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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GREG HAYES,
Plaintiff,
v.
MUSA DAJANI, *et al.*,
Defendants.

No. C-11-1702 EMC

**ORDER CONDITIONALLY DENYING
PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION AS
MOOT; AND REQUIRING RESPONSE
TO PLAINTIFF’S MOTION FOR STAY**

(Docket Nos. 2, 22)

Plaintiff Greg Hayes has filed suit against Defendants Musa and Khaled Dajani, asserting various causes of action, including one for copyright infringement. Currently pending before the Court is Mr. Hayes’s motion for preliminary injunction in which he seeks to enjoin the Dajanis from building a “parklet” based on a drawing that he allegedly co-authored and owns.

On August 19, 2011, this Court issued an order instructing the parties to meet and confer to determine whether Mr. Hayes’s motion could be resolved by a stipulation between the parties. *See* Docket No. 20 (order). On August 31, 2011, the Dajanis filed a case management statement, informing the Court that they had tried to meet and confer with Mr. Hayes but his telephone number was not a working number and he failed to respond to an e-mail they sent to him. The Dajanis added that, if the Court were to deny the motion, then they would be willing to agree, during the course of litigation, not to use the drawing at issue or otherwise construct a parklet that has the critical characteristics of curved corners and/or a curved central feature. *See* Docket No. 21 (Defs.’ St. at 2) (stating that “Defendants feel very strongly against having the motion for preliminary

1 injunction granted as Defendants believe this will give some level of credibility to an otherwise
2 baseless and meritless claim against Defendants”). It now appears that Defendants were never able
3 to contact Mr. Hayes because he was arrested and is currently incarcerated. *See* Docket No. 22
4 (letter from Mr. Hayes). The Court, however, recently received a letter from Mr. Hayes in which he
5 essentially conceded that “[t]he Dajanis actually changed the design before building.” *Id.* (Letter at
6 5).

7 Taking into account the above, the Court shall conditionally deny Mr. Hayes’s motion as
8 moot. The denial is conditioned on *each* of the Dajanis filing and serving a declaration certifying
9 that, during the course of the litigation, he and/or his agents shall not use the drawing at issue or
10 otherwise construct a parklet that has the critical characteristics of curved corners and/or a curved
11 central feature. The declarations shall be filed by September 23, 2011.

12 The Court also takes this opportunity to address the requests for relief made by Mr. Hayes in
13 his submission filed on September 13, 2011. *See* Docket No. 22 (submission from Mr. Hayes).
14 Based on the Court’s review, Mr. Hayes appears to be asking the Court (1) to stay this litigation
15 pending his release from county jail, (2) to send a copy of his September 13 submission as well as
16 the entire court file to him (in county jail), and (3) to send a copy of his September 13 submission to
17 Matt Gonzalez in the San Francisco Public Defender’s office.

18 On the first request for relief, the Court hereby orders the Dajanis to file by September 23,
19 2011, a response to the request for a stay.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GREG HAYES,

No. C-11-1702 EMC

Plaintiff,

v.

CERTIFICATE OF SERVICE

MUSA DAJANI, *et al.*,

Defendants.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 16, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Greg Hayes
381 Oak Street
San Francisco, CA 94102

Greg Hayes
SF #554957
CJ5 4B-4
P. O. Box 67
San Bruno, CA 94066

Dated: September 16, 2011



Richard W. Wieking, Clerk
By: Betty Lee, Deputy Clerk