

Court Allows Service Via Email and Facebook

March 18, 2013

The Internet is widely used by organizations and individuals to communicate and conduct business globally. Courts are recognizing that traditional methods of serving pleadings and documents may not be sufficient when it comes to disputes arising in cyberspace. The most recent example of this recognition is a March 7, 2013 decision of the U.S. District Court for the Eastern District of New York in *Federal Trade Commission v. PCCare247 Inc.*

The Federal Trade Commission (FTC) filed a lawsuit against PCCare247 Inc. and other corporate and individual defendants located in India. The court issued a preliminary injunction against the defendants based on the FTC's allegations that defendants were defrauding American consumers to "fix" non-existing problems with their computers.

Consistent with the Hague Convention on serving parties abroad, the FTC attempted to serve these defendants with the Summons, Complaint and injunctive order through the Indian Central Authority for Service (ICAS). The FTC also served defendants via email, FedEx and personal service. After several months passed, the ICAS still had not served process on the defendants and was unresponsive to the FTC's inquiries about the service.

Ultimately, the FTC filed a motion asking the court to allow service of motions and other documents on defendants through email and Facebook messages. Judge Paul Engelmayer first reasoned that allowing such service would not violate any applicable international agreement. Engelmayer also determined that such service would comport with due process as "email and Facebook are reasonably calculated to provide defendants with notice of future filings" in the case.

The good news for the FTC and other plaintiffs is that defendants who avoided traditional service of process in the past may no longer be able to do so if they have email or social media accounts.

>> Engelmayer's full decision