

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHRISTINE VARAD,)	
)	C.A. No. 06 CA 11370 MLW
Plaintiff,)	
v.)	
)	
REED ELSEVIER INC. d/b/a/ Lexis Nexis)	
Corporation, Lexis Nexis Accurint,)	
)	
Defendant.)	

**DEFENDANT’S OPPOSITION TO PLAINTIFF’S MOTION TO AMEND COMPLAINT
PURSUANT TO FED. R. CIV. P. 15**

Defendant Reed Elsevier Inc. (“Reed”) hereby opposes plaintiff Christine Varad’s (“Plaintiff”) Motion To Amend Complaint (“Motion to Amend”). Plaintiff’s Motion to Amend should be denied because, as set forth in detail in Reed’s Motion to Dismiss Defendant Reed Elsevier Inc. and Substitute Seisint, Inc. (“Motion to Substitute”), Reed is simply not the proper defendant in this litigation – Seisint is. It necessarily follows that if Reed is not the proper defendant, then the entity that Reed is “doing business as” is irrelevant. Because the sole relief that Plaintiff seeks in her Motion to Amend is to change Reed’s d/b/a from “Lexis Nexis Corporation, Lexis Nexis Accurint” to “LexisNexis, LexisNexis Risk & Information Analytics Group, Inc.,” the Motion to Amend should be denied.¹

As set forth in Reed’s Motion to Substitute [**docket entry 4**] and the supporting Affidavit of John M. Byrne (“Byrne Aff.”) [**docket entry 6**], all of the conduct alleged in the Complaint pertains to a non-party, Seisint, and not to Reed. To summarize, Plaintiff alleges in her Complaint that information contained in a “Lexis Nexis Accurint” database was incorrect, and that Reed’s subsequent conduct in dealing with Ms. Varad regarding the database information

¹ At oral argument on Reed’s Motion to Substitute, heard on January 18, 2007, the Court indicated from the bench that it was inclined to allow the Motion to Substitute, and has taken such Motion under advisement.

was tortious. See Complaint ¶¶ 1-13. Reed, however, does not own the “Accurint” database of information, nor did it have any communications whatsoever with Ms. Varad regarding the allegations in the Complaint. See Byrne Aff. ¶¶ 3, 8. To the contrary, the “Accurint” database is a product owned by Seisint.² Id. ¶ 3. Further, as attested to by Mr. Byrne, all of the communications identified by Ms. Varad in the Complaint were with Seisint, and were either sent to or from Seisint’s offices located at 6601 Park of Commerce Boulevard, Boca Raton, Florida. Id. ¶ 7. Reed does not have an office located at this address. Id. ¶ 8. Accordingly, Seisint, and not Reed, is the proper entity to defend this suit.

Despite these facts and Reed’s offer to simply substitute Seisint for Reed, Plaintiff now seeks to amend the Complaint to change Reed’s d/b/a. Plaintiff, however, fails to address how the allegedly “correct” d/b/a has anything to do with this litigation. In fact, other than baldly asserting that “LexisNexis, LexisNexis Risk & Information Analytics Group, Inc.” is the correct d/b/a, Plaintiff’s Motion to Amend is devoid of any facts that support the requested amendment.

CONCLUSION

Plaintiff puts forward no valid reason to justify amending the Complaint to change the d/b/a of Reed, especially in light of the facts put forward in Mr. Bryne’s Affidavit that Seisint is the proper defendant. Reed has had no communications with the Plaintiff prior to this lawsuit and does not own the database of information at issue. Therefore, as Reed is not the proper defendant, its d/b/a is irrelevant and the Motion to Amend must be denied.

² In or about September 2004, Reed acquired Seisint. Byrne Aff. ¶ 4. Seisint remains a separate legal entity. Id. ¶ 6.

Respectfully submitted,

REED ELSEVIER INC.

By its attorneys,

/s/ Kristin M. Cataldo

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Dated: March 20, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of March, 2007, I caused a copy of the foregoing to be served on the following by regular mail to Christine M. Varad, P.O. Box 583, Milton, MA 02186.

/s/ Kristin M. Cataldo

Kristin M. Cataldo