

ORIGINAL

Judge Ramon E. Reyes
United States District Court
225 Cadman Plaza East
Brooklyn, NY 11201

October 1, 2010

Re: Index No. CV 08 3367

Vadim Mikhlyn, et al. v. Ana Bove, et al.

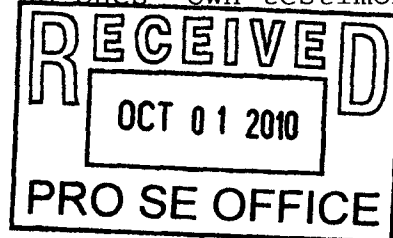
Response for Plaintiffs' Opposition to Defendants' 3 motions:

- (1) to remove "Attorney Eyes Only" from QuickBooks,
- (2) to divide the case into IP and Financial separate cases, and
- (3) about an independent financial expertise.

A. Plaintiffs didn't succeed in confirming their rightness, and denying Defendants' proofs regarding numerous false testimonies and falsifications of Plaintiffs and their lawyers.

In their objections Plaintiffs say: «...defendants' motions are based on a series of unsworn factual assertions .»

Certainly we aren't competent in legal matters, but we thought and think now that a reference to specific, official documents and established facts of existing case materials is far more powerful as proof, than a reference to ones' own testimony.



Therefore, in part of our statements and proofs of their truthfulness we referred to such documents and facts, and today we are ready to confirm these statements under oath, with all responsibility of giving false testimony.

At the same time, Plaintiffs in the majority of their statements refer to their own testimony, under oath, the truthfulness of which nobody confirmed yet. However, Plaintiffs' lies under oath somehow becomes "Truth", on which they easily lean later on. We've proved the falseness of Plaintiffs' and their lawyers' statements multiple times, and in the majority of our motions and replies to Plaintiffs' motions, we were referring to the facts and documents in the case. Namely because of such a large quantity of lies from Plaintiffs and their lawyers, our documents have turned out so full volume, and Plaintiffs complained about this to Your Honor. Namely due to this enormous amount of lies, and due to Plaintiffs' requests of a plethora of documents that are unrelated to Plaintiffs' Claims, the Discovery process was also unfairly prolonged.

Nevertheless, Plaintiffs didn't even try, in any way, to deny at least some - the key ones - of our numerous statements and proofs of the falseness of Plaintiffs' testimony. We are sure that Plaintiffs can't deny our statements and proofs, to confirm their rightness. The majority of their false testimony is about serious and regular financial infringements and crimes, including also those on which the

late Judge Sifton based the decision he made (about absence of W2 and investments). Our statements concerning the frank and deliberate lies of Plaintiffs and their lawyers, concerning the statements about Anna's alleged use of Marihuana, aren't denied by Plaintiffs and their lawyers either.

Their lie was confirmed by the translation expertise. At the same time, the case includes evidence that Inga Mikglyn's daughter used Marihuana. See Exhibit #1.

The only thing that Plaintiffs have tried to deny, was "Vadim's basket credo", falsely representing this as a technical term.

Actually, everything is extremely clear. Vadim was given access to domain account on Directnic.com, registered to Polina, to help with some technical issues. In summer 2007 he secretly replaced access passwords (without obtaining any permission whatsoever from Polina), and grasped the domains by moving them, on Polina's behalf, to an account of another registrant (Godaddy.com), which was obviously registered to Vadim. This is also confirmed by factual evidence from domain registrars, and by Vadim's own deposition testimony.

This is Deceit of Trust, being the main principle of Plaintiffs' life. Only thanks to the Arbitrage we have managed to get the domain names back to ourselves.

At the same time Plaintiffs don't try to save time and paper, and in every detail describe their doubts, guesses, assumptions and

conjectures about what emails and chats should have or could have been saved somewhere / at some unspecified time / by someone of the Defendants / on some computers or hard drives.

After that Plaintiffs, using their own lengthy and and florid assumptions and fantasies, openly make conclusions and statements about alleged falseness of Defendants' testimony under oath. We are sure that the Court shouldn't pay any attention to all of these assumptions and fantasies of Plaintiffs. Because, despite the fact that Defendants provided a detailed and comprehensive answer to each of Plaintiffs' accusations within Defendants' "Sanctions Opposition" filed on August 20, 2010, nevertheless Plaintiffs didn't respond to nearly any of our replies to their accusations. Plaintiffs keep repeating their reproaches and charges, while basing them exclusively on conjectures and fantasies. It's obvious that this is also the main «proofs strategy» of Plaintiffs' lawyers.

Based on the above said, Defendants are certain that Plaintiffs and their attorneys have fully discredited themselves, thanks to their statements that were based on endless lies, and on Plaintiffs' own conjectures and fantasies. Therefore, the Court should treat the words of Plaintiffs' and their attorney's with full mistrust.

Plaintiffs have several time complained about the considerable quantity of materials which we have sent to Your Honor. But the

reason for such quantity is that we've tried to list and deny at least the core and most important false statements and evidence under oath, of Plaintiffs.

Plaintiffs write that Defendants' accusations regarding Plaintiffs' multiple financial infringements are based on "**plethora of [plaintiffs'] personal and business documents** produced in discovery (emphasis added)". Plaintiffs attempt to present these documents as personal, informal records in Plaintiffs' notebook. Here Plaintiffs forgot to mention that we referred to official financial documents: Such as Annual declarations of Plaintiffs' personal and business; And also to bank statements, statements of credit cards and to other similar documents; And also to copies of Plaintiffs' checks from various shops and services, where Plaintiffs have been shopping at the expense of the business means - buying for themselves all of the clothes (from cowards and socks and up to suits), foodstuff, lots of spirits, and many other stuff of this kind. Even the kid's journeys to school were paid by the business.

B. Regarding the situation with removing 'Attorneys Eyes Only' from Plaintiffs' QuickBook.

1. Plaintiffs have probably forgot that recently 'Attorneys Eyes Only' designation was completely shifted from Defendants' financial information from June 1st, 2010 production. This happened after a

similar request made by Plaintiffs, sent to Your Honor on June 14, 2010.

In these documents there was similar sensitive information belonging to Defendants, which sensitivity Plaintiffs describe in such a detail (see Exhibit #2 - Declaration of Inga Mikhlyn).

Mr. Kogan has obviously detained the transfer of this information for months, and we back then have just entered into the "Pro Se" mode, and understood absolutely nothing.

Your Honor granted this Plaintiffs' request to remove 'Attorneys Eyes Only' from Defendants' financial information literally the next day after Plaintiffs filed their motion (see Exhibit #3 - Court ruling of June 15, 2010).

2. The Court specified earlier that some types of sensitive competitive information, that may be contained in QuickBooks, such as client information, can be protected. However, Defendants strongly believe that it should be Plaintiffs' burden to protect and exclude such information from the most important financial documents. It can't be Defendant's or the Court's burden. It wouldn't be difficult for an experienced bookkeeper to remove such information. After all, it's a single-type information, sitting in one or two QuickBook tables. We are sure that this information was deliberately left by Plaintiff Inga in this document.

3. Plaintiffs' QuickBooks is a total and key financial document, concerning Defendants' claims regarding Plaintiffs' financial infringements. These QuickBooks assemble and summarize all of Plaintiffs' financial business operations for 5-6 years. Non-disclosure of these documents actually deprives Defendants of demonstrative proofs base regarding financial infringements. In exchange, Plaintiffs suggest Defendants to collect and summarize all of this information from scratch, based on bank, credit card and numerous other document types, which have been saved up for during 5-6 years, and which contain is a lot of blank spaces. Besides, this information is not in electronic form. Financially skilled Plaintiffs understand perfectly well that it won't be physically possible to do, or will demand such substantial financial expenses, that Defendants won't be able to bear them, because nearly all of Defendants' money and assets were grasped, and are in Plaintiffs' hands. Perfectly understanding all the above said, Plaintiffs deliberately kept the very insignificant sensitive information. After all, there aren't too many of such payments of client by checks, since for already a long time few people pay for purchases over the Internet, by sending personal checks by mail.

4. In their objections Plaintiffs say:

«... Defendants' counsel never challenged the designation.»

Defendants requested Mr. Kogan about this kind of motion, and until now we've been sure that Mr. Kogan has done so. This kind of behavior of our lawyer, Mr. Kogan, confirms once again that he mistreated his duties for quite a long time, and that Defendants actually had no real protection or help during all of the previous discovery process, and as it is apparent from the ongoing events, Defendants considerably suffered from this. All of this occurred despite the fact that up to April 2010 defendants have fully, and on time, paid the amounts that were inquired by Mr. Kogan's office (except of \$1,700, which were a duplicate inquiry).

Due to the reasons outlined above, we request the Court to grant our previous motion to remove 'Attorney Eye Only' from Plaintiffs' QuickBooks.

5. Plaintiffs state:

"Seventh, the defendants" misleadingly state that plaintiffs previously provided "similar QuickBooks."

It is possible that Plaintiffs have mistakenly thought the document that was transferred by Plaintiffs earlier, to be QuickBook, because Plaintiffs have called this document "QuickBook". Defendants were sincerely mistaken regarding the document they received from

Plaintiffs earlier, and thought it to be a QuickBook report. This just proves once again that Defendants can't distinguish between documents created in "QuickBook" from ones created in other programs.

C. Defendants are not to blame for the loss of their former attorneys.

Plaintiffs say:

"... defendants are to blame for the loss of their former attorneys, they should not be rewarded by gaining access to sensitive, competitive business data that only their attorneys were supposed to see."

As we've shown above, Defendants are not to blame in the fact that Mr. Kogan didn't carry out his duties for a long time, and then abandoned the case, since he probably counted on a fast termination of the case without going to trial, and on receiving a lot of money in this connection.

D. The individual and corporate Defendants are entitled to receive Quickbook, and any other financial documents of Plaintiffs, until any current moment.

Plaintiffs say:

"Third, the pro se defendants have no right to any information after June, 2008, when the parties formed separate, competing businesses. As Ana Bove herself testified, all of the business assets, including intellectual properties, were transferred to the corporate defendants. See Akselrod Declaration, Exhibit 2, P. 153:19 - P. 154:11. The defendants also produced a Certificate of Rights Transfer, by which Ana Bove transferred all of her intellectual property rights to Anna Bove Company, LLC. See Akselrod Declaration, Exhibit 3. It is those corporate defendants, not the pro se defendants, who have standing to bring claims for post June 2008 activity, and those defendants are in default."

We are sure and hopeful that it's only in the desires of Plaintiffs and their lawyers.

Plaintiffs, with the help of the company ABC All Consulting, Inc., have been stealing property (supplies and other), and also money and IP of personal Defendants, throughout many years. All of the property that Plaintiffs have stolen from personal Defendants, is until now being used by Plaintiffs, and they're making profit out of this property. Whatever Plaintiffs earn for these two years, from the means and property of personal Defendants, belongs to personal Defendants. Personal Defendants filed financial claims against Plaintiffs, who up until now are using the property and money of

personal Defendants.

The individual Defendants have sent the Cease & Desist letter to Plaintiffs in May 2008, and it's action didn't expire yet. From the above said it follows that personal Defendants have the right to receive QuickBooks of Plaintiffs for any moment up to the time being.

Except of that, now, as it was before, the corporate defendants are also represented by an attorney.

E. Defendants have never maintained (and don't maintain) QuickBook, therefore have never tried to hide QuickBook.

Plaintiffs state:

"Fourth, ...plaintiffs recently uncovered an e-mail from defendants' accountant with an attachment of the Profit and Loss statement for Anna Bove Company, LLC extracted from QuickBooks to Microsoft Excel. It appears, despite their numerous sworn and unsworn statements to the contrary, that the defendants also have a QuickBooks file which they tried to hide."

Defendants explained earlier that they don't maintain QuickBook, and therefore Defendants simply don't have it. However, Defendants' accountant, during her deposition, transferred to Plaintiffs all of

the documents that Plaintiffs requested from her. Thus, Plaintiffs had a direct opportunity to request any documents from Plaintiffs' accountant, which Plaintiffs were entitled to receive. And most important in all of this issue is that all of Defendants' financial for 2009 were ready only by September 15, 2009, and therefore Defendants couldn't hide any financial documents in April-May 2010, which didn't exist yet.

Plaintiffs, as usual, dissemble when saying:

«As we said in our moving papers, it is plaintiffs that are prejudiced by defendants' incomplete production of financial documents, not the other way around.»

Namely Defendants, and not Plaintiffs, filed Claims about the takeover of their money and property, by Plaintiffs. Namely Defendants, and not Plaintiffs, have filed about Plaintiffs' financial infringements. Namely Defendants, and not Plaintiffs, have uncovered and shown, relying on facts, multiple of Plaintiffs' criminal financial infringements, such as: income concealment, non-payment of taxes, plunders and falsifications of financial accounting. Namely thus Plaintiffs are trying so hard, in any way, to conceal their key financial documents from Defendants' eyes, to deprive both individual and corporate defendants from proofs database of all of these Plaintiffs' infringements.

F. Regarding the "Court-Ordered Audit" and "Dividing the case into two parts" issues:

Plaintiffs say:

"Defendants are Not Entitled to a Court-Ordered Audit... The defendants are certainly free to retain their own expert accountant to review these documents, as litigants typically do in such situations."

Like we've specified earlier, by April 1, 2008 Plaintiffs appeared to hold all of the business accounts and financial means in their hands. Also, Plaintiffs' hands appeared to hold all of the business assets, including Intellectual Property and a variety of merchandize on business warehouses. Except of that, Plaintiffs have grasped the entire database of clients (250,000 people), that was accumulated with great difficulty during many long years. All of the mentioned above was being accumulated in our embroidery business during more than 5 years, and Plaintiffs' unfair financial advantage can't be overestimated, if compared to Defendants, in maintaining this case. Of course, Defendants could hire an experienced accountant of their own, as well as their own expert, and much more things, if Plaintiffs wouldn't grasp all of the above-mentioned property from Defendants.

Namely due to:

- Defendants' financial weakness, which happened due to Plaintiffs' illegal actions; and also
- Due to the endless falsifications and Plaintiffs' false testimony under oath and without it, which significantly influenced the Court's decision regarding Preliminary Injunction, and aggravated the anyway difficult position of Defendants; and also
- Due to the fact that Defendants' lawyer, Mr. Kogan, hasn't been faithfully fulfilling his duties for a long time, and didn't uncover Plaintiffs' lies and falsifications, and didn't respond in an appropriate manner to Plaintiffs' inquiries, which obviously gave hand to prolonging the discovery process, and to the weakening of Defendant's difficult situation even more;

Conclusion

Defendants are very much requesting the Court to appoint an independent financial expertise or Court-ordered audit, and also to divide the case into two parts (a "financial infringements" part and an "IP infringements" part), in order to prevent Defendants of being prejudiced even more. If the Intellectual Property issues would be resolved separately before the other matters, it would be financially easier for Defendants to handle these other matters, or perhaps Defendants could, later on, even abandon their other financial claims.

Defendants are sure that this kind of Court decisions can serve solely the aim of justice, and won't prejudice Plaintiffs in any way. Applying such measures will allow the Court and jurymen, at the time of decision-making, rely on a comprehensive and detailed analysis of professional experts, both regarding IP and finances.

Respectfully submitted,

Ana Bove



October 1, 2010

Dated

cc. Val Mandel