

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 09-cv-01156-MSK

ROCKY MOUNTAIN TRACKING, INC., a Colorado corporation,

Plaintiff,

v.

PORTMAN SECURITY SYSTEMS (USA) LTD., a Massachusetts corporation,

Defendant.

ORDER REMANDING CASE

THIS MATTER comes before the Court *sua sponte*.

The Plaintiff commenced this action in the Larimer County District Court. Plaintiff alleges damages arising from the purchase from Defendant of certain “global positioning system” devices, including alleged loss of profits and other special damages. In its Complaint, the Plaintiff did not request any particular monetary relief.

In the Notice of Removal, the Defendant asserts that this Court can exercise jurisdiction based upon diversity pursuant to 28 U.S.C. § 1332. The Defendant relies primarily upon the Plaintiff’s election in the mandatory Colorado Civil Cover Sheet stating: “This party is seeking a monetary judgment for more than \$100,000 against another party, including any attorney fees, penalties or punitive damages, but excluding interest and costs[.]” The statement that the Plaintiff represented to the Defendant that its alleged damages exceed the jurisdictional amount is inspecific and conclusory. The claims in the Complaint assert that Plaintiff purchased products for approximately \$23,000 which did not perform as advertised. Without any

quantification of damages in excess of the purchase price, such conclusory statement is insufficient to establish that the amount in controversy exceeds \$75,000.

In accordance with the analysis set forth in *Baker v. Sears Holding Corp.*, 557 F. Supp. 2d 1208 (D. Colo. 2007), there has been an insufficient showing of the requisite amount in controversy to establish diversity jurisdiction. Accordingly, the action must be remanded to the State Court. *See* 28 U.S.C. § 1447(c).

IT IS THEREFORE ORDERED that this action is **REMANDED** to the Larimer County District Court.

DATED this 21st day of May, 2009.

BY THE COURT:

A handwritten signature in black ink that reads "Marcia S. Krieger". The signature is written in a cursive style with a distinct dot over the 'i' in "Krieger".

Marcia S. Krieger
United States District Judge