

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

	)	Case No. 12-4221 SC
	)	
AF HOLDINGS LLC,	)	ORDER DENYING PLAINTIFF'S
	)	<u>MOTION TO VOLUNTARILY DISMISS</u>
Plaintiff,	)	
v.	)	
	)	
ANDREW MAGSUMBOL,	)	
	)	
Defendant.	)	
	)	
	)	

Plaintiff AF Holdings LLC ("Plaintiff") filed its first amended complaint ("FAC") naming Defendant Andrew Magsumbol ("Defendant") in this copyright infringement matter on December 6, 2012. ECF No. 12. Defendant answered the FAC on January 8, 2013, ECF No. 8, and then moved to require that Plaintiff, a foreign corporation, post a \$73,875 undertaking to cover Defendant's costs and fees per California Code of Civil Procedure section 1030, ECF No. 20. The Court set a hearing date for March 15, 2013, on that motion, and has not yet ruled on it.

Plaintiff now asks the Court to grant a voluntary dismissal of its claims without prejudice, "in light of the recent orders by Courts in the Northern District requiring Plaintiff to post an

1 undertaking of nearly \$50,000" in AF Holdings v. Trinh, No. 12-cv-  
2 02393-CRB (N.D. Cal. 2012) and AF Holdings v. Navasca, No. 12-cv-  
3 2396-EMC (N.D. Cal. 2012). ECF No. 35 ("Pl.'s MTD") at 1-2.  
4 Plaintiff argues that requiring it to post an undertaking would be  
5 too expensive "simply in order [for Plaintiff] to proceed with its  
6 claims against a single infringer" in what Plaintiff considers "a  
7 routine digital infringement case." Id. at 2. Moreover,  
8 Plaintiff's counsel is currently attempting to withdraw from this  
9 matter, and Plaintiff "cannot currently find alternative counsel --  
10 and does not wish to expend effort and money to do so." Id.

11 Under Federal Rule of Civil Procedure 41(a)(2), the Court may  
12 dismiss this action at Plaintiff's request, on terms the Court  
13 considers proper. The Court declines to do so. Plaintiff brought  
14 this case knowing the rules of this jurisdiction and the risks of  
15 litigation, and now he seeks dismissal of his case without  
16 prejudice so that he can bring it another day. Plaintiff's reasons  
17 for requesting dismissal are not compelling. Plaintiff's motion is  
18 DENIED.

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IT IS SO ORDERED.

Dated: February 25, 2013



UNITED STATES DISTRICT JUDGE