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October 27, 2008

To the Chambers of Honorable Charles P. Sifton  
United States District Court  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: **Vadim Mikhlyn, Inga Mikhlyn and ABC All Consulting, Inc. v. Ana Bove, Polina Dolginov, et al.**  
**Docket No.: 08 CIV. 3367**

Dear Sir or Madam:

This firm represents the plaintiffs in this action.

I am writing in connection with Judge Sifton's Memorandum and Order, dated, October 15, 2008. I noticed that when the Memorandum and Order appears on Lexis, it lists me, Daniel Akselrod, as the lead attorney for plaintiffs (I am enclosing the printouts of the first two pages from Lexis for your reference). Although I did sign some documents in connection with this matter and have done significant work on it, Eric Wertheim of this office was, and is, the lead attorney.

If possible, please correct the Memorandum and Order to indicate that Mr. Wertheim is the lead attorney for plaintiffs.

Respectfully submitted,



Daniel Akselrod

DA/st

cc: Peter L. Berger, Esq. (via fax w/encl.)

2008 U.S. Dist. LEXIS 81617, \*

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**Vadim Mikhlyn, Inga Mikhlyn, and ABC All Consulting, Inc., Plaintiffs, - against -  
Ana Bove, Polina Dolginov, Anna Bove Company, LLC, Anna Bove Collections, Inc.,  
and Anna Bove Embroidery Supplies, Inc., Defendants. Ana Bove, Anna Bove  
Company, LLC and Anna Bove Embroidery Supplies, Inc., Counter-Plaintiffs -  
against - Vadim Mikhlyn, Inga Mikhlyn, and ABC All Consulting, Inc., Counter-  
Defendants**

**08-CV-3367 (CPS)(RER)**

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW  
YORK**

*2008 U.S. Dist. LEXIS 81617*

**October 14, 2008, Decided  
October 15, 2008, Filed**

**COUNSEL:** [\*1] For Vadim Mikhlyn, Plaintiff: Daniel Akselrod, LEAD ATTORNEY, Val Mandel, Val Mandel P.C., New York, NY.

For Inga Mikhlyn, ABC All Consulting, Inc., Plaintiffs: Daniel Akselrod, Val Mandel, Val Mandel P.C., New York, NY.

For Ana Bove, Polina Dolginov, Anna Bove Company, LLC, Anna Bove Collections, Inc., Anna Bove Embroidery Supplies, Inc., Defendants, Counter Claimants: Jonathan Todd Berger, Levisohn Berger LLP, New York, NY.

For Vadim Mikhlyn, Inga Mikhlyn, ABC All Consulting, Inc., Counter Defendants: Val Mandel, Val Mandel, New York, NY.

**JUDGES:** Charles P. Sifton, United States District Judge.

**OPINION BY:** Charles P. Sifton

## OPINION

### MEMORANDUM OPINION AND ORDER

Vadim Mikhlyn ("plaintiff Vadim"), Inga Mikhlyn ("plaintiff Inga"), and ABC All Consulting, Inc. (collectively, "plaintiffs") bring this action against Ana Bove ("defendant Ana"), Polina Dolginov ("defendant Polina"), Anna Bove Company, LLC, Anna Bove Collections, Inc., and Anna Bove Embroidery Supplies, Inc. (collectively, "defendants"). Plaintiffs' complaint alleges that defendants engaged in (1) trademark infringement, in violation of 15 U.S.C. § 1125(a); (2) unfair competition, in violation of 15 U.S.C. § 1125(a); (3) unfair competition, in violation of [\*2] New York General Business Law ("N.Y.G.B.L."), Section 349; (4) libel per se; and (5) conversion. Defendants Ana, Anna Bove Company, LLC, and Anna Bove Embroidery Supplies, Inc. (collectively, "counterclaimants") bring counterclaims against plaintiffs, alleging (1) copyright infringement; (2) trademark infringement, in violation of 15 U.S.C. § 1125(a); (3) unfair competition, in violation of 15 U.S.C. § 1125(a); (4) cybersquatting, in violation of 15 U.S.C. § 1125(d); (5) trademark infringement and unfair competition, in violation of New York Law; (6) violation of the right to privacy, in violation of Article 5, Section 50 of the New York Civil Rights Law and New York common law; (7) bailment and conversion, in violation of New York General Business Law Section 349; (8) breach of contract; (9) unjust enrichment; (10) "money had and received" violations; and (11) unspecified further violations of New York General Business Law Section 349. Counterclaimants also seek (12) an accounting of ABC Inc.; (13) the imposition of a constructive trust; (14) declaratory judgment that defendant Ana is the exclusive owner of all relevant intellectual property and an injunction barring plaintiffs from [\*3] using defendant Ana's intellectual property in any way.

Presently before this Court are plaintiffs' and counterclaimants' cross motions for a preliminary injunction against each other. Plaintiffs seek an order (a) directing that the web sites ABC-Cross-Stitch-Patterns.Com and ABC-Embroidery-Designs.Com be returned to plaintiff Vadim's control; (b) enjoining defendants from using or claiming exclusive ownership of the names "Anna Bove Collections," "ABC-Cross-Stitch-Patterns.com" and