

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FOLLETT HIGHER ED. GROUP, LTD.,

Plaintiff,

vs.

BOOKRENTER.COM, INC.,

Defendant.

Case No.

NOTICE OF REMOVAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that defendant Bookrenter.com, Inc. (“Bookrenter.com”) hereby removes to this Court the state court action described below, pursuant to 28 U.S.C. §§ 1441 and 1446. As grounds for removal, Bookrenter.com states as follows:

Case History

1. On August 11, 2011, plaintiff Follett Higher Ed. Group Ltd. (“Plaintiff” or “Follett”) initiated an action in the Circuit Court of Cook County, Illinois, entitled *Follett Higher Ed. Group Ltd. v. Bookrenter.com, Inc.*, Case No. 20011 CH 28519 (the “State Court Action”).
2. The Complaint in the State Court Action has not yet been properly served upon Bookrenter.com, but a courtesy copy was emailed to Bookrenter.com on or about August 11, 2011. Therefore, this removal is timely under 28 U.S.C. § 1446(b).
3. True and correct copies of the Complaint, Emergency Motion for a Temporary Restraining Order, Notice of Motion for Leave to File Under Seal, and Motion for Leave to File

Under Seal in the State Court Action are attached hereto as Exhibits A-D, respectively (portions of Exhibits A & B filed under seal). Exhibits A-D constitute all process and pleadings with which Bookrenter.com was served regarding the State Court Action.¹

4. The Complaint in the State Court Action alleges as Count I a claim for an Interim Injunction, and as Count II a claim for a Declaratory Judgment.

5. Per the Complaint, Plaintiff Follett is an Illinois corporation with its principal place of business in River Grove, Illinois.

6. Defendant Bookrenter.com is a Delaware corporation with its principal place of business in San Mateo, California.

7. In 2010, Bookrenter.com and Follett entered into an agreement (“the Re-Marketing Agreement”) to facilitate an online textbook rental program with various local college bookstores that were affiliated with Follett (“Follett Affiliate stores”). The Re-Marketing Agreement provided generally that customers of Follett Affiliate stores could place orders for textbook rentals online via Bookrenter.com websites, and Bookrenter.com could fulfill the orders from its own inventory. Subsequent to entering the Re-Marketing Agreement, Follett developed its own websites for textbook rentals.

8. The Complaint seeks temporary, preliminary and permanent injunctive relief in the form of, *inter alia*, ordering Bookrenter.com to redirect all customers of Follett Affiliate stores from its websites to Follett’s websites, and to cease accepting orders from customers of Follett Affiliates. (Ex. A (Complaint, ¶ 96).)

9. Under Seventh Circuit law, in an equitable action seeking only injunctive relief, the amount in controversy for purposes of diversity jurisdiction can be measured in any of the

¹ Plaintiff filed the State Court Action under seal, on the basis that the precise terms of the contract at issue are confidential. (Ex. D (Motion for Leave to Seal, ¶ 2).)

following three ways: (1) the value of the injunction to the plaintiff; (2) if the injunction sought would require some alteration of the defendant's method of doing business, the amount those alterations would cost the defendant; and (3) if the injunction would force the defendant to forgo a benefit, the value of that benefit to the defendant. *See In re Brand Name Prescription Drugs Antitrust Litigation*, 123 F.3d 599, 609-11 (7th Cir. 1997) (considering but rejecting a fourth means argued by the defendant - the clerical or ministerial cost to defendants of compliance with the injunction); *see also McCarty v. Amoco Pipeline Co.*, 595 F.2d 389, 395 (7th Cir. 1979) (agreeing that in a case seeking only injunctive relief, amount in controversy may be valued from either the plaintiff's or defendant's perspective, and affirming the district court's ruling that the substantial cost to defendant of complying with the proposed injunction by removing a pipeline exceeded the jurisdictional minimum).

10. Due to various outstanding online textbook rental agreements, Follett Affiliate customers are now in possession of Bookrenter.com inventory. These agreements were transacted entirely online, through Bookrenter.com's websites. The Bookrenter.com books currently in these Follett Affiliate customers' possession have an estimated value of approximately \$1,000,000. If plaintiff's requested injunction issues and Bookrenter.com's websites are ordered taken down or ordered to automatically redirect to Follett websites, Bookrenter.com's online relationship with these Follett Affiliate customers will be severed, and Bookrenter.com will have no means of securing the return of its books. Moreover, nothing in the Re-Marketing Agreement precludes Bookrenter.com from marketing its online books and services to Follett Affiliate customers (ie. students), whereas plaintiff's proposed injunction would foreclose such marketing and sales efforts. (Ex. A (Complaint, ¶ 96(a) (asking the Court to "temporarily, preliminary [sic] and permanently enjoin Bookrenter.com Inc. from accepting orders from Follett Affiliate

customers”).) Bookrenter.com generated millions of dollars in revenues from online rental agreements with Follett Affiliate customers between April 2010 and July 2011, and estimates that the value of future online rental agreements with such customer students is at least \$75,000 or more. Thus, the amount in controversy in this equitable action is equal to or greater than \$1,075,000.²

Removal Jurisdiction

11. Bookrenter.com hereby removes this action to the United States District Court for the District and Division in which the action is now pending, specifically, the United States District Court for the Northern District of Illinois, Eastern Division, under 28 U.S.C. § 1441. Removal is based on diversity jurisdiction.

12. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, because the Complaint’s allegations demonstrate that there is complete diversity of citizenship between the parties, that Defendant Bookrenter.com is not a resident of the State of Illinois, and that the amount in controversy exceeds \$75,000.

13. Promptly upon filing this Notice of Removal, Bookrenter.com will serve a copy of it upon Plaintiff and will file a copy with the Clerk of the Circuit Court of Cook County, Illinois.

14. This action is properly removed to this Court under 28 U.S.C. § 1446(a) because the State Court Action is pending in Cook County, Illinois, within this District and Division.

DATED: August 15, 2011

Respectfully submitted,

BOOKRENTER.COM

² A defendant’s identification of the amount in controversy within a Notice of Removal satisfies the defendant’s burden. *See Hernandez v. Schering Corp.*, 2005 WL 1126911 (N.D. Ill. May 5, 2005) (noting the April 25, 2005 withdrawal of former Local Rule 81.2(a), which used to require a defendant to file a statement that it had a “good faith” belief that the amount in controversy exceeded the statutory minimum). *See also Committee Comment to L.R. 81.2*, available at <http://www.ilnd.uscourts.gov/legal/newrules/New00068.htm>.

By: /s/ Amy L. Signaigo
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, Amy L. Signaigo, an attorney, certify under penalty of perjury that I caused a copy of the forgoing document to be served on all counsel of record via the Court's CM/ECF online filing system this 15th day of August, 2010.

/s/ Amy L. Signaigo

Amy L. Signaigo