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U.S.C.A. – 7th Circuit
FILED

OCT 21 2009 DDS

GINO J. AGNELLO
CLERKIN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

GOOGLE, INC.,

Appellee/Plaintiff

v.

CENTRAL MFG. INC., et al.,

Defendants.

v.

LEO STOLLER.,

Intervenor/Appellant.

Appeal No:

09-3569

On appeal from the United States
District Court, Northern District of
Illinois, No. 1:07-cv-0385
Honorable Virginia J. Kendall
decisions dated August 17, 2009,
and October 16, 2009U.S.C.A. – 7th Circuit
RECEIVED
OCT 21 2009 CDD
GINO J. AGNELLO
CLERKDOCKETING STATEMENT

1. **Docketing Statement** of Appellant/Intervenor, Leo Stoller, *pro se*.

Leo Stoller
Intellectual Property Expert (41 years)
 7115 W. North Avenue, #272
 Oak Park, Illinois, 60302
 (312) 545-4554
 Email: ldms4@hotmail.com
www.rentamark.net

2. **Interested Persons:**

Leo Stoller, Appellant, a party to this Appeal

3. **Judge:**

Honorable Virginia J. Kendall entered three decisions, 1) A Memorandum Opinion and Order dated August 17, 2009; an order dated October 16, 2009,

and Permanent Injunction and Final Judgment to Defendants Central Mfg. Inc. and Stealth Industries, Inc. dated October 16, 2009.

4. **Jurisdiction.**

The Appellate Court has jurisdiction under 28 U.S.C. § 158(a) and (b).

5. **Pending Proceedings in this Court.**

There are no current proceedings pending in this matter..

6. **Court Transcript:**

Yes. The court transcript was ordered on October 13, 2009.

7. **Issues:**

Summary of the Case: The District Court entered judgment against Leo Stoller, denying him intervention as a matter of right and/or as permission intervention. Leo Stoller is the sole owner of Central Mfg. Co., Stealth Industries, Inc., and the trademark rights relied upon to the petition for cancellation of the Google trademark. Leo Stoller filed a Chapter 13 bankruptcy of 2005 which was converted to a Chapter 7 on August 31, 2006. Illinois Bankruptcy Trustee Richard M. Fogel was appointed trustee of Leo Stoller's bankruptcy estate. On August 20, 2007, Richard M. Fogel assigned the corporate and trademark assets of Leo Stoller to The Society For The Prevention of Trademark Abuse ("SPTA").

The August 20, 2007 assignment was not an arms length agreement, but was a naked trademark license and/or assignment in gross which vitiated the assignment of Leo Stoller's assets to SPTA, resulting in an abandonment of Stoller's assets by the bankruptcy trustee, pursuant to the United States Bankruptcy Code 11 U.S.C. § 554. Once the bankruptcy trustee abandoned Stoller's corporate assets, they reverted back to Stoller as a matter of law, *nunc pro tunc*. Williams v. United Technologies Carrier Corp., 310 F.Supp. 1002 (S.D. in 2004).

Upon the abandonment of Stoller's assets, the assets reverted to Stoller, giving Stoller standing and/or the right to intervene as a matter of right.

**JUDGE KENDALL COMMITTED REVERSABLE ERROR UNDER THE
DOCTRINE OF *res judicata***

Judge Kendall was barred by the doctrine of *res judicata* to deny Stoller the right to intervene because Judge Hibbler previously ruled and issued an order on June 20, 2007, in Case No. 06-C-6950, involving the same parties and the same issue that Stoller had standing to appeal. See attached decision of Illinois District Court Judge William Hibbler.

8. **Type of Case:**

Civil RICO action.

A handwritten signature in black ink, appearing to read "Leo Stoller". The signature is fluid and cursive, with the first name "Leo" and last name "Stoller" clearly distinguishable.

Leo Stoller, *pro se*
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Date: October 20, 2009

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United States District Court, Northern District of Illinois

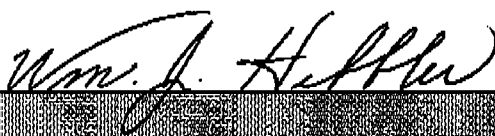
✓

Name of Assigned Judge or Magistrate Judge	William J. Hibbler	Sitting Judge If Other than Assigned Judge	
CASE NUMBER	06 C 6950	DATE	June 20, 2007
CASE TITLE	In re Leo Stoller		

DOCKET ENTRY TEXT

For the reasons set forth below, this Court dismisses Stoller's appeal of the bankruptcy court's order granting Pure Fishing, Inc. an extension and his motion requesting permission to appear *pro se* before the Trademark Trial and Appeal Board. In addition, this Court finds that the remaining three orders are final and appealable. Stoller is instructed to fully comply with Bankruptcy Rules and procedures regarding these appeals by July 13, 2007 or this appeal will be dismissed. All relevant parties are instructed to respond to the appeal within 21 days by August 3, 2007. The parties are instructed to schedule a status hearing within 14 days of July 13, 2007.

■ [For further details see text below.]



Docketing to mail
notices & ...

STATEMENT

The present matter before the Court presents a short, albeit complicated, history. On December 20, 2005, Appellant Leo D. Stoller ("Stoller") filed a voluntary petition for relief, styled *In re Stoller*, No. 05 BK 64075, under Chapter 13 of the United States Bankruptcy Code, 11 U.S.C. §§101 *et seq.* On September 1, 2006, the Bankruptcy Court entered an Order converting Stoller's Chapter 13 petition to a Chapter 7 Bankruptcy case. Stoller appealed this conversion order with the district court which was assigned case number 06 C 6100. Next, on November 14, 2006, Stoller filed a second notice of appeal with the district court with respect to an October 31, 2006 order issued by the Bankruptcy Court. This appeal was assigned case number 06 C 6599. Additionally, on December 14, 2006, Stoller filed the instant notice of appeal from a series of orders issued by the bankruptcy court in December 2006. This appeal was assigned the present case number 06 C 6950. In particular, the instant appeal pertains to bankruptcy court orders: (1) approving the agreement with Google, Inc. to Modify Stay and Compromise Certain Claims of Debtor's Wholly-owned corporations and related relief pursuant to Fed. R. Bankr. P 4001(d); (2) granting a motion extending deadlines for Pure Fishing, Inc. to file a complaint objecting to Debtor's general discharge and to dischargeability of any debts owed to Pure Fishing, Inc.; (3) authorizing compromise with Lanard Toys, Ltd. and Lanard Toys, Inc. and related relief; and (4) denying debtor's request to disqualify Richard Fogel as Trustee. Additionally, Stoller included in the instant appeal a motion for permission to represent himself and his corporate entities before the Trademark Trial & Appeal Board.

Creditor Pure Fishing, Inc. brings the present motion to dismiss arguing that Stoller failed to follow the bankruptcy rules of procedure, that Stoller included four separate orders in a single appeal, and that some of the orders are interlocutory. Alternatively, Pure Fishing argues that this Court clarify the appellate procedure. In response, Stoller requests that this Court grants Pure Fishing's motion to clarify the appellate procedures and set applicable deadlines.

Courtroom Deputy
Initials:

jhc

10:03 AM 07 JUN 2007

STATEMENT

This Court has jurisdiction in bankruptcy cases over appeals from "final judgments, orders, and decrees," "interlocutory orders and decrees issued under section 1121(d) of title 11 increasing or reducing" the period of exclusivity and "with leave of court, from other interlocutory orders and decrees." 28 U.S.C. § 158(a). Accordingly, the Court must first determine whether any of the challenged orders is final. The concept of finality is broader in the bankruptcy context than it is in the context of an ordinary civil suit. *In re Forty-Eight Insulations, Inc.*, 115 F.3d 1294, 1298-99 (7th Cir. 1997). The Seventh Circuit has held that orders of the bankruptcy court are final and appealable if they resolve discrete issues, where they may determine and seriously affect substantive rights and cause irreparable harm to the losing party. *In re Technical Knockout Graphics, Inc.*, 833 F.2d 797, 800 (7th Cir. 1987). Therefore, in the bankruptcy context, final orders include those that: (1) "ultimately determine a creditor's position in the bankruptcy proceeding," *In re Forty-Eight Insulations* at 1299; (2) "resolve[] all contested issues on the merits and leave[] only the distribution of the estate assets to be completed," *In re Wade*, 991 F.2d 402, 406 (7th Cir. 1993); or (3) "terminate[] what, but for bankruptcy, would be a stand-alone suit by or against the trustee," *In re Szekely*, 936 F.2d 897, 899-900 (7th Cir. 1991). Among others, the Seventh Circuit deems final "orders allowing or denying claims; orders denying relief from a stay; decisions involving property ownership; exemptions; sanctions; appointments of trustees; judicial sales orders; and confirmation[s] of bankruptcy plan[s]." *In re Wade*, 991 F.2d at 406.

At the onset, the Court notes that the order granting Pure Fishing, Inc. an extension to file a complaint objecting to Stoller's general discharge and to the dischargeability of any debts to Pure Fishing is clearly interlocutory. This order did not in way determine Pure Fishing's position in the bankruptcy; it merely permitted Pure Fishing more time to file its complaint. Stoller failed to seek leave to file an interlocutory appeal of this order. Accordingly, the appeal for this order is dismissed for lack of jurisdiction.

Next, upon review, it occurs that the three remaining orders - the order approving the agreement with Google, Inc. to Modify Stay and Compromise Certain Claims of Debtor's Wholly-owned corporations; authorizing compromise with Lanard Toys, Ltd. And Lanard Toys, Inc. and related relief; and the order denying debtor's request to disqualify Richard Fogel as Trustee - are final orders. In *In re Forty-Eight Insulations*, the Seventh Circuit explained "[T]he court has adopted a pragmatic approach to deciding whether a bankruptcy court's order is final, recognizing that 'certain proceedings in a bankruptcy case are so distinct and conclusive either to the rights of individual parties or the ultimate outcome of the case that final decisions as to them should be appealable as of right.'" *In re Forty-Eight Insulations* at 1299. Here, two of the bankruptcy court's orders approve the trustee's agreement with Google and Lanard Toys, Ltd. to enter into a compromise. These two orders involve discrete issues, seriously affecting the appellant's substantive rights, and may cause him irreparable harm. In addition, the Court finds that the bankruptcy court's order denying the motion to disqualify the trustee is also final. *In re Wade*, 991 F.2d at 406. Therefore, this Court holds that these orders are final and appealable. Stoller is instructed to fully comply with the Bankruptcy Rules regarding the appellate procedures to the District Court. Additionally, in the interest of judicial economy and to deter the numerous filings from Stoller, this Court will issue a ruling on the final and appealable orders upon the conclusion of Stoller's bankruptcy proceedings in 05 BK 64075.

Lastly, Stoller's self-styled appeal contains a motion for permission to represent himself and his corporate entities before the Trademark Trial & Appeal Board. This Court is not the proper venue for Stoller's motion. Accordingly, this request is dismissed.

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NOTICE OF FILING

**TO: Michael T. Zeller, Esq.
Quinn, Emanuel, Urquhart, Oliver & Hedges, L.L.P.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017**

**U.S.C.A. - 7th Circuit
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GINO J. AGNELLO
CLERK**

PLEASE TAKE NOTICE that on the **21st day of October, 2009**, there was filed with the Clerk of the United States Court of Appeals For the Seventh Circuit **1) Docketing Statement**, a copy of which is attached hereto.

I certify that the foregoing was mailed via first class mail on the 21st day of **October, 2009**, to the parties listed, with the U.S. Postal Service with proper postage prepaid.



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