

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

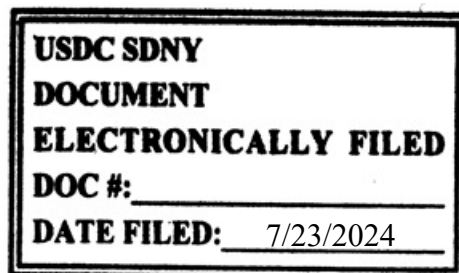
DAVIS LOUIS WHITEHEAD,

Plaintiff,

-against-

THE WALT DISNEY COMPANY, et al.,

Defendants.



24-CV-02283 (MMG)

ORDER

MARGARET M. GARNETT, United States District Judge:

Plaintiff, who is *pro se*, commenced this action against The Walt Disney Company, Hulu, and National Geographic Corporation on March 21, 2024, and paid the requisite filing fees. *See* Dkt. No. 1. On June 18, 2024, this Court granted Plaintiff's motion for an extension of time to serve Defendants and further directed the Clerk of Court to issue summonses as to Defendants The Walt Disney Company, Hulu, and National Geographic Corporation. Dkt. No. 12.

On July 18, 2024, Plaintiff filed a "motion for injunctive relief relating to Attorney William Hughey possibly defrauding Plaintiff out of \$12 million dollars" and requests that the Court "order [the] FBI to provide information to [the] US Attorney for Southern District of New York for dissemination to the Court relating to judicial review[.]" Dkt. No. 13 at 1. Although Plaintiff requests injunctive relief against an individual named William Hughey, Mr. Hughey is not a party to this action.

I. LEGAL STANDARD

A preliminary injunction "is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Grand River Enter. Six Nations, Ltd. v. Pryor*, 481 F.3d 60, 66 (2d Cir. 2007) (per curiam) (internal quotation marks omitted). To obtain preliminary injunctive relief, a party must show: "(1) a likelihood of

success on the merits . . . ; (2) a likelihood of irreparable injury in the absence of an injunction; (3) that the balance of hardships tips in the plaintiff’s favor; and (4) that the public interest would not be disserved by the issuance of an injunction.” *Benihana, Inc. v. Benihana of Tokyo, LLC*, 784 F.3d 887, 895 (2d Cir. 2015) (internal quotation marks omitted).

Failure to demonstrate any of the above factors is fatal to the request for relief. *See Victorio v. Sammy’s Fishbox Realty Co., LLC*, No. 14 Civ. 8678(CM), 2014 WL 7180220, at *4 (S.D.N.Y. Dec. 12, 2014). “When considering a motion for a preliminary injunction, unlike a motion to dismiss, the Court need not accept as true the well-pleaded allegations in Plaintiff[’s] complaint.” *Nat’l Coalition on Black Civic Participation v. Wohl*, 498 F. Supp. 3d 457, 469 (S.D.N.Y. 2020). Each party seeking the injunction carries the burden of persuasion and must demonstrate “*by a clear showing*” that the necessary elements are satisfied. *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original). “These standards apply with equal force where defendants have not appeared and the motion for a preliminary injunction is unopposed.” *Roku Inc. v. Individuals, Corps., Ltd. Liab. Corps., P’Ships, & Unincorporated Ass’ns*, No. 22-cv-00850, 2022 WL 1598208, at *2 (S.D.N.Y. May 20, 2022).

II. DISCUSSION

As an initial matter, a request for injunctive relief must necessarily be tied to the specific claims on which the plaintiff is proceeding. *See Benisek v. Lamone*, 585 U.S. 155, 161 (2018) (“[T]he ‘purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held.’” (quoting *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981))). Here, Plaintiff requests that this Court grant him injunctive relief against an individual who is not a defendant in this action and is not mentioned anywhere in Plaintiff’s complaint or supporting exhibits. *See generally* Dkt. No. 1. In addition, the motion seeks to

have the Court direct action on the part of the Federal Bureau of Investigation, who has not been served and has no apparent connection to the intellectual property litigation that is actually before the Court. Accordingly, this Court lacks authority to grant the relief requested, and Plaintiff's motion for injunctive relief must be denied on this ground alone.

Furthermore, even *assuming arguendo* that Plaintiff's motion is procedurally proper, Plaintiff's motion for injunction relief fails to address the elements necessary for the Court to grant injunctive relief. Indeed, Plaintiff's motion fails to address whether (1) he is likely to succeed in the instant action; (2) he will be irreparably harmed in the absence of the issuance of injunctive relief; (3) the balance of hardships tip in his favor; and (4) the public interest would not be disserved by issuance of an injunction. *See Benihana, Inc.*, 784 F.3d at 895; *see also Rosa v. Pathstone Corp.*, No. 23-cv-01071 (KMK) 2023 WL 6813100, at *2 (S.D.N.Y. Oct. 13, 2023). Thus, even under the generous review afforded to *pro se* litigants, Plaintiff has not satisfied his burden of demonstrating that each element has been satisfied by a clear showing. *See Mazurek*, 520 U.S. at 972.

III. CONCLUSION

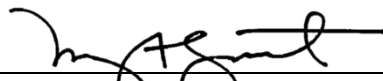
Accordingly, it is hereby ORDERED that Plaintiff's motion for injunctive relief (Dkt. No. 13) is DENIED. The Clerk of Court is respectfully directed to terminate Dkt. No. 13.

The Court certifies under 28 U.S.C. 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant

demonstrates good faith when he seeks review of a nonfrivolous issue).

Dated: July 23, 2024
New York, New York

SO ORDERED.



MARGARET M. GARNETT
United States District Judge