

Honorable Thomas S. Zilly

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DEVAS MULTIMEDIA PRIVATE LTD.,

Petitioner,

and

DEVAS MULTIMEDIA AMERICA, INC.,

DEVAS EMPLOYEES MAURITIUS
PRIVATE LIMITED,

TELCOM DEVAS MAURITIUS LIMITED,
and

CC/DEVAS (MAURITIUS) LTD.,

Intervenors.

v.

ANTRIX CORP. LTD,

Respondent.

Case No. 2:18-cv-1360-TSZ

**INTERVENORS' COMBINED MOTION
FOR ORDERS TO REGISTER THE
JUDGMENT NATIONWIDE UNDER 28
U.S.C. § 1963 AND 28 U.S.C. § 1610(c)**

**NOTE ON MOTION CALENDAR:
DECEMBER 3, 2021**

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2 Devas Employees Mauritius Private Limited (“DEMPL”), Telcom Devas Mauritius Lim-
3 ited (“Telcom Devas”), and CC/Devas (Mauritius) Ltd. (“CC/Devas”), shareholders of Devas,
4 together with an American subsidiary of Devas, Devas Multimedia America, Inc. (“DMAI,” col-
5 lectively “Intervenors”), hereby move for orders under 28 U.S.C. § 1963 and 28 U.S.C.
6 § 1610(c) to register this Court’s judgment nationwide and permit Intervenors to attach and exe-
7 cute Antrix’s assets.

8 INTRODUCTION

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10 In granting Intervenors’ motion to compel post-judgment discovery, Dkt. 133, this Court
11 held that Intervenor DMAI could “avail itself of Washington’s legal processes for the collection
12 or enforcement of the Judgment.” *Id.* at 10 (citing RCW 6.17.020 & .030). The Court also held
13 that Intervenors DEMPL, Telcom Devas, and CC/Devas are Petitioner Devas’s “successors in
14 interest” and are therefore “entitled to obtain discovery to enforce execution of the Judgment.”
15 *Id.* at 8. As the Court explained, “[b]ecause Petitioner is hindered in its ability to seek postjudg-
16 ment discovery or to execute the judgment, the responsibility has fallen to Intervenors to do so.”
17 *Id.* at 11. Intervenors now bring this motion, seeking two forms of relief that will enable Inter-
18 venors to carry out the “responsibility” that has “fallen” on them to “execute the judgment” and
19 collect on the arbitral award underlying it.

20
21 *First*, Intervenors request permission for nationwide registration of this Court’s Novem-
22 ber 4, 2020 judgment pursuant to 28 U.S.C. § 1963. Section 1963 permits nationwide registra-
23 tion of judgments where “good cause” is “shown” for such certification. Good cause exists here
24 in spades because the discovery Antrix has provided in this action suggests that Antrix lacks as-
25 sets in this District sufficient to satisfy the judgment but likely has assets in other districts that
26 are attachable. Nationwide registration is crucial to facilitate Intervenors’ responsibility to exe-
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cute the judgment in light of Antrix’s decade-long refusal to pay a cent for its breach of contract and Antrix’s continued foot-dragging in post-judgment discovery. Antrix plainly does not intend to pay anything to satisfy this Court’s judgment; nationwide registration here and now will permit Intervenors to begin executing.

Second, Intervenors seek an order pursuant to the Foreign Sovereign Immunities Act, 28 U.S.C. § 1610(c), determining that a “reasonable period of time has elapsed” following entry of the Court’s judgment. Such an order is necessary because, without that order, Section 1610(c) prohibits attachment of the assets of a state-owned entity. Over a year has elapsed since the Court entered its judgment, and Antrix is clearly intent on delaying these proceedings and execution indefinitely. Under well-established caselaw demonstrating that mere months constitute a “reasonable period of time”—let alone, as in this case, over a year—Intervenors amply satisfy Section 1610(c)’s waiting period.

This Court should grant this motion, permit nationwide registration, and adopt an order declaring that a “reasonable period of time has elapsed” since the Court entered judgment in this proceeding. These steps are essential to allow Intervenors to collect on the judgment against Antrix and to resist Antrix’s global campaign to thwart the fair administration of justice.

BACKGROUND

Devas commenced an arbitration against Antrix on July 1, 2011, pursuant to which a tribunal under the auspices of the International Chamber of Commerce (“ICC”) issued an award of \$562.5 million in damages, plus costs and interest in favor of Devas and against Antrix on September 14, 2015. Dkt. 2-1, Ex. 1, ¶¶ 131–132, 386, 401. On November 4, 2020, this Court entered a nearly \$1.3 billion judgment confirming the ICC award. Dkt. 52. Antrix has appealed the judgment but refused to post any bond or other security, and has shown no willingness to sat-

1 isfy the judgment voluntarily. Champion Decl. ¶ 3. Quite the opposite. Instead, Antrix—in col-
2 lusion with its sole owner, the Republic of India—has engaged in an ongoing scheme to under-
3 mine the award and related awards against the Republic of India. Dkt. 112 at 4–8; Dkt. 130 at 3–
4 6. Intervenors have extensively briefed Antrix’s willingness to take all means possible to “fur-
5 ther delay these proceedings” and “Petitioner’s or Intervenors’ right to recover on the Award.”
6 Dkt. 132 at 2. For example, after entry of the judgment, Antrix moved at breakneck speed to
7 “wind up” Devas through an Indian government Liquidator who immediately fired Devas’s
8 counsel worldwide. Dkt. 133 at 2. Although the Court directed the Liquidator to hire new coun-
9 sel for Devas, the Liquidator waited “nearly four months” to do so, Dkt. 132 at 1, and “the first
10 motion filed by this new counsel was an apparent attempt to delay the proceedings,” Dkt. 133 at
11 11.

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14 In granting Intervenors’ motion to compel enforcement-related discovery from Antrix,
15 the Court recognized the “unique circumstances . . . confronting the Court’s fair administration
16 of justice,” Dkt. 133 at 11, and rejected each of Antrix’s challenges to Intervenors’ authority to
17 conduct post-judgment discovery, finding Intervenor DMAI to be a “judgment creditor” and In-
18 tervenors DEMPL, Telcom Devas, and CC/Devas to be “successors in interest” to Devas with
19 respect to its right to pursue post-judgment discovery and execution, *id.* at 6–10.

20
21 To support Intervenors’ ongoing efforts to collect on this Court’s judgment, Intervenors
22 now seek: (1) an order under 28 U.S.C. § 1963 permitting the judgment to be registered in any
23 district court nationwide; and (2) an order 28 U.S.C. § 1610(c) declaring a “reasonable period of
24 time has elapsed following entry of judgment” for Intervenors to attach and execute Antrix’s as-
25 sets.
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ARGUMENT**I. The Court Should Grant Intervenor Nationwide Registration Of The Judgment Under 28 U.S.C. § 1963.**

A judgment from one judicial district may be registered and enforced in any other U.S. district “when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown.” 28 U.S.C. § 1963. Here, although Antrix’s appeal of this Court’s judgment is still pending, good cause exists to register the judgment nationwide because Antrix appears to lack assets in the Western District of Washington sufficient to satisfy the judgment, but likely has assets across the country that are attachable. *See Rockin Artwork, LLC v. Bravado Int’l Grp. Merch. Servs., Inc.*, 2017 WL 11437734, at *1 (W.D. Wash. Apr. 4, 2017). Furthermore, Intervenor—as a judgment creditor and successors in interest, no less—are entitled to seek registration.¹

By recognizing that Intervenor’s have a “right to recover on the Award,” ECF No. 132 at 2, and that DEMPL, Telcom Devas, and CC/Devas are “successors in interest” to the award that are “entitled to obtain discovery to enforce execution of the Judgment,” the Court has already concluded that the Intervenor have a legal right to pursue enforcement of the Judgment. ECF No. 133 at 8. Similarly, the Court has recognized DMAI as a “judgment creditor” with “a legal right to enforce execution of Judgment” and held that DMAI may “avail itself of Washington’s legal processes for *the collection and enforcement of the Judgment.*” ECF No. 133 at 10 (emphasis added) (citing RCW 6.17.020 & .030). These findings are sufficient to justify registration under section 1963, a provision whose “text is extremely broad.” *Fid. Nat’l Fin., Inc. v. Fried-*

¹ Like this Court, the Ninth Circuit on appeal granted Intervenor’s motion to intervene. *Devas Multimedia Private Ltd. v. Antrix Corp. Ltd.*, No. 20-36024 (9th Cir. June 8, 2021), Dkt. 31. On November 15, 2021, the Ninth Circuit issued a briefing schedule on the merits of the appeal. *Id.* Dkt. 39.

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2 *man*, 935 F.3d 696, 699 (9th Cir. 2019). Ordering registration is consistent with both the text
3 and purpose of section 1963, which was enacted “to simplify and facilitate collection on valid
4 judgments.” *Id.* at 700 (quoting *Fid. Nat.’l Fin., Inc. v. Friedman*, 803 F.3d 999, 1003 (9th Cir.
5 2015)). Nationwide registration enables Intervenor DMAI to carry out this same responsibility
6 to execute the judgment in other districts across the country and pursuant to analogous state laws.

7 “A likely absence of assets in this jurisdiction, coupled with a likelihood that there are re-
8 coverable assets in another jurisdiction, is generally sufficient to show good cause for registra-
9 tion elsewhere.” *Rockin Artwork*, 2017 WL 11437734, at *1 (citing *Columbia Pictures Indus.,*
10 *Inc. v. Krypton Broad. of Birmingham, Inc.*, 259 F.3d 1186, 1197–98 (9th Cir. 2001)). Once
11 good cause is shown, courts frequently permit nationwide registration rather than requiring an
12 individualized showing for each district sought to be registered. *See id.* at *2; *see also Chevron*
13 *Corp. v. Republic of Ecuador*, 987 F. Supp. 2d 82, 85 (D.D.C. 2013); *E.I. Du Pont de Nemours*
14 *& Co. v. Kolon Indus., Inc.*, 2012 WL 1203327, at *1 (E.D. Va. Apr. 10, 2012); *Schreiber v. Kel-*
15 *logg*, 839 F. Supp. 1157, 1162 (E.D. Pa. 1993); *Assoc. Bus. Tel. Sys. Corp. v. Greater Capital*
16 *Corp.*, 128 F.R.D. 63, 68 (D.N.J. 1989). Antrix’s persistent refusal to pay a cent on the judgment
17 and underlying award, coupled with its deficient discovery responses, provide clear reasons justi-
18 fying nationwide registration.
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21 Good cause exists for registration because Antrix appears to lack assets in this District.
22 Antrix’s responses to Intervenor’s interrogatories and its document production reveal no finan-
23 cial accounts or assets in this District. Champion Decl. ¶ 2. Antrix “has no employees, facilities,
24 or real property in Washington”—at least based on Antrix’s discovery responses to date.
25 *Ramgen Power Sys. LLC v. Agilis Eng’g Inc.*, 2015 WL 12670444, at *1 (W.D. Wash. Jan. 27,
26 2015) (citation omitted). “Nothing in the record suggests that [Antrix] owns assets in Washing-
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1 ton.” *Kreidler v. Pixler*, 2011 WL 13193276, at *1 (W.D. Wash. May 13, 2011). Even if Antrix,
2 in response to this motion, produces evidence of assets in this District, registration in other dis-
3 tricts would nonetheless be particularly appropriate “[g]iven the size of the judgment.” *Ramgen*
4 *Power*, 2015 WL 12670444, at *1. Because Intervenor’s plan to collect the nearly \$1.3 billion
5 owed Devas, Intervenor’s expect to have to go outside this district to find sufficient assets to sat-
6 isfy the judgment. *See id.*; *see also Rockin Artwork*, 2017 WL 11437734, at *2 (debtor “unlikely
7 to have sufficient (if any) assets in Washington”); *Ramgen Power*, 2015 WL 12670444, at *1
8 (debtor “lacks substantial assets in the Western District of Washington”).
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11 The “burden” to show a judgment debtor has assets in other jurisdictions is “minimal.”
12 *Kreidler*, 2011 WL 13193276, at *1 (citation omitted). A declaration from counsel confirming
13 the likelihood of assets in another jurisdiction is “enough to establish good cause to register the
14 judgment elsewhere.” *Non-Dietary Exposure Task Force v. Tagros Chems. India, Ltd.*, 309
15 F.R.D. 66, 69 (D.D.C. 2015); *Spray Drift Task Force v. Burlington Bio-Med. Corp.*, 429 F. Supp.
16 2d 49, 51 (D.D.C. 2006) (same). Antrix’s production shows that it has done business with com-
17 panies in other jurisdictions and therefore may have recoverable assets in other jurisdictions, and
18 that it has accounts in several banks, some of which may be attachable. *Champion Decl.* ¶ 3.
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20 Not only is out-of-district registration appropriate, it is needed nationwide to facilitate In-
21 tervenor’s collection efforts. Permitting the judgment to be registered in any or all other districts
22 is important because Antrix’s assets are “potentially mobile,” and if “the Court specified which
23 districts [Intervenor’s] could register in, [Antrix] could then move those assets elsewhere before
24 they could be seized. [Intervenor’s] would then have to return to the Court for further authoriza-
25 tion, and the shell game could begin anew.” *Chevron*, 987 F. Supp. 2d at 85; *see also Kreidler*,
26 2011 WL 13193276, at *1 (“The finding of good cause is further supported by the fact that a
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1 failure to certify the judgment would likely result in dissipation of those assets, causing the
2 judgment to be frustrated.”); *Rockin Artwork*, 2017 WL 11437734, at *1 (considering as a “fac-
3 tor[] supporting good cause” where “registering the judgment elsewhere may help prevent the
4 debtor from transferring or concealing property while the matter is on appeal”).

5
6 Intervenor’s have reason to believe that Antrix would play this “shell game” in the ab-
7 sence of nationwide registration. *Chevron*, 987 F. Supp. 2d at 85. “[G]iven its behavior in this
8 case, there is a danger that [Antrix] will transfer assets or otherwise try to render itself immune
9 from collection during the pendency of its appeal.” *Rockin Artwork*, 2017 WL 11437734, at *2;
10 *see also id.* (acknowledging concern that defendant “will attempt to drain or hide its assets while
11 the appeal is pending”). This Court has recognized Antrix’s aggressive conduct to “further delay
12 these proceedings” and “Petitioner’s or Intervenor’s right to recover on the Award,” Dkt. 132 at
13 2, and the “unique circumstances” that hinder the “administration of justice,” Dkt. 133 at 11. In
14 response to entry of this Court’s judgment, rather than pay what it owed, Antrix and India did the
15 opposite: they used the apparatus of the Indian government to unjustly destroy Petitioner Devas.
16 Dkt. 133 at 2.

17
18 Antrix’s woefully deficient post-judgment discovery responses further indicate its will-
19 ingness to rebuff collection efforts. Antrix has failed to produce documents that even public in-
20 formation establishes must exist. *Champion Decl.* ¶ 4. To give just one example, Antrix alleges
21 that it possesses zero documents related to the transfer of assets or business from Antrix to
22 NewSpace, who Intervenor’s have reason to believe is the alter ego of Antrix created precisely to
23 avoid paying the judgment and underlying award. *See id.*; Dkt. 112 at 7–8. But the 2020–2021
24 Annual Report of India’s Department of Space—the government agency that controls Antrix and
25 NewSpace, Dkt. 112 at 9 n.2—plainly states that Antrix’s “[t]ransponder leasing,” “[l]aunch ser-
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1 vices,” “[m]ission support,” and “business segments” have all been transferred to NewSpace.
2 Dkt. 112 at 8; Dkt. 114-2 at 95. And Antrix has acknowledged in its *own* annual report that
3 “[s]ubsequent to the formation of a new company under Department of Space, ISRO’s commer-
4 cial activities are being transferred to that company.” *See* Champion Decl. ¶ 4 & Ex. 1 at 3. It
5 begs belief that Antrix possesses *no documents* describing basic communications between
6 Antrix and NewSpace on the massive transfers of business between those entities.
7

8 Because Antrix appears to not have assets in this District—and at the very least lacks as-
9 sets in this District sufficient to satisfy this Court’s entire judgment—but likely has assets across
10 the country, and nationwide registration would facilitate Intervenor’s collection efforts, the Court
11 should permit Intervenor to register the judgment nationwide.
12

13 **II. A Reasonable Amount Of Time Has Elapsed Since Judgment Under 28**
14 **U.S.C. § 1610(c).**

15 Under the Foreign Sovereign Immunities Act, where a party has obtained a judgment
16 against a foreign sovereign or instrumentality (*i.e.*, the state-owned Antrix), it may not seek to
17 attach the property of a foreign state located in the United States in satisfaction of that judgment
18 “until the court has . . . determined that a reasonable period of time has elapsed following the en-
19 try of judgment.” 28 U.S.C. § 1610(c).
20

21 Here, the judgment was entered on November 4, 2020. Dkt. 52. That was over a year
22 ago. This is well beyond a “reasonable period of time.” In fact, “federal courts have found peri-
23 ods of several months”—or even mere weeks—“to be sufficient under the FSIA.” *See Harrison*
24 *v. Republic of Sudan*, 2013 WL 3815660, at *4 (N.D. Cal. July 22, 2013); *see also NED Charter-*
25 *ing & Trading, Inc. v. Republic of Pakistan*, 130 F. Supp. 2d 64, 67 (D.D.C. 2001) (finding six
26 weeks sufficient period of time to satisfy Section 1610(c)); *Gadsby & Hannah v. Socialist Re-*
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2 *public of Romania*, 698 F. Supp. 483, 486 (S.D.N.Y. 1988) (finding two months to be a “reason-
3 able period of time” under Section 1610(c)).

4 Therefore, this Court should issue an order pursuant to 28 U.S.C. § 1610(c) permitting at-
5 tachment of Antrix’s assets on the grounds that a “reasonable period of time has elapsed” since
6 this Court issued its judgment.

7
8 **CONCLUSION**

9 Intervenor respectfully request that the Court grant this combined motion in full, grant-
10 ing Intervenor permission to register the Court’s judgment nationwide pursuant to 28 U.S.C.
11 § 1963 and entering an order confirming that a “reasonable period of time has elapsed” since the
12 Court issued its judgment under 28 U.S.C. § 1610(c).

13
14 Dated: November 18, 2021

Respectfully submitted,

15
16 /s/ Matthew D. McGill

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CERTIFICATE OF SERVICE

I, Matthew D. McGill, declare as follows:

I am employed in Washington, District of Columbia, I am over the age of eighteen years and am not a party to this action; my business address is 1050 Connecticut Avenue, N.W., Washington, DC 20036-5306, in said County and State. On November 18, 2021, I served the following document(s):

INTERVENORS’ OPPOSITION TO RESPONDENT’S MOTION TO QUASH AND CROSS MOTION TO COMPEL DISCOVERY

on the parties stated below, by the following means of service:

BY UNITED STATES MAIL: I placed a true copy in a sealed envelope or package addressed to the persons as indicated above, on the above-mentioned date, and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this firm’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited with the U.S. Postal Service in the ordinary course of business in a sealed envelope with postage fully prepaid. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing set forth in this declaration.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Washington, DC.

BY MESSENGER SERVICE: I placed a true copy in a sealed envelope or package addressed to the persons at the addresses listed above and providing them to a professional messenger service for service for delivery before 5:00 p.m. on the above-mentioned date. *(A declaration by the messenger must accompany this Certificate of Service.)*

BY FAX TRANSMISSION: Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed above at _____ [a.m./p.m.] , on February 20, 2021. The telephone number of the sending fax machine is [number] No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached. This transmission report was properly issued by the sending fax machine.

BY OVERNIGHT DELIVERY: On the above-mentioned date, I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses shown above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier with delivery fees paid or provided for.

BY LEXISNEXIS: I provided the document(s) listed above electronically to LexisNexis through the LexisNexis File & Serve website pursuant to the order authorizing electronic service and the instructions on that website.

BY ELECTRONIC TRANSFER TO THE CM/ECF SYSTEM: On this date, I electronically uploaded a true and correct copy in Adobe “pdf” format the above-listed document(s) to the United States District Court’s Case Management and Electronic Case Filing (CM/ECF) system. After the electronic filing of a document, service is deemed complete upon receipt of the Notice of Electronic Filing (“NEF”) by the registered CM/ECF users.

BY ELECTRONIC SERVICE: On the above-mentioned date at _____ [a.m./p.m] , based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the

1 persons at the electronic notification addresses as shown above.

2 (STATE) I declare under penalty of perjury under the laws of the State of Washington D.C. that the fore-
3 going is true and correct.

4 (FEDERAL) I declare under penalty of perjury that the foregoing is true and correct.

5 Executed on November 18, 2021.

6 /s/ Matthew D. McGill

7 Matthew D. McGill

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