

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
(Miami Division)

WORLD MEDIA ALLIANCE LABEL  
INC.

(Florida corporation)

Plaintiffs,

v.

BELIEVE SAS, aka BELIEVE Co. aka  
BELIEVE aka BELIEVE DIGITAL

(French company), et al.

Defendants.

ACTION No. 1:23-cv-21894-FAM

**VERIFIED PLAINTIFF'S MOTION UNDER  
RULE 59(e) TO ALTER OR AMEND  
ORDER OF DISMISSAL FOR LACK OF  
JURISDICTION, DATED JANUARY 24,  
2024**

Pursuant to Federal Rule of Civil Procedure 59(e) Plaintiff World Media Alliance Label Inc. ("WMA") respectfully files its Motion to alter or amend the Order of dismissal, of January 24, 2024, of the Complaint based on the arguments in the Motion to Dismiss ("MTD") filed by Defendant Believe SAS, aka Believe Co., aka Believe, aka Believe Digital, a French entity, registered under a federal statute of the U.S., discussed below.

**1. Legal Standard.**

A motion to alter or amend the judgment under Rule 59(e) should be filed within 28 days after a judgment or a dispositive court decision. See *Mays v. U.S. Postal Serv.*, 122 F.3d 43, 46 (11th Cir. 1997) (per curiam). Similar to a motion for reconsideration, "[t]he only grounds for granting [a Rule 59] motion are newly-discovered evidence or manifest errors of law or fact." *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007) (per curiam). Such motions cannot be used "to relitigate old matters, raise arguments or present evidence that could have been raised prior to

the entry of judgment.” Id. (quoting *Michael Linet, Inc. v. Village of Wellington*, 408 F.3d 757, 763 (11th Cir. 2005)).

As a specific procedural and jurisdictional matter, a motion to alter or amend under Rule 59(e) is in fact be filed within 28 days of this Order's issuance. See *Samara v. Taylor*, 38 F.4th 141, 149 (11th Cir. 2022) (“Rule 59(e) provides that a motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment. Rule 59(e) allows courts to alter judgments only where there is newly-discovered evidence or manifest errors of law or fact.” (quotation marks and citations omitted). That procedural and jurisdictional requirement is met here. The Order dismissing the case was filed on January 24, 2023. Accordingly, the present motion is duly filed on February 16, 2024, meaning within 28 days.

**2. New Evidence and/or Alleged Manifest Error of Fact.**

The present Motion submits new evidence, that came into existence, on information and belief, on February 6, 2024. On information and belief, on that day Believe got registered in the DMCA list pursuant to a federal statute (discussed below) and in accordance with two International Treaties, submitting itself to the jurisdiction of federal courts.

Specifically, with reference to Exhibit 1, as the documentary evidence shows, based on the entry on Federal Agency’s web portal, on February 6, 2024, Believe got registered under the DMCA, creating an entry on the government portal managed by an office of the U.S. government. Ref. Exh. 1. The registration is posted online <http://DMCA.copyright.gov/>.

Plaintiff WMA requests this honorable Court to take judicial notice, under F.R.E. 201, of the information that is contained on the official web portal of the U.S. Government, that can be independently verified and downloaded by any person in the world who has access to the Internet. Ref. Exh. 1.

### 3. Transcript of Registration through the Library of Congress.

Transcript of Believe's registration (as of this filing date, February 18, 2024) is downloaded from the DMCA's database, under the URL link cited below:

<https://dmca.copyright.gov/osp/publish/history.html?search=believe&rid=22fe5f6f8e5b5b70c27255251ea05494>.

The registration, apparently, pursuant to Believe's application, states as follows:

“DMCA Designated Agent Directory  
Service Provider History:  
Effective: February 6, 2024 to Present (Active)  
Service Provider/Designated Agent Information  
Service Provider:  
Believe  
24 rue Toulouse Lautrec  
Paris, 75017, France  
Designated Agent:  
Claim Administrator  
Believe  
24 rue Toulouse Lautrec, Paris, 75017, France  
Phone: +33 153093400, Email: Believe.takedowns@believe.com  
Status: Active  
Effective: February 6, 2024 to Present  
Alternative names:  
Search:  
Believe Digital  
Believe Direct  
Believe SA  
Believe SAS.”

That registration with DMCA, on information and belief, on February 6, 2024 (ten days ago) makes a cornerstone difference in this case and, as a matter of law, submits Believe to the jurisdiction of this Court, as of any U.S. District Court where there are U.S. persons claiming infringement of their copyright and damages.

As shown in detail below, Digital Millennium Copyright Act (the “DMCA”) is a part of the federal statutory law, enacted in 1998 (which amended Copyright Act of 1976). The passage

of the DMCA created new U.S.C. sections 17 U.S.C. §§ 512, 1201–1205, 1301–1332; 28 U.S.C. § 4001, and amended preexisting sections 17 U.S.C. §§ 101, 104, 104A, 108, 132, 114, 117, 701. It was signed into law by President Clinton on October 28, 1998.

That is a part of the federal law since that date. It does not matter which particular U.S. District Court takes the case controlled by the DMCA, with a sufficient nexus to the aggrieved party to that district.

Be that otherwise, then all complaints under DMCA would have been required to be filed in the U.S. District for the District of Columbia, where the Library of Congress is located (ref. Acting Register of Copyrights Maria Strong and Director of the U.S. Copyright Office, Carla D. Hayden, Librarian of Congress. [FR Doc. 2020–03260]. The formal address of the entity operating the DMCA is: U.S. Copyright Office, 101 Independence Ave., SE Washington DC, 20559. WMA is unaware that any plaintiff seeking relief on the basis of the DMCA would be turned away by a U.S. District Court where it is incorporated or resides, and directed to Washington, D.C.

The above supplemental and persuasive information may also be treated as falling under the category of a “manifest error of fact”, as so required under Rule 59(e).

In fact, Plaintiffs cited the DMCA in the Complaint and in Footnote 5 of the Opposition to the Motion to Dismiss: “5. The Complaint properly pleaded: “18. The copyright to the artistic works in question, **held by WMA, are controlled, in addition to contractual terms with the artists and their musical group, by the terms of the Digital Millennium Copyright Act (DMCA), and the information is located at <https://dmca.copyright.gov/>.**” (Bolding added).

**4. Participation of France, Since March 14, 2010, in Both Treaties of Relevance to the Claims Asserted in This Case.**

Avoiding inundating the Court with the numerous sets of provisions of the multiple Treaties governed by the WIPO, WMA refers to the list of Articles in the WIPO Performances and

Phonograms Treaty (WPPT), most relevant here, adopted in Geneva on December 20, 1996. France ratified WIPO Copyright Treaty (WCT) in 1997 and WIPO Performances and Phonograms Treaty, in 2009. See Exhs. 2-3.

Both treaties came into force in France from March 14, 2010. Ref. Exhs. 2-3. For example, Article 4 of the second Treaty states: “National Treatment. (1) Each Contracting Party shall accord to nationals of other Contracting Parties, as defined in Article 3(2), the treatment it accords to its own nationals with regard to the exclusive rights specifically granted in this Treaty, and to the right to equitable remuneration provided for in Article 15 of this Treaty.”<sup>1</sup>

As to WIPO Performances and Phonograms Treaty (WPPT), it contains the following:

---

<sup>1</sup> The sister Treaty, the WIPO Copyright Treaty adopted in Geneva on December 20, 1996, has the following provisions:

- Article 1: Relation to the Berne Convention
- Article 2: Scope of Copyright Protection
- Article 3: Application of Articles 2 to 6 of the Berne Convention
- Article 4: Computer Programs
- Article 5: Compilations of Data (Databases)
- Article 6: Right of Distribution
- Article 7: Right of Rental
- Article 8: Right of Communication to the Public
- Article 9: Duration of the Protection of Photographic Works
- Article 10: Limitations and Exceptions
- Article 11: Obligations concerning Technological Measures
- Article 12: Obligations concerning Rights Management Information
- Article 13: Application in Time
- Article 14: Provisions on Enforcement of Rights
- Article 15: Assembly
- Article 16: International Bureau
- Article 17: Eligibility for Becoming Party to the Treaty
- Article 18: Rights and Obligations under the Treaty
- Article 19: Signature of the Treaty
- Article 20: Entry into Force of the Treaty
- Article 21: Effective Date of Becoming Party to the Treaty
- Article 22: No Reservations to the Treaty
- Article 23: Denunciation of the Treaty
- Article 24: Languages of the Treaty
- Article 25: Depositary

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.