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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SMAATO, INC.,
Plaintiff,
v.
MOBILEWALLA, INC.,
Defendant.

Case No.16-cv-05162-JSC

**ORDER RE: MOTION FOR
ASSIGNMENT ORDER, ORDER
RESTRAINING JUDGMENT DEBTOR,
AND TURNOVER ORDER**

Re: Dkt. Nos. 22 & 27

Plaintiff Smaato, Inc., moves to enforce its default judgment against Mobilewalla, Inc. Plaintiff seeks: (1) an order pursuant to California Civil Procedure Code § 708.510 instructing Mobilewalla to assign its interest in any and all accounts receivable and rights to payment from any and all clients, customers, or others which owe it money to the extent necessary to pay Smaato’s judgment against Mobilewalla in full; 2) an order restraining Mobilewalla and any servant, agent, employee, officer, director, shareholder or attorney for Mobilewalla, and any person(s) in active concert and participating with it, from encumbering, assigning, disposing or spending said accounts receivable, and all rights to payment thereunder; and 3) an order pursuant to California Civil Procedure Code § 699.040(e) compelling Mobilewalla to transfer to the U.S. Marshal all checks, cash, notes, instruments, deposits, deposit accounts, drafts, and accounts receivable ledgers or journals pertaining to the businesses identified herein. (Dkt. No. 22.)

Mobilewalla has not responded to Plaintiff’s motion. Because the Court had concerns regarding the evidentiary support in Plaintiff’s motion, the Court requested additional briefing which has been submitted. (Dkt. No. 27.) Having considered Plaintiff’s submissions and the relevant legal authority, the Court GRANTS Plaintiff’s motion for an assignment order, an order restraining the judgment debtor, and a turnover order.

1 **DISCUSSION**

2 Post-judgment enforcement proceedings in this federal court must comply with California
3 law. *Hilao v. Estate of Marcos*, 95 F.3d 848, 851 (9th Cir. 1996)). The California Code of Civil
4 Procedure “provides procedures for the assignment of assets, issuance of restraining orders, and
5 issuance of turnover orders.” *UMG Recordings, Inc. v. BCD Music Grp., Inc.*, No. CV 07–05808,
6 2009 WL 2213678, at *1 (C.D. Cal. July 9, 2009).

7 **A. Assignment Order**

8 Under Cal. Code Civ. Proc. § 708.510(a), a judgment creditor may obtain an assignment
9 order against a judgment debtor as follows:

10 upon application of the judgment creditor on noticed motion, the court may order
11 the judgment debtor to assign to the judgment creditor ... all or part of a right to
12 payment due or to become due, whether or not the right is conditioned on future
developments, including but not limited to the following types of payments:

- 13 (1) Wages due from the federal government that are not subject to
withholding under an earnings withholding order.
- 14 (2) Rents.
- 15 (3) Commissions.
- 16 (4) Royalties.
- 17 (5) Payments due from a patent or copyright.
- 18 (6) Insurance policy loan value.

19 Cal. Code Civ. Proc. § 708.510(a). In determining whether to issue an assignment order a court
20 should consider “[p]ayments the judgment debtor is required to make or that are deducted in
21 satisfaction of other judgments or garnishments,” “[t]he amount remaining due on the money
22 judgment,” and “the amount being or to be received in satisfaction of the right to payment that
23 may be assigned.” Cal. Code Civ. Proc. § 708.510(c). Further, “[a] right to payment may be
24 assigned pursuant to this article only to the extent necessary to satisfy the money judgment.” *Id.*

25 Here, Plaintiff’s initial submission identified 27 “sources that are obligated to make
26 payments to Mobilewalla including Citicorp, Starbucks Corporation, Pepisco, Inc., Proctor &
27 Gamble Co., Donald J. Trump for President, Inc., Oracle Corporation, Dell Inc., and Ikea Systems
28 among others. (Dkt. No. 22 at 4:10-20.) Plaintiff asked the Court to order an assignment of the

1 right to payment sufficient to satisfy its \$262,735.55 judgment. However, Plaintiff did not
2 identify the basis for its assertion that any of these 27 sources are required to pay Mobilewalla, and
3 instead, it just asserted that the sources “are obligated to make payments to Mobilewalla.” The
4 Court thus ordered Plaintiff to submit supplemental briefing providing evidentiary support for its
5 contention that these sources owe Mobilewalla funds sufficient to satisfy the judgment here. (Dkt.
6 No. 26.)

7 Plaintiff’s supplemental submission provides the requisite evidentiary support. See UMG
8 Recordings, Inc. v. BCD Music Grp., Inc., No. 07-05808, 2009 WL 2213678, at *3 (C.D. Cal. July
9 9, 2009) (granting assignment remedy where the plaintiff identified why it believed the listed sources
10 would owe money to the debtor). Plaintiff has submitted a declaration which attests that according to
11 Mobilewalla’s own website, the following companies are its customers:

12	Inmobi Inc.	Starcom
13	Citicorp	Nokia USA Inc.
14	GDM Services, Inc. dba Fiksu DSP	Mediaedge Worldwide Ltd dba MEC
15	Aptus Health, Inc. dba Tomorrow Networks	M+C Saatchi LA Inc.
16	Unilever United States, Inc.	The Burt’s Bees Product Company
17	Starbucks Corporation	Dell Inc.
18	Mazda Motor of North America, Inc.	Ikea Systems
19	Pepsico, Inc.	Tyson Foods, Inc. dba Hillshire Farm
20	Samsung	Expedia, Inc. dba hotels.com
21	Mindshare Corporation	FCA US LLC dba Chrysler

22 (Dkt. No. 27 ¶ 7; Dkt. No. 27-1 at 2-5.) Plaintiff also attaches copies of press releases and articles
23 reflecting partnerships announced between Mobilewalla and Oracle, MediaMath, Adsquare, Eyeota,
24 and Gravy Analytics over the last several months. (Dkt. No. 27-1 at 7-45.) Plaintiff contends that the
25 these clients, customers, and partners of Mobilewalla have or will have accounts receivable due to
26 Mobilewlla.¹ This information provides sufficient concreteness to assure the Court that pursuant to
27 Section 708.510(a) there are “payment[s] due or to become due” from these sources to
28 Mobilewalla which the Court can assign to Plaintiff. See Legal Additions LLC v. Kowalksi, No.
C-08-2754 EMC, 2011 WL 3156724, at *2 (N.D. Cal. July 26, 2011); UMG Recordings, 2009
WL 2213678, at *3.

¹ In its supplemental submission Plaintiff withdrew Proctor & Gamble Co., and Donald J. Trump for President, Inc., from the list of companies from which it seeks an assignment.

1 Accordingly, the Court grants Plaintiff’s motion for an assignment order as set forth below.

2 **B. Restraining Order**

3 Under Cal. Civ. Proc. Code § 708.520 “[w]hen an application is made pursuant to Section
4 708.510 or thereafter, the judgment creditor may apply to the court for an order restraining the
5 judgment debtor from assigning or otherwise disposing of the right to payment that is sought to be
6 assigned.” Because the Court grants Plaintiff’s motion for an assignment order under Section
7 708.510 a restraining order is proper here to ensure that the assigned rights to payment are
8 available for satisfaction of the judgment. See *Sleepy Hollow Inv. Co. No. 2 v. Prototek, Inc.*, No.
9 C 03-4792 MMC (MEJ), 2006 WL 279349, at *3 (N.D. Cal. Feb. 3, 2006), modified on
10 reconsideration, 2007 WL 2701318 (N.D. Cal. Sept. 13, 2007).

11 **C. Turnover Order**

12 California Code of Civil Procedure § 699.040 governs Plaintiff’s request for a turnover
13 order:

14 (a) If a writ of execution is issued, the judgment creditor may apply to the
15 court ex parte, or on noticed motion if the court so directs or a court rule so
16 requires, for an order directing the judgment debtor to transfer to the
17 levying officer either or both of the following:

- 18 (1) Possession of the property sought to be levied upon if the
19 property is sought to be levied upon by taking it into custody.
20 (2) Possession of documentary evidence of title to property of or a
21 debt owed to the judgment debtor that is sought to be levied
22 upon. An order pursuant to this paragraph may be served when
23 the property or debt is levied upon or thereafter.

24 Cal. Civ. Proc. Code § 699.040(a). A turnover order shall issue “upon a showing of need for the
25 order.” Id. at § 699.040(b).

26 Here, Plaintiff seeks the turnover order “to reach all checks, drafts, money orders, notes,
27 instruments, deposits and deposit accounts to permit Smaato the opportunity to receive payment
28 when the accounts receivable are turned into cash.” (Dkt. No. 22 at 5:20-22.) Plaintiff contends
that the order is “necessary to prevent Mobilewalla from frustrating the purpose behind the
assignment order sought herein, and to give the assignment order the muscled [sic] required to
effectuate the turnover of the proceeds of the receivables to satisfy the judgment.” (Id. at 5:22-

1 26.)

2 Plaintiff obtained a writ of execution on February 2, 2017. Because Plaintiff has made a
3 showing that the turnover order is necessary “to help curtail [Mobilewalla’s] dilatory tactics and to
4 give effect to the assignment order” the Court grants his request for a turnover order. See UMG
5 Recordings, 2009 WL 2213678, at *3.

6 **CONCLUSION**

7 For the foregoing reasons, the Court GRANTS Plaintiff’s Motion for Assignment of
8 Rights, Restraining Order, and Turnover Order. (Dkt. No. 22.) The Court ORDERS the
9 following:

10 (1) For the following third parties:

- 11 a) Inmobi Inc.
- 12 b) Citicorp
- 13 c) GDM Services, Inc. dba Fiksu DSP
- 14 d) Aptus Health, Inc. dba Tomorrow Networks
- 15 e) Unilever United States, Inc.
- 16 f) Starbucks Corporation
- 17 g) Mazda Motor of North America, Inc.
- 18 h) Pepsico, Inc.
- 19 i) Samsung
- 20 j) Mindshare Corporation
- 21 k) Oracle Corporation
- 22 l) MediaMath, Inc.
- 23 m) Gravy Analytics
- 24 n) Starcom
- 25 o) Nokia USA Inc.
- 26 p) Mediaedge Worldwide Ltd dba MEC
- 27 q) M+C Saatchi LA Inc.
- 28 r) The Burt’s Bees Product Company

- 1 s) Dell Inc.
- 2 t) Ikea Systems
- 3 u) Tyson Foods, Inc. dba Hillshire Farm
- 4 v) Expedia, Inc. dba hotels.com
- 5 w) FCA US LLC dba Chrysler
- 6 x) Adsquare
- 7 y) Eyeota USA, Inc.

8 Plaintiff Smaato is ASSIGNED all accounts, accounts receivable, rights to payment of money,
9 contract rights, contingent rights, deposits and deposit accounts, and monies due to Defendant
10 Mobilewalla, or any of Defendant's partners, assignees, and other persons acting on its behalf.
11 The assignment to Plaintiff Smaato is in care of its attorney Spector & Bennett, A Professional
12 Corporation, 50 California Street, 15th Floor, San Francisco, California 94111, for purposes of
13 payment of the Judgment in the amount of \$262,735.55, plus interest and costs as may be allowed.
14 The Assignment shall remain in place until such time as the payment is paid in full, including
15 accrued interest.

16 (2) Defendant Mobilewalla is stayed, prohibited, and enjoined from cashing, negotiating,
17 advancing, collecting, any and all accounts, accounts receivable, rights to payment of money,
18 claims for payment of money due from third parties, or other rights subject to this assignment.

19 (3) Defendant Mobilewalla shall deliver all checks, cash, notes, instruments, deposits,
20 deposit accounts, drafts, and accounts receivable ledgers or journals pertaining to the items
21 identified in paragraph (1) of this Order, to the U.S. Marshal, Northern District of California, 450
22 Golden Gate Avenue, Room 20-6888, San Francisco, California 94102.

23
24 **IT IS SO ORDERED.**

25 Dated: April 12, 2017

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27 
28 JACQUELINE SCOTT CORLEY
United States Magistrate Judge