

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	George W. Lindberg	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	05 C 725	DATE	10/26/2005
CASE TITLE	Central Mfg. Co. et al. vs. Pure Fishing, Inc. et al.		

DOCKET ENTRY TEXT:

Defendant Pure Fishing Inc.'s motion for summary judgment on counterclaim IV is denied.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

Before the Court is Pure Fishing, Inc.'s ("Pure Fishing") motion for summary judgment as to its counterclaim IV. In counterclaim IV, Pure Fishing seeks to collect on an unsatisfied judgment for attorneys fees that this Court entered against S Industries, Inc. in *S Industries, Inc. v. Centra 2000, Inc. et al.*, 96 C 3524 ("unsatisfied judgment" or "attorneys fees judgment"). Pure Fishing purchased the rights to the unsatisfied judgment on March 22, 2005, from Centra 2000, Inc. and Auto-Trol Technology, Inc. for "\$1.00 and other good and valuable consideration." Pure Fishing now seeks to collect on the unsatisfied judgment through a Fed.R.Civ.P. 69(a) writ of execution on the assets of either S Industries, Inc., or one or more other entities purportedly continuing the business of S. Industries, Inc. Specifically, Pure Fishing seeks a Rule 69 writ on various trademark registrations, including registrations for the term "stealth."

Summary judgment can only be granted if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c). Pure Fishing's motion is premature. Based on the scant record and cursory briefing by all parties, Pure Fishing cannot establish the absence of any genuine issue of material fact, or that it is entitled to the requested Rule 69 writ as a matter of law. There is a genuine question of fact as to the corporate status of Central Mfg. Co. and Central Mfg. Inc. at the time S. Industries Inc. purportedly assigned it rights in various trademark registrations to Central Mfg. Co.¹ On the present record, there are also insufficient undisputed facts to determine whether Central. Mfg. Co. was a mere continuation of S. Industries Inc. at the time of the disputed trademark assignments. Accordingly, Pure Fishing's motion for summary judgment as to counterclaim IV is denied.

1. If Central Mfg. Co. was a d/b/a for a valid corporation at the time of the trademark registration assignments from S. Industries, Inc., Pure Fishing's reliance on *Laning v. National Ribbon & Carbon Paper Manufacturing Co.*, 40 F. Supp. 1005, 1006 (N.D. Ill. 1941) would be misplaced. An assignment to a d/b/a is not akin to an assignment to a dissolved

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corporation.