

1 **MARTIN D. SINGER, ESQ. (BAR NO. 78166)**
 2 **WILLIAM J. BRIGGS, II, ESQ. (BAR NO. 144717)**
 3 **EVAN N. SPIEGEL, ESQ. (BAR NO. 198071)**
 4 **LAVELY & SINGER PROFESSIONAL CORPORATION**
 5 2049 Century Park East, Suite 2400
 6 Los Angeles, California 90067-2906
 7 Telephone: (310) 556-3501
 8 Facsimile: (310) 556-3615
 9 E-mail: wbriggs@lavelysinger.com
 10 E-mail: espiegel@lavelysinger.com

11 Attorneys for Plaintiffs
 12 **BANK JULIUS BAER & CO. LTD and**
 13 **JULIUS BAER BANK AND TRUST CO. LTD**

14 **UNITED STATES DISTRICT COURT**
 15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 16 **SAN FRANCISCO DIVISION**

17 **BANK JULIUS BAER & CO.**
 18 **LTD, a Swiss entity; and JULIUS**
 19 **BAER BANK AND TRUST CO.**
 20 **LTD, a Cayman Islands entity,**

21 Plaintiffs,

22 v.

23 **WIKILEAKS, an entity of unknown**
 24 **form, WIKILEAKS.ORG, an entity**
 25 **of unknown form; DYNADOT,**
 26 **LLC, a California Limited Liability**
 27 **Corporation, and DOES 1 through**
 28 **10, inclusive,**

Defendants.

CASE NO. CV08-0824 JSW
[Hon. Jeffrey S. White; CTRM 2]

DECLARATION OF EVAN SPIEGEL
IN SUPPORT OF PLAINTIFFS'
BRIEF IN OPPOSITION TO
MULTIPLE APPLICATIONS AND
MOTIONS BY PROPOSED AMICI
AND/OR REQUESTS TO INTERVENE

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 26 ///
 27 ///
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1 **DECLARATION OF EVAN SPIEGEL**

2 I, EVAN SPIEGEL, declare as follows:

3 1. I an attorney at law duly qualified to practice before the Courts of the
4 State of California, and am an attorney with the firm of Lavelly & Singer
5 Professional Corporation, attorneys for Plaintiffs Bank Julius Baer & Co. Ltd and
6 Julius Baer Bank and Trust Co. Ltd. The facts stated herein are stated of my own
7 personal knowledge and, if called and sworn as a witness, I could and would testify
8 competently thereto. As to those matters stated on the basis of information and
9 belief, I am so informed and believe those matters to be true.

10 2. This Declaration is made in support of Plaintiffs Bank Julius Baer &
11 Co. Ltd's ("BJB") and Julius Baer Bank and Trust Co. Ltd's ("JBBT") (collectively,
12 "JB" and/or "Plaintiffs") Brief in Opposition to Multiple Applications and Motions
13 by Proposed Amici and/or Requests to Intervene.

14 3. The facts of this matter are more fully set forth in the Complaint, in
15 Plaintiffs' Application for TRO and Preliminary Injunction, on file in this matter,
16 which are incorporated herein by reference. This brief does not attempt to address
17 all of the points raised by the Multiple Applications and Motions by Proposed Amici
18 and/or Requests to Intervene because of obvious time constraints. Instead, it focuses
19 on the core issue presented to this Court.

20 4. Wikileaks has represented, in a several press releases concerning the
21 Court's prior order, that it "has six pro-bono attorney's [sic] in S[an] F[rancisco] on
22 roster to deal with legal assault." Attached hereto as Exhibit "A" is a true and
23 correct copy of a printout of a "Press Release" by Wikileaks from its website, dated
24 February 18, 2008.

25 5. Wikileaks has represented that they have competent representation in
26 this matter. In correspondence received from Julian Assange (a contact for
27 Wikileaks, as represented to the Court by Julie Turner) on February 24, 2008, Mr.
28 Julian Assange stated "I don't know why you have sent this to me" and that JB

1 should “please send Wikileaks.org related legal correspondence to Roger Myers who
2 I understand is acting on behalf of the domain.” Attached hereto as Exhibit “B” is
3 a true and correct copy of a printout of the e-mail dated Feb 24, 2008 from Mr.
4 Assange. Two days later, Mr. Assange again e-mails and stated, “Please send
5 [correspondence] to ‘Roger Myers’ < Roger.Myers@hro.com> who I understand
6 is representing the rights of the domain holder in this matter.” Attached hereto as
7 Exhibit “C” is a true and correct copy of a printout of the e-mail dated Feb 26, 2008
8 from Mr. Assange). The biography of Roger Myers, a media and First Amendment
9 attorney, on his law firm’s website states that his clients include “publishers (of
10 newspapers, magazines, and books), broadcast media (both television and radio
11 networks and their affiliates), and online media.” Mr. Myer’s biography also states
12 he is a “Northern California Super Lawyer” who “is a frequent speaker at
13 conferences addressing media, internet and intellectual property issues,” and that he
14 “serves as newsroom general outside counsel to more than 20 newspapers ... and as
15 general outside counsel for Business Wire, Inc.” Mr. Myers’s biography further
16 lists that he is the “General Counsel” of “California First Amendment Coalition,”
17 which is seeking to file an amicus brief in this matter. Attached hereto as Exhibit
18 “D” is a true and correct copy of a printout of Mr. Myer’s Holme Roberts & Owen
19 LLP’s firm website Biography page.

20 I declare under penalty of perjury under the laws of the United States of
21 America that the foregoing is true and correct.

22 Executed this 27nd day of February 2008, at Los Angeles, California.

23

24

/s/
EVAN N. SPIEGEL

25

26

I hereby attest that I have on file all holographic signatures for any signatures
indicated by a conformed signature (/s/) within this efiled document.

27

/s/
WILLIAM J. BRIGGS, II

28

EXHIBIT A

Wikileaks.org under injunction

From Wikileaks

Wikileaks Press Release

WIKILEAKS.ORG DOWN AFTER EX-PARTE LEGAL ATTACK BY CAYMAN ISLANDS BANK

http://wikileaks.be/wiki/Wikileaks.org_under_injunction

Contacts: <http://wikileaks.be/wiki/Contact>

Mon Feb 18 00:00:00 GMT 2008

The following release has not been proofed due to time constraints.

Transparency group Wikileaks forcibly censored at ex-parte Californian hearing -- ordered to print blank pages -- 'wikileaks.org' name forcibly deleted from Californian domain registrar -- the best justice Cayman Islands money launderers can buy?

When the transparency group Wikileaks was censored in China last year, no-one was too surprised. After all, the Chinese government also censors the Paris based Reporters Sans Frontiers and New York Based Human Rights Watch. And when Wikileaks published the secret censorship lists of Thailand's military Junta, no-one was too surprised when people in that country had to go to extra lengths to read the site. But on Friday the 15th, February 2008, in the home of the free and the land of the brave, and a constitution which states "Congress shall make no law... abridging the freedom of speech, or of the press", the Wikileaks.org press was shutdown:

BANK JULIUS BAER & CO. LTD, a
Swiss entity; and JULIUS BAER BANK
AND TRUST CO. LTD, a Cayman Island
entity,

ORDER GRANTING
PERMANENT INJUNCTION

WIKILEAKS, an entity of unknown form;
WIKILEAKS.ORG, an entity of unknown
form; DYNADOT, LLC, a California
limited liability company; and DOES 1
through 10, inclusive,

[..]

IT IS HEREBY ORDERED:

[..]

Dynadot shall immediately clear and remove all DNS hosting records for the wikileaks.org domain name and prevent the domain name from resolving to the wikileaks.org website or any other website or server other than a blank park page, until further order of this Court.

The Cayman Islands is located between Cuba and Honduras. In July 2000, the United States Department of the Treasury Financial Crimes Enforcement Network issued an advisory states stating that there were "serious deficiencies in the counter-money laundering systems of the Cayman Islands", "Cayman Islands law makes it impossible for the supervisory and regulatory authority to obtain information held by financial institutions regarding their client's identity", "Failure of financial institutions in the Cayman Islands to report suspicious transactions is not subject to penalty" and that "These deficiencies, among others, have caused the Cayman Islands to be identified by the Financial Action Task Force on Money Laundering (The 'FATF') as non-cooperative in the fight against money laundering". As of 2006 the U.S. State Department listed the Cayman Islands in its money laundering "Countries of Primary Concern".

The Cayman's case is not the first time Wikileaks has tackled bad banks. In the second half of last year Wikileaks exposed over \$4,500,000,000's worth of money laundering including by the former president of Kenya, Daniel Arap Moi (see http://wikileaks.be/wiki/The_looting_of_Kenya_under_President_Moi which became the Guardian's front page story in September 2007 and swung the Kenyan vote by 10% leading into the December 2007 election and http://wikileaks.be/wiki/A_Charter_House_of_horrors reported in the Nairobi paper The Standard and now the subject of a High Court Case in Kenya).

To find an injunction similar to the Cayman's case, we need to go back to Monday June 15, 1971 when the New York Times published excerpts of Daniel Ellsberg's leaked "Pentagon Papers" and found itself enjoined the following day. The Wikileaks injunction is the equivalent of forcing the Times' printers to print blank pages and its power company to turn off press power. The supreme court found the Times censorship injunction unconstitutional in a 6-3 decision.

The Wikileaks.org injunction is ex-parte, engages in prior restraint and is clearly unconstitutional. It was granted on Thursday afternoon by California district court judge White, Bush appointee and former prosecutor.

The order was written by Cayman Island's Bank Julius Baer lawyers and was accepted by judge White without amendment, or representations by Wikileaks or amicus. The case is over several Wikileaks articles, public commentary and documents dating prior to 2003. The documents allegedly reveal secret Julius Baer trust structures used for asset hiding, money laundering and tax evasion. The bank alleges the documents were disclosed to Wikileaks by offshore banking whistleblower and former Vice President the Cayman Island's operation, Rudolf Elmer. Unable to lawfully attack Wikileaks servers which are based in several countries, the order was served on the intermediary Wikileaks purchased the 'Wikileaks.org' name through -- California registrar Dynadot, who then used its access to the internet website name registration system to delete the records for 'Wikileaks.org'. The order also enjoins every person who has heard about the order from from even linking to the documents.

In order to deal with Chinese censorship, Wikileaks has many backup sites such as wikileaks.be (Belgium) and wikileaks.de (Germany) which remain active. Wikileaks never expected to be using the alternative servers to deal with censorship attacks, from, of all places, the United States.

The order is clearly unconstitutional and exceeds its jurisdiction.

→ Wikileaks will keep on publishing, in-fact, given the level of suppression involved in this case, Wikileaks will step up publication of documents pertaining to illegal or unethical banking practices.

Wikileaks has six pro-bono attorney's in S.F on roster to deal with a legal assault, however Wikileaks was given only hours notice "by email" prior to the hearing. Wikileaks was NOT represented. Wikileaks pre-litigation California council Julie Turner attended the start of hearing in a personal capacity but was then

asked to leave the court room.

White signed the order, drafted by the Cayman Islands bank's lawyers without a single amendment.

The injunction claims to be permanent, although the case is only preliminary.

Wikileaks remains available publishing from non-US, non-Chinese jurisdictions including <http://wikileaks.cx/> and <http://wikileaks.be/>. See http://wikileaks.cx/wiki/Wikileaks:Cover_Names for more.

http://wikileaks.cx/wiki/Bank_Julius_Baer_vs._Wikileaks

<http://wikileaks.cx/wiki/images/Dynadot-injunction.pdf>

http://wikileaks.cx/wiki/Die_Akten_des_Hurricane_Man

http://wikileaks.cx/wiki/Clouds_on_the_Cayman_tax_heaven

Retrieved from "https://wikileaks.be/wiki/Wikileaks.org_under_injunction"

Categories: [Analyses](#) | [United States](#) | [Grand Cayman](#)

Get press releases:

Apply to volunteer:

EXHIBIT B

Evan Spiegel

From: Julian Assange. [me@iq.org]
Sent: Sunday, February 24, 2008 9:40 AM
To: Evan Spiegel
Cc: gmurai@wendel.com; legal@sunshinepress.org; wikileaks@sunshinepress.org; me@iq.org; mathews@math.Stanford.EDU
Subject: Re: Bank Julius Baer v. Wikileaks, Case # CV08-0824 JSW re: Preliminary Injunction re: Non-Opp by Defendants

I don't know why you have sent this to me. I have not read it nor anything else you have sent me. Please send Wikileaks.org related legal correspondence to Roger Myers who I understand is acting on behalf of the domain.

On Sun, Feb 24, 2008 at 04:01:29PM +0000, Evan Spiegel wrote:

> <<DECL-SPIEGEL 021308 re NTC-NON-OPP re INJUNCTION.pdf>>
> <<NTC-NON-OPP-PRELIM-INJ 022108.pdf>> <<POS 022208 re NTC-NON-OPP RE
> PRELIM INJ.pdf>> Please see attached.

>
> -----
> --
> -----
> LAVELY & SINGER PROFESSIONAL CORPORATION ATTORNEYS AT LAW
> 2049 CENTURY PARK EAST, SUITE 2400
> LOS ANGELES, CALIFORNIA 90067-2906
> TELEPHONE: (310) 556-3501
> FACSIMILE: (310) 556-3615
> www.LavelySinger.com

> -----
> --
> -----
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> THANK YOU.

>
>
>

EXHIBIT C

Evan Spiegel

From: me@iq.org
Sent: Tuesday, February 26, 2008 8:41 AM
To: Evan Spiegel
Cc: gmurai@wendel.com; legal@sunshinepress.org; wikileaks@sunshinepress.org; me@iq.org; mathews@math.Stanford.EDU
Subject: Re: Bank Julius Baer v. Wikileaks, Case # CV08-0824 JSW re: Request for Dismissal Of Dynadot LLC

Dear Mr. Spiegel, I must insist you stop sending me this material.

Please send this to "Roger Myers" <Roger.Myers@hro.com> who I understand is representing the rights of the domain holder in this matter.

On Tue, Feb 26, 2008 at 07:43:07AM +0000, Evan Spiegel wrote:

> <<Request for Dismissal of Dynadot.pdf>>
> <<PROP-ORD-DISMISS-DYNADOT.pdf>> Please see attached.

>
> -----
> --
> -----

> LAVELY & SINGER PROFESSIONAL CORPORATION ATTORNEYS AT LAW
> 2049 CENTURY PARK EAST, SUITE 2400
> LOS ANGELES, CALIFORNIA 90067-2906
> TELEPHONE: (310) 556-3501
> FACSIMILE: (310) 556-3615
> www.LavelySinger.com

> -----
> --
> -----

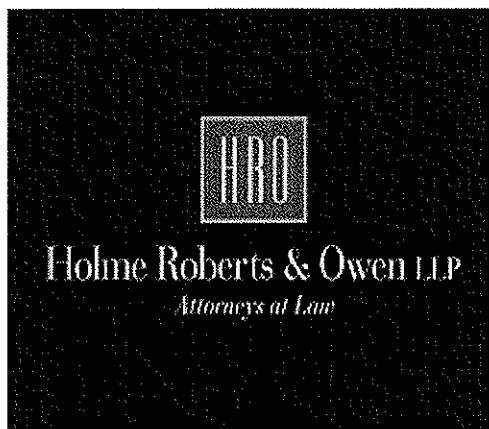
> THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY
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> THANK YOU.

>
>
>

EXHIBIT C PAGE 8

EXHIBIT D



Biography

Roger R. Myers

- listening since 1988

Partner
San Francisco

roger.myers@hro.com
Tel: 415-268-1955
Fax: 415-268-1999

V-Card 



Experience

Mr. Myers is a partner in HRO's San Francisco office. His practice focuses on media, internet, intellectual property, and unfair competition law, representing a melding of the old media and the new. His clients include publishers (of newspapers, magazines, and books), broadcast media (both television and radio networks and their affiliates), and online media. Mr. Myers has litigated numerous intellectual property and unfair competition matters for media and non-media clients and has successfully represented Internet access, service, and content providers in both online defamation and copyright litigation. A former newspaper reporter and editor, Mr. Myers serves as newsroom counsel to more than 20 newspapers in the western United States and as general outside counsel for Business Wire, Inc.

Mr. Myers is a frequent speaker at conferences addressing media, internet and intellectual property issues.

Professional & Community Affiliations

International Human Rights Award, American Bar Association 2005

James Madison Freedom of Information Award, Society of Prof. Journalists (Northern Cal.) 1998

America's Leading Lawyers for Business, Chambers & Partners

EXHIBIT 0 PAGE 9

Northern California Super Lawyer, Law & Politics and San Francisco magazines

General Counsel, California First Amendment Coalition

Law Clerk, Hon. James R. Browning, U.S. Court of Appeals, Ninth Circuit, 1988-89

practice Specialties

- **Complex Commercial Litigation**
- **Media, Information, and Intellectual Property**

Education

J.D., Boalt Hall School of Law, University of California at Berkeley, Order of the Coif, 1988

B.A. Journalism, San Jose State University, *with great distinction*, 1980

Bar Admissions

Admitted in California

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