVACY
Registrant State/Province: CA
Registrant Postal Code: REDACTED FOR PRIVACY

Registrant Phone: REDACTED FOR PRIVACY
Registrant Phone Ext: REDACTED FOR PRIVACY
Registrant Fax: REDACTED FOR PRIVACY



Seite 5 von 5

Meine Mandantin behält sich vor, nach Ablauf der obigen Frist ohne gesonderte Ankündigung gerichtliche Hilfe zur Durchsetzung ihrer Rechte in Anspruch zu nehmen.

Für Rückfragen stehe ich jederzeit zur Verfügung.

Mit freundlichen Grüßen

Rechtsanwalt

www.

(2) Anwaltliches Auskunftsgesuch an Tucows inkl. Antwort

Tuesday, February 16, 2021 at 18:17:34 Central European Standard Time

Betreff: [Tucows Inc - Compliance] - Auskunftsanspruch nach § 101 UrhG / Domain serienstream(dot)sx /

mein Zeichen 5/21

Datum: Mittwoch, 3. Februar 2021 um 17:05:32 Mitteleuropäische Normalzeit

Von: (Compliance)

An:

When replying, please ensure your reply is above this line

A request (497874) has been created. To add additional comments, reply to this email.



Feb 3, 2021, 11:05 EST

Hello – i am not certain what the attached says as i do not read German, my presumption is that there is a content complaint regarding the domain serienstream.sx

Whois information no longer shows up at http://tucowsdomains.com/whois due to GDPR regulations. You can read more about our position here:

https://opensrs.com/the-gdpr/

you may contact the domain owner directly via the url that shows under the 'Registrant Email' field in whois – https://www.tucowsdomains.com/whois-search/

Tucows/OpenSRS has no control or ownership over this domain. We are just the Registrar.

We do not host any content or provide bandwidth.

If you wish to launch a concern about abuse, you can try contacting the Internet Service Provider (ISP) or the upstream provider.

They may have Rules governing the use of their service. You can also try contacting the actual domain owners by using contact information found on the website.

If this is an issue of trademark, then you may want to review the documentation on how to lodge a formal dispute through the registry of record or a court of competent jurisdiction.

Essentially, we are an administrative body and do not judge or adjudicate issues of dispute.

If the domain does go to arbitration, please send any legal documentation (court filed or filed with an ICANN recognized arbitrator) by email to

Page 1 of 3

<u>disputes@opensrs.org</u>, by post to Tucows, Inc, 96 Mowat Ave, Toronto, Ontario, Canada M6K 3M1.

To inquire about revealing whois data – Please send a new/separate request by email to tieredaccess@tucows.com and supply the minimum data as described in this published document:

http://icannregistrars.org/wp-content/uploads/2019/02/RrSG-Minimum-Required-Information-for-a-Whois-Data-Requests.pdf

Tucows Inc

Regards

compliance@tucows.com

www.

Yesterday 11:59
Dear Sirs,
n the aforementioned matter, you will receive the attached document for your nformation and to remain with your documents.
With best regards
awyer
aw
fon +49
Fax +49

Page 2 of 3

Attachment(s)
Schreiben zu Aktennummer 5 21 (1).PDF

Tucows

This email is a service from Tucows Inc - Compliance.

Page 3 of 3

(3) Anwaltliches Auskunftsgesuch an Tucows via <u>tieredaccess@tucows.com</u> und Antwort

Rechtsanwalt



Request for Whols information Domain: serienstream.sx

Dear Madam / Sir,

my name is I am a German attorney-at-law and represent

WARNER BROS. ENTERTAI NMENT I NC., 4000 Warner Blvd, Burbank, California 91522, USA.

A POA is attached to this Email.

The data I request is related to a good-faith belief that my client has a legally legitimate need for the data, and it is specifically required to pursue further action.

The domain

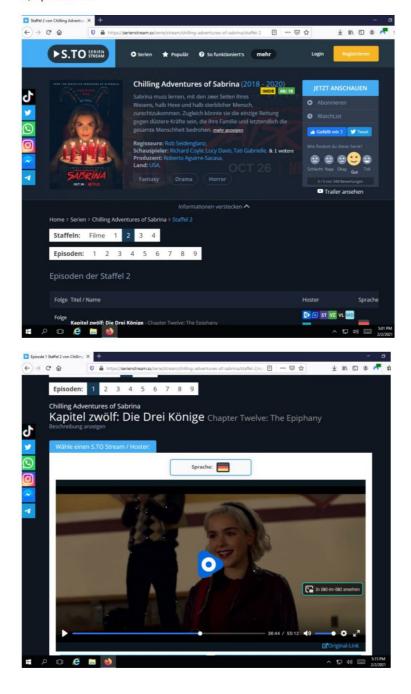
serienstream.sx

was registered via EPAG Domainservices GmbH, a subsidiary of Tucows. The website \odot only purpose is to illegally make TV shows available to the public. Currently the site provides access to over 50,000 TV show episodes without the necessary licenses.

Seite 2 von 3

As an example of infringement, the show "Chilling Adventures Of Sabrina" is currently being offered for free via streaming-on-demand on "Serienstream":

https://serienstream.sx/serie/stream/chilling-adventures-of-sabrina/staffel-2/episode-1:



Seite 3 von 3

My client is named as the copyright owner in the credits of the episode:



The German website "Serienstream" is infringing my clients exclusive right to make the TV show "Chilling Adventures of Sabrina" available to the public, §§ 16, 19a UrhG).

By registering the domain serienstream.sx, EPAG Domainservices GmbH has provided services to its customer which were used for infringing purposes. This results in a claim for disclosure of information of my client under § 101(2) UrhG (https://www.gesetze-im-internet.de/englisch_urhg/englisch_urhg.html#p0796).

EPAG Domainservices and/or Tucows has to disclose the name, postal and email address of the registrant to fulfill this request.

Any personal data received from EPAG or Tucows will be processed and transferred in compliance with any applicable data protection law, and will not be stored, transferred, or otherwise shared in contravention with any applicable data protection law.

By submitting this request, I declare to the best of my knowledge, that all of the above is complete and accurate.

Sincerely,

Attorney-at-law

www.

Antwort Tucows Inc. über TIERED ACCESS vom 17. Februar 2021

https://tieredaccess.com/search	
TIERED ACCESS	
	Brand Opensrs
	Domain
	serienstream.sx
	Reason
	copyright infringement
Updated E Creation I Registry E Domain SI Namserve Namserve Registrar: Registrar	00 vn vn t Phone: +883.510008346319
	t Email: whois+serienstream.sx@njal.la

4. Registry

a) Tonic.to

Die Domains SERIENSTREAM.TO und S.TO sind bei der Domainregistrierungsstelle TONIC.TO, erreichbar unter hostmaster@tonic.to registriert. Die Registrare von .to-Domains sind nicht ermittelbar.

Die Kommunikation mit der Registry führte nicht zur Identifizierung der Betreiber:

Nr.	Datum	Uhrzeit	Art der Nachricht	Antwort
(1)	11.02.2021	18:04	Anwaltliches	Tonic.to und alle weiteren
		Uhr	Informationsschreiben & Auskunftsersuchen	Domainregistrierungsstellen seien nicht verantwortlich; Informationen wurden nicht erteilt.

Schreiben und Antwort werden nachfolgend abgebildet:

(1) Anwaltliches Informationsschreiben und Auskunftsersuchen

Tuesday, February 16, 2021 at 11:47:58 Central European Standard Time

Betreff: URGENT! Disclosure Request – Clear rights infringements on the internet service

"SERIENSTREAM – S. TO" (available inter alia under s.to and serienstream.to), registered with

TONIC.TO (registry)

Datum: Donnerstag, 11. Februar 2021 um 18:04:47 Mitteleuropäische Normalzeit

Von: Copyright
An: hostmaster@tonic.to

Dear Sir or Madam,

We are writing to you in the name and on behalf of Our Client, namely

Warner Bros. Entertainment Inc., 4000 Warner Boulevard, Burbank, California 91522, United States of America, (hereinafter "Our Client").

We hereby affirm, in our capacity as attorneys, that we possess the due authority to represent Our Client. This is a disclosure request regarding your contractual relation with the operators of **SERIENSTREAM-S.TO**, a structurally copyrights infringing internet service (in the following: the "Website"), for which you, TONIC.TO, serve as the domain registry of the following domains:

- S T(
- SERIENSTREAM TO

Our Client owns the exclusive making available rights, in particular for the territory of Germany, in and to the following series

- · Arrow
- · Lethal Weapon
- Supernatural
- The 100
- · The Big Bang Theory
- · Westworld
- · You
- · Young Sheldon

(in the following: the "Series")

The Website offers a vast amount of copyright-protected content, in particular TV-series such as the Series. The Website almost entirely consists of copyright-infringing material, i.e. content, the rights of which are owned by rightsholders, such as Our Client. On the Website, the copyright-protected Series of Our Client are being made available. See e.g. the following links on s.to:

- <u>https://s.to/serie/stream/arrow</u>
- <u>https://s.to/serie/stream/lethal-weapon</u>
- <u>https://s.to/serie/stream/supernatural-zur-hoelle-mit-dem-boesen</u>
- <u>https://s.to/serie/stream/the-100</u>
- · <u>https://s.to/serie/stream/the-big-bang-theory</u>
- https://s.to/serie/stream/westworld
- <u>https://s.to/serie/stream/you</u>
 - https://s.to/serie/stream/young-sheldon

By making available Our Client's Series on the Website, the Website is clearly infringing Our Client's copyright. Pursuant to the CJEU decision *GS Media* (judgment of 8 September 2016, Case C-160/15, n. 55), already the linking to copyright protected content is a copyright infringement. The posting of hyperlinks to protected works, which are freely available on another website without the consent of the copyright holder, constitutes a 'communication to the public' if those links are provided with the pursuit of financial gain and the posting person knew or could have reasonably known the illegal nature of the publication of those works on that other website. Also, as operators of a linking portal site, the operators of the Website are infringing copyrights pursuant to the CJEU decision *Stichting Brein* (*The Pirate Bay*) of 14 June 2017 (case C-610/15, n. 47).

Please note that German courts have also ruled that the operators of structurally infringing sites – like the

Page 1 of 2

Website – infringe copyright and can even be held responsible based on criminal law charges (see German Federal Supreme Court, decision of 11 January 2017, case 5 StR 164/16). The operators of the Website violate copyright themselves (German Federal Supreme Court, decision of 11 January 2017, case 5 StR 164/16; Regional District Court Leipzig, judgment of 14 December 2015, case 11 KLs 390 Js 9/15; see also CJEU *GS Media*, judgment of 8 September 2016, Case C-160/15, n. 55 and CJEU *Stichting Brein (The Pirate Bay*), judgment of 14 June 2017, Case C-610/15, n. 47).

We hereby inform you, that Our Client has already unsuccessfully tried to enforce its claims against the operators of the Website as well as their hosting providers. Our Client has sent qualified notification letters and cease-and-desist-letters to all contact options available on the Website and has done the same towards the hosting providers of the Website. The letters remained unanswered. An internet investigator contracted by Our Client was unable to reveal the identity of the operators of the Website. Therefore, a legal enforcement against the operators of the Website is – to date – not possible.

In light of the copyright infringements described above, Our Client has information claims under German copyright, Sec. 101 para. 2 sentence 1 no. 3 German Copyright Act, <u>against you as the registry of the</u>
Website.

In the name of and on behalf of Our Client, we demand that you

disclose detailed information on the identity of all persons for whom you provide services for the Website and with whom you have contractual relations, including, but not limited to, their names, addresses, e-mail-addresses and phone numbers.

Furthermore, we demand that you

 preserve any and all records related to your contractual relationship with respect to the Website, including, but not limited to any transactional information, agreements or correspondence between you and your customer.

We expect fulfillment of the aforementioned demands

no later than 15 February 2021, 2 pm CET.

This letter is not a complete statement of Our Client's rights in connection with this matter, and nothing contained herein constitutes an express or implied waiver of any rights, remedies, or defenses of Our Client in connection with this matter, all of which are expressly reserved.

Sincerely,

the attorneys of

Page 2 of 2

Antwort zu (1)

Tuesday, February 16, 2021 at 12:06:02 Central European Standard Time

Betreff: Re: URGENT! Disclosure Request - Clear rights infringements on the internet service

 $\hbox{``SERIENSTREAM-S. TO'' (available inter alia under s.to and serienstream.to), registered with}$

TONIC.TO (registry)

Datum: Freitag, 12. Februar 2021 um 01:42:04 Mitteleuropäische Normalzeit

Von: Tonic Hostmaster

An: Copyright

Dear Sir / Madam,

With reference to your recent enquiry, we wish to inform you that Tonic, like all domain registries, is strictly not responsible for the content of .to web sites. We can suggest that you contact the IP address registry corresponding to the IP address of the offending site (such as www.arin.net).

Any form of action or information regarding a domain name registration will require a court order from a court of competent jurisdiction.

Sincerely,
Tonic Hostmaster
hostmaster@tonic.to
www.tonic.to

b) Registry SX

Für die Vergabe von SX-Domains ist die SX Registry zuständig, die unter <u>disputes@registry.sx</u> kontaktiert werden kann.

Nr.	Datum	Uhrzeit	Art der Nachricht	Antwort
1	12.02.2021	17:52	Anwaltliches	Keine Antwort bis zur
		Uhr	Informationsschreiben & Auskunftsersuchen	Einreichung des Antrages

Das Schreiben wird nachfolgend abgebildet:

Tuesday, February 16, 2021 at 11:48:21 Central European Standard Time

Betreff: URGENT! Disclosure Request – Clear rights infringements on the internet service

"SERIENSTREAM – S. TO" (available inter alia under s.to and serienstream.to), registered with SX

Registry SA (registry)

Datum: Freitag, 12. Februar 2021 um 17:52:07 Mitteleuropäische Normalzeit

Von: Copyright disputes@registry.sx

BCC:

Dear Sir or Madam,

We are writing to you in the name and on behalf of Our Client, namely
Warner Bros. Entertainment Inc., 4000 Warner Boulevard, Burbank, California 91522,
United States of America, (hereinafter "Our Client").

We hereby affirm, in our capacity as attorneys, that we possess the due authority to represent Our Client.

This is a disclosure request regarding your contractual relation with the operators of **SERIENSTREAM**, a structurally copyrights infringing internet service (in the following: the "Website"), for which you, SX Registry SA, serve as the domain registry of the following domains:

SERIENSTREAM.SX

Our Client owns the exclusive making available rights, in particular for the territory of Germany, in and to the following series

- · Arrow
- · Lethal Weapon
- Supernatural
- · The 100
- The Big Bang Theory
- · Westworld
- · You
- Young Sheldon

(in the following: the "Series")

The Website offers a vast amount of copyright-protected content, in particular TV-series such as the Series. The Website almost entirely consists of copyright-infringing material, i.e. content, the rights of which are owned by rightsholders, such as Our Client. On the Website, the copyright-protected Series of Our Client are being made available. See e.g. the following links on s.to:

- <u>https://s.to/serie/stream/arrow</u>
- <u>https://s.to/serie/stream/lethal-weapon</u>

Page 1 of 3

- https://s.to/serie/stream/supernatural-zur-hoelle-mit-dem-boesen
- https://s.to/serie/stream/the-100
- <u>https://s.to/serie/stream/the-big-bang-theory</u>
- https://s.to/serie/stream/westworld
- https://s.to/serie/stream/you
- https://s.to/serie/stream/young-sheldon

By making available Our Client's Series on the Website, the Website is clearly infringing Our Client's copyright. Pursuant to the CJEU decision *GS Media* (judgment of 8 September 2016, Case C-160/15, n. 55), already the linking to copyright protected content is a copyright infringement. The posting of hyperlinks to protected works, which are freely available on another website without the consent of the copyright holder, constitutes a 'communication to the public' if those links are provided with the pursuit of financial gain and the posting person knew or could have reasonably known the illegal nature of the publication of those works on that other website. Also, as operators of a linking portal site, the operators of the Website are infringing copyrights pursuant to the CJEU decision *Stichting Brein* (*The Pirate Bay*) of 14 June 2017 (case C-610/15, n. 47).

Please note that German courts have also ruled that the operators of structurally infringing sites – like the Website – infringe copyright and can even be held responsible based on criminal law charges (see German Federal Supreme Court, decision of 11 January 2017, case 5 StR 164/16). The operators of the Website violate copyright themselves (German Federal Supreme Court, decision of 11 January 2017, case 5 StR 164/16; Regional District Court Leipzig, judgment of 14 December 2015, case 11 KLs 390 Js 9/15; see also CJEU *GS Media*, judgment of 8 September 2016, Case C-160/15, n. 55 and CJEU *Stichting Brein* (*The Pirate Bay*), judgment of 14 June 2017, Case C-610/15, n. 47).

We hereby inform you, that Our Client has already unsuccessfully tried to enforce its claims against the operators of the Website as well as their hosting providers. Our Client has sent qualified notification letters and cease-and-desist-letters to all contact options available on the Website and has done the same towards the hosting providers of the Website. The letters remained unanswered. An internet investigator contracted by Our Client was unable to reveal the identity of the operators of the Website. Therefore, a legal enforcement against the operators of the Website is – to date – not possible.

In light of the copyright infringements described above, Our Client has information claims under German copyright, Sec. 101 para. 2 sentence 1 no. 3 German Copyright Act, <u>against you as the registry of the Website</u>.

In the name of and on behalf of Our Client, we demand that you

 disclose detailed information on the identity of all persons for whom you provide services for the Website and with whom you have contractual relations, including, but not limited to, their names, addresses, e-mail-addresses and phone numbers.

Furthermore, we demand that you

Page 2 of 3

 preserve any and all records related to your contractual relationship with respect to the Website, including, but not limited to any transactional information, agreements or correspondence between you and your customer.

We expect fulfillment of the aforementioned demands no later than 16 February 2021, 2 pm CET.

This letter is not a complete statement of Our Client's rights in connection with this matter, and nothing contained herein constitutes an express or implied waiver of any rights, remedies, or defenses of Our Client in connection with this matter, all of which are expressly reserved.

Sincerely,	
the attorneys of	

Page 3 of 3