

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

	)	
MITCHELL REPAIR INFORMATION	)	CASE NO. C08-500 RSM
COMPANY, LLC,	)	
	)	
Plaintiff,	)	ORDER GRANTING PLAINTIFF'S
	)	MOTION FOR RELIEF FROM
v.	)	JUDGMENT AND CORRECTION OF
	)	CLERICAL MISTAKES
C.J. RUTCHEY d/b/a AUTOMOTIVE	)	
HOBBYISTS DIGITAL ONLINE	)	
LIBRARY,	)	
	)	
Defendant.	)	

This matter comes before the Court on Plaintiff's "Motion for Relief from Judgment and Correction of Clerical Mistakes" (Dkt. #27). Plaintiff Mitchell Repair Information Company, LLC ("MRIC") obtained a default judgment against Defendant C.J. Ruthey ("Defendant") enjoining Defendant from infringing MRIC's copyrights and awarding MRIC damages. (Dkt. #19). In attempting to garnish one of Defendant's bank accounts, MRIC learned that "C.J. Ruthey" is an assumed name for Defendant's given name, Christopher Mark Ruthey. Since Christopher Mark Ruthey is not listed on the Default Judgment Order, MRIC is having difficulty collecting. MRIC moves to correct the judgment to include the name "Christopher Mark Ruthey" along with Defendant's alias "C.J. Ruthey" pursuant to Federal Rule of Civil Procedure 60(a).

1 MRIC filed suit against Defendant for copyright infringement when it noticed its  
2 copyrighted wiring diagrams being sold on Defendant's web site. MRIC obtained  
3 Defendant's name and contact information through a subpoena of the domain registration  
4 company for that site. According to the subpoenaed records, "C.J. Rutchey" operated the  
5 infringing web site. The records listed a physical address at 8500 Cimarron Way, Maple  
6 Falls, Washington. That address, however, turned out to be a vacant lot.

7 A search by MRIC's process server revealed only one individual in Washington state  
8 with the surname "Rutchey," one Christopher Mark Rutchey. Vehicle licensing records  
9 indicated that Christopher Mark Rutchey's vehicle was registered to the same address listed  
10 on the web site, the vacant lot. The vacant lot is owned by Jesse Kebel, who, according to  
11 Washington state records, co-owned a company, U.S. Micro, Inc., with "Chris Rutchey."  
12 Kebel and Rutchey were co-registrars of the infringing web site.

13 Defendant never responded to the pleadings, but he did e-mail MRIC's counsel  
14 acknowledging that he had notice of the suit and requesting an extension of time to respond.  
15 In that e-mail, Defendant identified himself as "C.J." and used the e-mail address  
16 cj7@ahdol.com.

17 Defendant used PayPal to process transactions over his web site. MRIC subpoenaed  
18 Defendant's PayPal account records and discovered that the account was held by C.J. Rutchey  
19 and Jesse Kebel, that the listed mailing address was the Maple Falls vacant lot, and the listed  
20 e-mail address was Chris@ahdol.com. The PayPal records also indicated a bank account with  
21 the People's Bank of Washington associated with the name "C.J. Rutchey." Subpoenaed  
22 records from the People's Bank of Washington revealed that the account is listed with the  
23 bank under the name "Christopher Rutchey," and the social security number and birth date  
24 confirm that the owner of the account is Christopher Mark Rutchey.

25 It is clear from these facts, and this Court so finds, that Defendant C.J. Rutchey's legal  
26 name is Christopher Mark Rutchey. And in so finding, the judgment may be corrected to  
27 reflect Defendant's true name.  
28

1 Federal Rule of Civil Procedure 60(a) provides that “[t]he court may correct a clerical  
2 mistake or a mistake arising from oversight or omission whenever one is found in a judgment,  
3 order, or other part of the record.” “A district court has very wide latitude in correcting  
4 clerical mistakes in a judgment.” *Blanton v. Anzalone*, 813 F.2d 1574, 1577 (9th Cir. 1987).  
5 In the Ninth Circuit, the question of whether a judgment may be altered centers around “what  
6 the court *originally intended* to do.” *Id.* (emphasis in original). Rule 60(a) may be used to  
7 make a judgment reflect the “actual intentions” of the court. *Id.* It allows corrections of  
8 mistakes even when the mistakes were not committed by the clerk. *Jones & Guerrero Co.,*  
9 *Inc. v. Sealift Pac.*, 650 F.2d 1072, 1074 (9th Cir. 1981).

10 It has been this Court’s intention at all times to hold Defendant, the operator of the  
11 infringing web site, liable to MRIC regardless of Defendant’s names or aliases. Thus it is  
12 appropriate to correct the judgment in this case to reflect Defendant’s true name, Christopher  
13 Mark Rutchey. *See Blanton*, 813 F.2d at 1577.

14 Additionally, courts have specifically held that Rule 60(a) allows the court to correct  
15 judgment errors with respect to a defendant’s name. In *Fluoro Electric Corporation v.*  
16 *Branford Associates*, the Second Circuit upheld a district court’s post-judgment substitution  
17 of “Branford Associates” for “Branford Associates, a corporation” as the defendant in that  
18 case. 489 F.2d 320 (2nd Cir. 1973). The court reasoned that there had been no confusion  
19 between the trial judge, plaintiff, or jury as to which group of people signed the contract at  
20 issue in that case and therefore, the correction of the defendant’s name to reflect a partnership  
21 rather than a corporation was a “correction of a ‘misnomer’ rather than the substitution of a  
22 party.” *Id.* at 324-25. The case stands for the simple proposition that “[i]f a person sues and  
23 intends to sue a particular person or entity, Rule 60 is an appropriate vehicle through which to  
24 correct an inadvertent error in the name of the defendant.” *PacifiCorp Capital v. Hansen*  
25 *Properties*, 161 F.R.D. 285, 288 (S.D. N.Y. 1995).

26 In *PacifiCorp*, the plaintiff obtained a default judgment against “Hansen Properties.”  
27 161 F.R.D. 285. The defendants argued that this judgment was not enforceable against  
28 Hansen Properties, Inc. (“HPI”), which had just recently formed from Hansen Properties, a

1 sole proprietorship. The court ruled that where there was “no doubt” that HPI was the  
2 defendant all along and that it had been effectively served process, it was proper to correct the  
3 judgment to reflect the defendant’s true name, even if it reflected a different legal entity. *Id.*  
4 at 287-88.

5 The present case is much simpler than *PacifiCorp* or *Fluoro Electric*. Those cases  
6 involved corporations and business associations, meaning that changing the name of the  
7 defendant changed the legal entity responsible for the judgment. In this case, by contrast,  
8 MRIC seeks only to add an alternate name for the same individual. Defendant Rutchey is  
9 legally the same entity, the same individual, regardless of the name he uses.

10 Finally, common sense dictates that the judgment should be corrected to reflect all of  
11 Defendant’s names. An individual cannot protect assets or shield himself from liability  
12 simply by using a pseudonym. Accordingly, the judgment will be corrected to include  
13 Defendant’s true name, Christopher Mark Rutchey in addition to his alias, C.J. Rutchey.

14 Having reviewed the relevant pleadings, the declarations and exhibits attached thereto,  
15 and the remainder of the record, the Court hereby finds and ORDERS:

16 (1) Plaintiff’s “Motion for Relief from Judgment and Correction of Clerical Mistakes”  
17 (Dkt. #27) is GRANTED.

18 (2) The Clerk is directed to correct Defendant’s name on the docket to “C.J. Rutchey,  
19 also known as Christopher Mark Rutchey, doing business as Automotive Hobbyists Digital  
20 Online Library.”

21 (3) The Default Judgment (Dkt. #19) shall be corrected to include Defendant’s legal  
22 name “Christopher Mark Rutchey” in addition to his alias “C.J. Rutchey.” To implement this,  
23 the Court will issue a Corrected Default Judgment. The Corrected Default Judgment is not a  
24 new judgment, but a corrected version of the previous Default Judgment (Dkt. #19).

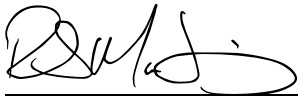
25 (4) The Clerk is directed to forward a copy of this Order to all counsel of record.

26 //

27 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DATED this 2<sup>nd</sup> day of October, 2009.



RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE