

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NICHOLAS JARECKI, ARBITRAGE LLC, and
ARBITRAGE PSC, INC.

11 CIV 4345

Plaintiffs,

v.

MICHAEL OHOVEN, INFINITY FILMS, LLC, and
INFINITY MEDIA, INC.

Defendants.

NOTICE OF REMOVAL

Civil Action No.:

Supreme Court of the State of
New York

County of New York

Index No.: 650758/11

TO: United States District Court, Southern District of New York.

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants Michael Ohoven (“Ohoven”), Infinity Pictures, LLC, (“Infinity Pictures”), incorrectly named as Infinity Films, LLC, and Infinity Media, Inc. (“Infinity Media”) (collectively “Defendants”), by and through their attorneys, Nixon Peabody LLP, hereby remove this action to the United States District Court for the Southern District of New York. Defendants respectfully state the following grounds for removing this action:

1. Ohoven, Infinity Pictures and Infinity Media are defendants in a civil action entitled *Nicholas Jarecki, Arbitrage LLC and Arbitrage PSC, Inc. v. Michael Ohoven, Infinity Films, LLC, and Infinity Media, Inc.*, Index No. 650758/11, pending in the Supreme Court of the State of New York, County of New York (“State Court Action”).

2. Plaintiffs Nicholas Jarecki (“Jarecki”), Arbitrage LLC, and Arbitrage PSC, Inc. (collectively “Plaintiffs”) filed the Complaint in the State Court Action in the Supreme Court of the State of New York, County of New York on or about June 2, 2011. See Complaint, annexed hereto as Exhibit “A.”

3. Defendants received a copy of the Complaint in the State Court Action on June 6, 2011.

4. Under 28 U.S.C. § 1446(b), this removal is timely. This Notice of Removal is being filed within thirty (30) days of Defendants' receipt of the Complaint.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because the State Court Action is pending in the Supreme Court of the State of New York, County of New York.

6. Pursuant to 28 U.S.C. § 1446(a), Defendants annex hereto as Exhibit "B" a copy of all "process, pleadings, and orders" served on Defendants in this action to date.

7. Plaintiff Arbitrage LLC is a limited liability company that is organized under the laws of the State of Delaware, and maintains its principal place of business in New York, New York. See Exhibit A.

8. Plaintiff Arbitrage PSC is a corporation incorporated under the laws of the State of New York, which maintains its principal place of business in New York, New York. See Exhibit A.

9. Plaintiff Jarecki resides in the State of New York. See Exhibit A.

10. Defendant Infinity Pictures is a corporation incorporated under the laws of the State of California, with its principal place of business in California. In addition, Infinity Pictures's sole office is located at 3940 Laurel Canyon Boulevard, Suite 100, Studio City, CA 91604.

11. Defendant Infinity Media is a corporation incorporated under the laws of the State of California, with its principal place of business in California. In addition, Infinity Media's sole office is located at 3940 Laurel Canyon Boulevard, Suite 100, Studio City, CA 91604.

12. Defendant Ohoven is a citizen of the State of California, and resident of Los Angeles County, California.

13. The Complaint in the State Court action alleges damages in excess of \$1,250,000. See generally Exhibit A. The matter in controversy is at least \$75,000, exclusive of interests and costs, and is between citizens of different state within the meaning of 28 U.S.C. § 1332(a)(1). Therefore, this Court has jurisdiction of this action pursuant to 28 U.S.C. § 1332(a)(1), and removal of this action is proper pursuant to 28 U.S.C. § 1441.

14. By removing this action, Defendants do not waive any rights, claims or defenses. Defendants expressly preserve their rights to assert any and all jurisdictional or other defenses.

15. Pursuant to 28 U.S.C. § 1446(d), Defendants shall promptly give plaintiffs written notice of the filing of this Notice of Removal, and Defendants shall file written notice of having filed this Notice of Removal with the clerk of the Supreme Court of the State of New York, County of New York, attaching thereto a copy of this Notice of Removal.

16. This action is related, and in fact, quite similar, to a Complaint for Declaratory Judgment, Index No. 1:11-cv-02002, heard and transferred to the Central District of California by the Honorable George B. Daniels on June 16, 2011. See Judge Daniels's Order, annexed hereto as Exhibit "C." Each case centers on an alleged copyright in a Screenplay and Film, both entitled *Arbitrage*, purported to be held by Plaintiffs. Plaintiff Jarecki's first Declaratory Judgment action and the new claims for Slander of Title, Tortious Interference with Business Contacts, and Declaratory Judgment rely wholly on the same nexus of fact, namely, statements allegedly made by Defendants to Plaintiffs' own attorney, Linda Lichter, and to third parties, Gregg Trattner of Film Finances, Inc. and Jeffrey Berg, an agent from International Creative Management. As Judge Daniels understood when he transferred the first Declaratory Judgment

action for lack of personal jurisdiction, every operative fact there took place in California. See Exhibit C. The facts here in the new Slander, Tortious Interference, and Declaratory Judgment claims are no different—they all rely on the same California facts as the previous case. Therefore, Judge Daniels, having experience with the first, related case, is best suited to hear the current action.

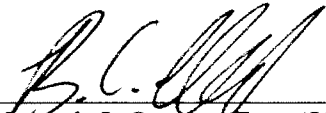
WHEREFORE, Defendants Ohoven, Infinity Pictures, and Infinity Media respectfully remove the matter styled as *Nicholas Jarecki, Arbitrage LLC and Arbitrage PSC, Inc. v. Michael Ohoven, Infinity Films, LLC, and Infinity Media, Inc.*, Index No. 650758/11, which is currently pending in the Supreme Court of the State of New York, County of New York, to this Court and respectfully requests that the matter proceed in this Court as an action properly removed thereto.

Dated: June 27, 2011
Jericho, New York

Respectfully submitted,

NIXON PEABODY LLP

By: _____


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*Attorneys for Plaintiffs Nicholas Jarecki,
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EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----	X	
NICHOLAS JARECKI, ARBITRAGE	:	
LLC and ARBITRAGE PSC, INC.,	:	
	:	Index No.: 650758/11
Plaintiffs,	:	
	:	
vs.	:	
	:	<u>COMPLAINT</u>
MICHAEL OHOVEN, INFINITY	:	
FILMS, LLC and INFINITY MEDIA, INC.	:	
	:	
Defendants.	:	
-----	X	

Plaintiffs Nicholas Jarecki (“Jarecki”), Arbitrage LLC (“Arbitrage LLC”) and Arbitrage PSC, Inc. (“Arbitrage PSC,” together Arbitrage LLC and Jarecki, “Plaintiffs”), by their undersigned counsel, allege as follows, based upon knowledge as to their own acts and upon information and belief as to all others:

NATURE OF THE ACTION

1. Plaintiffs bring this action for injunctive relief, declaratory relief, and compensatory and punitive damages against Defendants Michael Ohoven, Infinity Media, Inc. and Infinity Films, LLC (collectively, “Defendants”). The claims in this case arise from Defendants false claims to ownership and contractual rights in connection with a motion picture (the “Picture”) and underlying screenplay (the “Screenplay”) entitled *Arbitrage*, both of which are owned solely by Plaintiffs. Defendants have communicated these false claims to third parties in attempts to frustrate Plaintiffs’ ability to finance, produce and distribute the Picture. By asserting these false claims, Defendants have slandered Plaintiffs’ title to the rights in the Work and have interfered with Plaintiffs’ contractual and prospective business relationships. Defendants have also falsely asserted that Plaintiffs have breached contractual and other

obligations owing to Defendants by Plaintiffs' (i) refusal to transfer rights in the Screenplay to Defendants; (ii) termination of negotiations with Defendants; and (iii) production and exploitation of the Picture without Defendants involvement.

THE PARTIES

2. Plaintiff Jarecki resides in the State of New York.

3. Plaintiff Arbitrage LLC is a limited liability company that is organized under the laws of the State of Delaware, and maintains its principal place of business in New York, New York.

4. Plaintiff Arbitrage PSC is a corporation incorporated under the laws of the State of New York, which maintains its principal place of business in New York, New York.

5. Defendant Infinity Media, Inc. ("Infinity Media") is a corporation incorporated under the laws of the State of California

6. Defendant Infinity Pictures, LLC ("Infinity Pictures") is a limited liability company organized under the laws of the state of California.

7. Upon information and belief, Defendant Michael Ohoven ("Ohoven") is a citizen of the State of California. Ohoven is the Chief Executive Officer of Infinity Media and Infinity Pictures.

JURISDICTION AND VENUE

8. This Court has personal jurisdiction over all defendants pursuant to Sec. 302 of the New York Civil Practice Law and Rules ("CPLR") because, through an agent, Defendants (i) transacted business in New York and (ii) committed tortious acts outside New York causing injury to Plaintiffs in New York.

9. Venue is proper in this Court pursuant to Sec. 503 of the CPLR because Jarecki resides in this county.

FACTUAL ALLEGATIONS

10. Jarecki is a successful author, screenwriter, and feature film director. Jarecki wrote the Screenplay and is the director and one of the producers of the Picture. The Picture, which features Richard Gere, Susan Sarandon and Tim Roth, is the story of a hedge fund manager, played by Mr. Gere, who faces increasing jeopardy as he races against the clock to sell his business before law enforcement and business partners discover a massive fraud. Plaintiffs completed principal photography for the Picture in New York City on May 27, 2011.

11. On or about March 20, 2011, Jarecki granted motion picture adaptation rights in and to the Screenplay to Plaintiff Arbitrage LLC to facilitate production of the Picture. True and correct copies of Jarecki's application for copyright registration for the Screenplay and a printout from the U.S. Copyright Office confirming acceptance of such registration are attached hereto as **Exhibit A**.

12. On parallel tracks, between February and December 2010, Jarecki and Defendants pursued the possibility of producing the Picture in New York and attempted to negotiate rights, services and compensation deals between them. Messrs. Jarecki and Ohoven shared an understanding that if they did reach agreement, Mr. Ohoven would finance and produce, and Mr. Jarecki would direct the Picture from his Screenplay.

13. Messrs. Jarecki and Ohoven shared the further understanding that they would not be bound to any agreement between them unless and until they reached an overall agreement between them on all material matters required to take the Picture from script to completed motion picture, including without limitation:

- The creation of a special purpose entity to hold rights and produce the Picture (the “SPV”);
- The allocation of ownership of the SPV among Messrs. Jarecki and Ohoven (which would translate to ownership of the Picture);
- Principal cast for the Picture;
- Mr. Jarecki’s transfer of rights to the SPV;
- The terms on which Mr. Ohoven would provide financing;
- Mr. Ohoven’s producing agreement;
- Mr. Jarecki’s writing agreement; and
- Mr. Jarecki’s directing agreement.

14. Mr. Ohoven assured Mr. Jarecki that he would be able to put together a combination of bank financing, which would be collateralized by presales of rights in the Picture, equity financing, which would be provided by Defendants, and tax incentives, which would be funded by the State and City of New York. Mr. Ohoven repeatedly assured Mr. Jarecki that these funds would be available, sufficient to fund the picture’s budget, and that he would personally commit at least \$ 2 million in equity financing.

15. Despite not having agreed to terms, Mr. Jarecki and Defendants began making preparations to film the Picture in New York in late 2010 or early 2011. Mr. Jarecki and the Defendants pursued different aspects of pre-production, with the understanding that if they reached an agreement to produce the Picture together, each of Plaintiff and Defendants would contribute their efforts and contracts to the SPV.

16. In April 2010, Mr. Jarecki secured Al Pacino’s interest in starring in the Picture when he personally gave him a copy of the Screenplay. While Mr. Ohoven had a copy of Mr.

Jarecki's Screenplay since February, Mr. Ohoven did not pay significant attention to the project until April, after Mr. Jarecki had secured Mr. Pacino's interest.

17. Mr. Ohoven told Mr. Jarecki that he would engage a foreign sales agent to pre-sell certain rights in the Picture (an essential step in financing the Picture), but was unable to secure one. Accordingly, Mr. Jarecki secured Parlay Pictures, a well-regarded sales agent, which, on the strength of the Screenplay and cast, successfully pre-sold rights in a number of foreign territories.

18. Defendants engaged a New York casting agent, who began casting New York based actors for the Picture.

19. Throughout the summer and fall of 2010, Mr. Jarecki requested that Mr. Ohoven provide a detailed financing plan. While Mr. Ohoven offered a general overview of how the various debt, equity and tax credit components would fund the budget, at no time did Mr. Ohoven produce a comprehensive plan that tied specific funding sources to specific categories of financing. In November 2010, after Parlay had successfully secured several million dollars in pre-sale commitments, the need to finalize a financing became critical, and Mr. Jarecki again asked Mr. Ohoven and Infinity's consultant, Andrew Mann, for Infinity to commit to a detailed financing plan that identified sources of funds, tied them to an agreed budget, and reflected Mr. Ohoven's promised \$2 million.

20. In response to Mr. Jarecki's finance questions, both Mr. Ohoven and Mr. Mann insisted – repeatedly and aggressively -- that Mr. Jarecki transfer rights in the Screenplay to Infinity before Defendants would commit to a financing plan. Mr. Jarecki, reiterated that he would not grant rights to Infinity until the parties agreed to all terms of their proposed collaboration, and Defendants committed to a viable financing plan.

21. Instead of addressing Mr. Jarecki's concerns, Mr. Ohoven, proposed a series of increasingly bizarre financing strategies. Mr. Ohoven proposed accepting equity financing that he claimed had been offered by a fund controlled by Al Saadi Gaddafi, the son of Libyan dictator, Muammar el Gaddafi. Mr. Ohoven also insisted that primary shooting locations be moved from New York to Louisiana, where he said they could collect more tax credit funds through what he termed "round trip producer fees" – overstating actual producer fees in tax filings, returning the overstated portion of such fees to the production, and claiming entitlement to tax credit funds based on the overstated amount.

22. Because Mr. Jarecki was concerned about the legality of using funds from Mr. Gaddafi, as well as the association with Libya's notorious dictator, Mr. Jarecki rejected Mr. Ohoven's Gaddafi proposal. Because he considered New York City to be an essential element of the Picture, and did not want to participate in what he believed were questionable tax practices, Mr. Jarecki also rejected Defendants' Louisiana proposal.

23. As Mr. Ohoven's proposals became more and more desperate, it became apparent to Mr. Jarecki that Defendants did not have or would not commit the promised \$2 million of equity financing for the Picture.

24. Mr. Pacino's agent told Mr. Jarecki that he was agitated that the Picture did not appear to be progressing and that Mr. Pacino's overdue fee had not yet been escrowed (a condition of his commitment and reservation of production time). Mr. Jarecki told Mr. Pacino's agent about Mr. Ohoven's proposals to move the production to Louisiana and bring in Mr. Gaddafi.

25. On December 2, 2010, Mr. Pacino's agent telephoned Mr. Ohoven and told him that he had three problems -- (i) Mr. Pacino would not shoot the Picture in Louisiana, and he had

never indicated anything to the contrary; (ii) he did not believe that Mr. Ohoven had funds for Mr. Pacino's escrow; and (ii) it seemed that Mr. Ohoven had a personal problem with Mr. Jarecki. He told Mr. Ohoven that these problems had to be cleared up immediately, or Mr. Ohoven would have to withdraw from the Picture.

26. On December 3, 2010, Mr. Ohoven called Mr. Pacino's agent, and told him that he had withdrawn from the Picture.

27. The same day, Mr. Jarecki reached out to Mr. Ohoven and offered to fund \$1.5 million in equity personally, the repayment of which would be subordinated to Mr. Ohoven's \$2 million, provided that the production would shoot in New York. Mr. Ohoven responded that he would only consider that proposal after Mr. Jarecki signed over rights in the Screenplay.

28. Mr. Jarecki did not transfer rights in the Screenplay to Defendants, and pursued financing without Defendants involvement.

29. Mr. Ohoven telephoned Mr. Pacino's agent the following week, told him that he was owed a lot of money, and would "make trouble."

30. By March 2011, Mr. Jarecki successfully replaced Mr. Pacino with Mr. Gere as the lead actor, formed two special purpose entities to facilitate production of the Picture (Plaintiffs Arbitrage LLC and Arbitrage PSC), and secured commitments for all of the financing necessary to fund the Picture's budget. .

31. Among the financing commitments secured by Mr. Jarecki was a loan facility provided by Union Bank of California. The loan facility is collateralized by all receivables due on account of the Picture, and all rights in the Picture. As is customary in motion picture financing transactions, Union Bank conditioned its financing on Plaintiffs securing a completion

bond that insures against the risk that Plaintiffs would complete the Picture on time, on budget. Plaintiffs secured a completion bond from Film Finances, Inc. (“FFI”).

32. On March 3, 2011, Travis Mann, Esq., in-house counsel for Defendants Infinity Media and Infinity Films sent a letter (the “March Letter”, annexed hereto as **Exhibit B**) to Linda Lichter, one of Mr. Jarecki’s attorneys, demanding that “Jarecki cease and desist from the development and/or production of the Picture.” Mr. Mann further contended that:

[Infinity and Jarecki] entered into an option agreement granting Infinity rights in and to the Picture and the underlying material for the Picture, entered into a financing agreement granting Infinity other rights in connection with the financing of the Picture (including the right to match other third party financing offers) entered into a sales agency agreement and multiple distribution agreements in connection with the worldwide exploitation of the Picture, entered into Production contracts with certain crew members engaged to render services on the Picture, engaged in active preproduction of the Picture, and made pay or play offers to actors for their services.

33. Mr. Mann further alleges that Jarecki’s production of the Picture without Defendants: “constitute[s] a breach of his agreements with Infinity, tortious interference with contractual relations with respect to Infinity’s fully executed distribution agreements and crew agreements in connection with the Picture”

34. The central allegation of the March Letter – that Jarecki had formed an agreement with Infinity Media or Infinity Films is demonstrably false. Messrs. Mann and Ohoven knew that neither Infinity entity had formed an agreement with Mr. Jarecki, as demonstrated by their insistence that Mr. Jarecki transfer rights in the Screenplay and Picture to Infinity *despite Infinity’s inability to finance the Picture.*

35. Based on their experience with financing independent films, Mr. Mann and Mr. Ohoven knew or should have known that under the terms of the applicable financing agreements, Jarecki would be required to share the March Letter with Union Bank, FFI and Mr. Jarecki’s

other investors. Accordingly, Defendants sent the March Letter with the intent that their claims be communicated to Union Bank, FFI and Mr. Jarecki's investors.

36. Moreover, in an attempt to prevent financing for the Picture from closing, Mr. Mann and other representatives of Infinity telephoned Greg Trattner, an executive with FFI and reportedly told him that they would "cause trouble". Defendants deliberately chose to communicate their false claims to FFI because FFI's bond is a condition of and is issued for the benefit of Union Bank and is relied on by all of the Picture's investors and distributors. By communicating to FFI, Infinity knew that its false claims would be quickly communicated to all of the Picture's financiers and distributors, and intended that those false claims would interfere with investors' decisions to finance, and distributors' decisions to implement distribution activities.

37. Defendants further communicated their false claims of ownership of and association with the Picture by citing the Picture on their website as one of their films "in development."

38. Plaintiffs were unable to close their financing as expected in March 2011. Ultimately, they closed with Union Bank, FFI and their equity financiers only after incurring significant additional legal fees in evaluating and explaining Defendants claims to their financiers, agreeing to increased bank fees and a higher interest rate, and binding an expensive insurance policy. None of these costs would have been necessary but for Defendants' wrongful conduct.

39. Plaintiffs successfully completed principal photography for the Picture in New York City, during a six week period that ended on May 27, 2011.

40. Plaintiffs are now focused on soliciting and completing additional sales for the Picture. Based on Defendants' past conduct and refusal to retract false statements that they have an ownership interest in the Picture and that Plaintiffs have breached contractual and other obligations, Plaintiffs face an imminent threat that Defendants will continue to interfere with exploitation of the Picture.

FIRST CAUSE OF ACTION
(Slander of Title)

41. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 39 above as if fully set forth herein.

42. By the March Letter, phone calls to FFI and statements on their website, Defendants deliberately and unjustifiably communicated to third parties claims to ownership and rights in the Work, thereby falsely casting doubt on the validity of Plaintiffs' ownership in and to all rights in the Work.

43. Defendants' communications were purposefully calculated to cause harm to Plaintiffs because, among other things, they interfered with Plaintiffs' ability to complete production financing and other formalities necessary to begin principal photography on the Film, causing delays and increased costs.

44. Defendants have no rights in or to the Work and acted out of animosity toward Jarecki because he produced the Picture without the involvement of Defendants.

45. By reason of the foregoing, Plaintiffs have incurred actual damages in an amount to be proved at trial, but in no event less than \$250,000.

46. Plaintiffs are entitled to exemplary damages in an amount to be proved at trial, but in no event less than \$1,000,000.

SECOND CAUSE OF ACTION
(Tortious Interference With Prospective Business Relations)

47. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 45 above as if fully set forth herein.

48. Plaintiffs have enjoyed positive business relationships with Union Bank, FFI Wild Bunch GmbH, Svensk Filmindustri, Italia Film International and many other motion picture distributors throughout the World. Plaintiffs have every expectation that their business relations with Union Bank, FFI, Wild Bunch GmbH, Svensk Filmindustri, Italia Film International and many other motion picture distributors will continue through the post production and sales / festival periods for the Picture, and the foreseeable future.

49. At all relevant times, Defendants knew of Plaintiffs' business relations with Union Bank and FFI.

50. At all relevant times, Defendants knew and continue to know of Plaintiffs' business relations with motion picture distributors throughout the World.

51. Defendants intentionally interfered with Plaintiffs' business relations with Union Bank, FFI and Plaintiffs' distributors and prospective distributors by, among other things, sending the March Letter, placing phone calls to FFI and claiming their association with the Picture on Defendants' website, in which Defendants made false claims of rights in and to the Work and false accusations of Plaintiffs' breach of purported contractual and other obligations owed to Defendants. These statements were false and defamatory, and therefore wrongful, illegal, and improper.

52. Defendants' conduct substantially injured Plaintiffs' relationships with Union Bank, FFI, and Plaintiffs' existing distributors. Moreover, Defendants' unretracted statements

will substantially injure Plaintiffs' relationships with prospective distributors and licensors for the Picture.

53. Defendants' intentional conduct in interfering with Plaintiffs' business relationships was done for the purpose of harming Plaintiffs, by frustrating their ability to complete financing for the Picture and to license the Picture for worldwide distribution.

54. Defendants have no economic interest in the business relations between Plaintiffs and Union Bank or FFI or with any other business relationship that Plaintiffs have currently, or may have in the future, relating to the Picture. Defendants have acted purely out of animosity toward Jarecki he produced the Picture without the involvement of Defendants.

55. By reason of the foregoing, Plaintiffs have been damaged in an amount to be determined at trial, but in no event less than \$250,000.

56. Plaintiffs are further entitled to equitable relief directing Defendants to refrain from such conduct to prevent further irreparable injury.

THIRD CAUSE OF ACTION
(Declaratory Judgment)

57. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 55 above as is fully set forth herein.

58. Plaintiffs seek a declaration pursuant to CPLR §3001 that none of them have breached any contractual or other obligation or duty owing to Defendants by (i) refusing to transfer rights to Defendants; (ii) terminating negotiations with Defendants with respect to the Picture; or (iii) by producing and exploiting the Picture without the involvement of any of the Defendants.

59. Because Defendants claim that Plaintiffs have breached contractual and other obligations owing to Defendants by refusing to transfer rights to Defendants, terminating negotiations with Defendants with respect to the Picture, and by producing and exploiting the Picture without the involvement of any of the Defendants, an actual and justiciable controversy exists involving the legal rights of Plaintiff Jarecki against Defendants. A declaratory judgment resolving this question will clarify the legal rights of the parties to this action.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- A. Actual damages in an amount to be determined at trial, but not less than \$250,000;
- B. Punitive damages in an amount to be determined at trial, but in no event less than \$1,000,000;
- C. Preliminary and permanent injunctive relief preventing Defendants from further claiming rights to and in the Work and from claiming that Plaintiffs owe them any contractual or other obligations;
- D. A judicial declaration that none of the Plaintiffs has breached any contractual or other obligations owing to Defendants in refusing to grant rights in the Work to Defendants, terminating negotiations with Defendants after Defendants withdrew from the Picture, and by producing and exploiting the Picture without the involvement of any of the Defendants.
- E. Plaintiffs' costs incurred in bringing this action, plus reasonable attorneys' fees; and
- F. Such other and further relief as the Court deems appropriate.

Dated: New York, New York
June 2, 2011

RITHOLZ LEVY SANDERS
CHIDEKEL & FIELDS LLP

By: 

Jeff Sanders

Justin Leitner

235 Park Avenue South, 3rd Floor
New York, New York 10003
(212) 448-1800

*Attorneys for Plaintiffs Nicholas Jarecki, Arbitrage
LLC and Arbitrage PSC, Inc.*

EXHIBIT A

-APPLICATION-

Title _____

Title of Work: Arbitrage

Completion/Publication _____

Year of Completion: 2011

Author _____

Author: Nicholas Jarecki

Author Created: text

Work made for hire: No

Citizen of: United States

Domiciled in: United States

Year Born: 1979

Copyright claimant _____

Copyright Claimant: Nicholas Jarecki

77 White Street #1, New York, NY, 10013

Rights and Permissions _____

Name: Nicholas Jarecki

Email: nick@greenroomfilma.net

Telephone: 323-992-4350

Address: 77 White Street #1

New York, NY 10013

Certification _____

Name: Nicholas Jarecki

Date: February 18, 2011

Registration #:

Service Request #: 1-570174021

Priority: Routine

Application Date: February 18, 2011 02:21:08 PM

Correspondent _____

Name: Nicholas Jarecki

Email: nick@greenroomfilms.net

Telephone: 323-992-4350

Address: 77 White Street #1
New York, NY 10013 United States

Mail Certificate _____

Nicholas Jarecki
77 White Street #1
New York, NY 10013 United States



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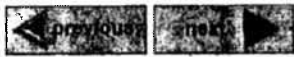
Public Catalog

Copyright Catalog (1978 to present)
Search Request: Left Anchored Title = arbitrage
Search Results: Displaying 1 of 38 entries



Arbitrage.

Type of Work: Dramatic Work and Music; or Choreography
Registration Number / Date: PAu003543850 / 2011-02-18
Application Title: Arbitrage.
Title: Arbitrage.
Description: Electronic file (eService)
Copyright Claimant: Nicholas Jarecki, 1979- . Address: 77 White Street #1, New York, NY, 10013.
Date of Creation: 2011
Authorship on Application: Nicholas Jarecki, 1979- ; Domicile: United States; Citizenship: United States.
 Authorship: text.
Rights and Permissions: Nicholas Jarecki, 77 White Street #1, New York, NY, 10013, (323) 992-4350,
 nick@greenroomfilms.net
Names: Jarecki, Nicholas, 1979-



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EXHIBIT B



INFINITY

M E D I A

VIA EMAIL AND CERTIFIED MAIL

March 3, 2011

Linda Lichter, Esq.
Lichter, Grossman et al.
9200 West Sunset Blvd., Suite 1200
Los Angeles, CA 90069

Re: Arbitrage; Infinity v. Nick Jarecki

Dear Ms. Lichter:

I am writing on behalf of Infinity Pictures LLC ("Infinity") regarding the motion picture project "Arbitrage" (the "Picture"). Over the past 18 months, Infinity developed the Picture with your client Nick Jarecki ("Jarecki"), entered into an option agreement granting Infinity rights in and to the Picture and the underlying material for the Picture, entered into a financing agreement granting Infinity other rights in connection with the financing of the Picture (including the right to match other third party financing offers), entered into a sales agency agreement and multiple distribution agreements in connection with the worldwide exploitation of the Picture, entered into production contracts with certain crew members engaged to render services on the Picture, engaged in active preproduction of the Picture, and made pay or play offers to actors for their services on the Picture.


Many of these agreements are fully executed, while others are written or oral, but all have been either fully or partially performed, and Infinity has proceeded in good faith reliance on each and every one of them. Moreover, these agreements were all entered into, and these activities by Infinity were all undertaken, with the full knowledge, cooperation, encouragement and express, prior written approval of Jarecki.

Now it has come to Infinity's attention that Jarecki is attempting to proceed with the Picture to the exclusion of Infinity. Even worse, Jarecki is attempting to proceed with the Picture utilizing the producing services of Kevin Turen ("Turen"), Infinity's former President of Production - the very executive who developed the Picture as a work made for hire and pursuant to his engagement with Infinity.

Infinity Media, Inc.
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INFINITY

MEDIA

Internal research of company correspondence has revealed a clandestine plan between Jarecki and Turen - a bad faith conspiracy to replace Infinity as the Picture's producer and financier. While Turen was acting as Infinity's President of Production and Jarecki was supposedly negotiating his directing agreement for the Picture with Infinity in good faith, these two were instead plotting together behind-the-scenes to exclude Infinity from the development and production of the Picture, while simultaneously using Infinity's commitment to the Picture, as well as its professional reputation, its office space, its resources and its contacts within the motion picture industry, in an attempt to obtain alternate financing for the Picture that would be more advantageous and convenient to them personally.

Worse yet, Jarecki damaged Infinity's professional reputation and Michael Ohoven's personal and professional reputation by slandering them both, claiming publicly that Infinity failed to perform its financial obligations required under the option and financing agreements. Yet any such claims are patently and demonstrably false, because Jarecki preemptively breached these agreements, walking away from Infinity's option and financing agreement without first giving Infinity an opportunity to perform or even requesting an assurance of performance.

These acts by Jarecki constitute a breach of his agreements with Infinity, tortious interference with contractual relations with respect to Infinity's fully-executed distribution agreements and crew agreements in connection with the Picture, tortious interference with Infinity's prospective economic advantage with respect to producing and financing the Picture, as well as tortious interference with prospective economic advantage and interference with contractual relations resulting from Infinity's damages to its other ongoing film projects that have, may, or will suffer damages as a result of Jarecki's conspiracy with Turen to leave Infinity to produce the Picture with Jarecki.

In addition, to the extent that Jarecki, Turen and/or other third parties rendered services in connection with the Picture as a work made for hire for Infinity and/or were compensated by Infinity for their services in connection with the Picture, Infinity has an ownership interest in the results and proceeds of such services and the underlying property rights in and to the Picture, including, without limitation, an ownership interest in the screenplay.

Infinity Media, Inc.
1817 N. Orange Grove Ave.
Los Angeles, CA 90046
P: 323-415-8966
F: 323-415-8777

1101 Avenue of the Stars

90068-4111

Woodland Hills, CA 91367

1101 Avenue of the Stars

90068-4111

Woodland Hills, CA 91367



INFINITY

M E D I A

Accordingly, demand is hereby made that Jarecki immediately cease and desist from the development and/or production of the Picture, and that Jarecki immediately cease and desist from making further defamatory statements regarding Infinity and/or Michael Ohoven. Any failure to do so will only increase the amount of damages already suffered by Infinity and Mr. Ohoven in connection with this matter. It will also force Infinity to seek immediate, emergency injunctive and equitable relief in connection with this matter.

If we do not receive confirmation from you within the next five (5) business days that Jarecki will honor his obligations to Infinity in connection with this matter, including, without limitation, his obligation to accord production credits for Infinity, producer credits for Michael Ohoven, producing fees for Infinity, backend participation in the Picture for Infinity, and reimbursement to Infinity of Infinity's costs incurred on the Picture to date, we will have no choice but to pursue all available legal and equitable claims against Jarecki, the production company, and any appropriate related or affiliated third parties involved with the Picture.

Nothing contained herein is meant to be, nor should it be construed as, a waiver of any of Infinity's rights or remedies, all of which are hereby expressly reserved.

Very truly yours,

Travis Mann, Esq.
for Infinity Pictures LLC

cc: Michael Ohoven

Infinity Media Inc
1517 N Orange Grove Ave
Los Angeles, CA 90046
P: 323 248-8900
F: 323 518-6727

Incorporated in the State of
California
Century City, CA 90067

F: 323 248-8161
S: 323 248-8161

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----	X	
NICHOLAS JARECKI, and	:	Index No.
ARBITRAGE PSC, INC.	:	Date purchased
	:	
Plaintiffs,	:	Plaintiffs designate New York County as the place of trial
	:	
- against -	:	The basis of the venue is that Plaintiff resides in the
	:	County of New York.
	:	
MICHAEL OHOVEN, and	:	SUMMONS WITH NOTICE
INFINITY MEDIA, INC.	:	
	:	Plaintiff resides at 77 White Street #1, County of New
Defendants.	:	York
	:	
	:	
	:	
	:	
-----	X	

To Above-Named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear, judgment will be entered against you by default for the relief demanded below.

Notice:

Plaintiffs assert claims for slander of title, tortious interference with contract, tortious interference with prospective economic advantage and business relationships, and declaratory judgment that they have not breached any obligations owing to Defendants. The claims in this case arise from certain discussions and occurrences relating to the development and production of a motion picture that is solely owned by plaintiff Nicholas Jarecki. The screenplay and

development materials relating to the picture (collectively, the "Work"), depicts a New York based hedge fund manager and is scheduled to begin principal photography in New York on April 11, 2011. The defendants have publicly asserted false claims to ownership to rights in the Work, and have communicated such claims to third parties in attempts to frustrate plaintiffs ability to produce the picture. Defendants have also asserted that plaintiff Jarecki has breached contractual and other obligations owing to defendants by refusing to transfer certain rights in the Work to defendants.

Plaintiff Jarecki is the sole owner in and to all rights in the Work, and is in the process of assigning it to plaintiff Arbitrage LLC, a Delaware LLC doing business in New York. By asserting false claims to ownership of the Work, the Defendants have slandered title to the rights associated with the Work and interfered with plaintiffs' prospective business relationships in the process of being developed for purposes of shooting the movie. Such interference is preventing completion of pre-production formalities that are necessary for plaintiffs to begin principal photography. Defendants' interference will cause monetary damages, and is likely to cause irreparable injury by threatening the principal actors' continued participation in the production. Plaintiffs are seeking a declaratory judgment that plaintiffs have not breached any contractual or other duty owing to defendants in refusing to grant rights in the Work to defendants; injunctive relief in order to prevent associated irreparable injury; and monetary damages in the amount of \$500,000 for interference with prospective business relationships and slander of title.

Upon your failure to appear, judgment will be taken against you by default for the sum of \$500,000 with interest from no later than March 21, 2011 and the costs of this action.

Defendants' Address:

Michael Ohoven, and
Infinity Media Inc.
1517 North Orange Grove Drive

Los Angeles, CA 90046

Dated: New York, New York
March 21, 2011

DECHERT LLP

By: Laura E. Meehan

Earl H. Nemser

Gary J. Mennitt

Laura E. Meehan

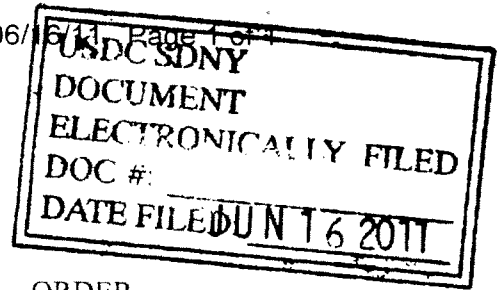
1095 Avenue of the Americas

New York, New York 10036

(212) 698-3500

Attorneys for Plaintiffs

EXHIBIT C



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NICHOLAS JARECKI, an individual,

Plaintiff,

-v-

MICHAEL OHOVEN, an individual, and
INFINITY MEDIA, INC., a California
Corporation,

Defendants.

ORDER

11 CV 2002 (GBD)

GEORGE B. DANIELS, District Judge:

Defendants' motion to transfer this case for lack of personal jurisdiction is GRANTED.

This case is ordered transferred to the United States District Court for the Central District of California.

Dated: New York, New York
June 16, 2011

SO ORDERED:

George B. Daniels
GEORGE B. DANIELS
United States District Judge