Winston Files Appeal on Behalf of Megaupload Limited

JULY 1, 2015

Winston & Strawn filed an appeal to the Fourth Circuit Court of Appeals on behalf of Megaupload Limited and other interested parties opposing the United States Department of Justice (DOJ) for its attempt to use the Fugitive Disentitlement Doctrine as a procedural method of taking all of the appellate parties' assets.

The appeal stems from a separate case in which the DOJ indicted Megaupload founder Kim Dotcom and other foreign defendants on copyright-related allegations. Rather than following extradition procedures, the DOJ used the Fugitive Disentitlement Doctrine to argue that the defendants' claims to their foreign property should be stricken and the property immediately forfeited. The DOJ then used the defendants' participation in extradition proceedings and their failure to immediately travel to the United States to brand them as "fugitives" seeking to avoid prosecution.

The district court accepted this argument solely on the parties' "non-appearance" and, prior to trial and without any hearing on the merits, adjudged the property immediately forfeited.

"The district court's denial of their basic rights to defend against asset forfeiture under a 'fugitive disentitlement' doctrine amounts to a violation of basic due process," said Michael Elkin, counsel for Megaupload and chair of Winston & Strawn's copyright, entertainment, and digital media practice. "We filed a brief … seeking to reverse the injustice visited upon Megaupload and others who have been impacted by the Government's overreach."

The appeal requests that the Fourth Circuit stop efforts to seize the parties' assets. Megaupload is represented by partner Michael Elkin.

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