

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON
3 AT SEATTLE

4 TRANSWORLD HOLDINGS PCC
5 LIMITED,

6 Plaintiff,

7 v.

8 GEOFFREY IAN CAIRNS, JAN
9 DRAKE, DANIEL MACDONALD,
10 SCOTT CHARLES BAISCH, ALEX
11 BENJAMIN ENGELBERG, PAUL
12 MURRAY, and MILLER THOMAS
13 ABEL,

14 Defendants.

C16-1025-TSZ

PRELIMINARY INJUNCTION

15 THIS MATTER comes before the Court on plaintiff's motion for a preliminary
16 injunction, docket no. 5. For the following reasons, the motion is GRANTED in part and
17 DENIED in part.

18 Plaintiff Transworld Holdings PCC Limited ("Transworld") became a creditor of a
19 British Virgin Islands ("BVI") entity known as SecureOne Corporation ("SecureOne") in
20 November 2015. SecureOne granted a security interest in: (i) all shares in SecureOne as
21 well as accompanying distributions, dividends, etc.; and (ii) all "rights, titles and interest
22 in and to each Patent." Anania Decl., docket no. 6, Ex. A (Ogier Deed § 5.3). "Patent" is
23 defined as "all patent rights owned by SecureOne Corporation including" two specifically
enumerated patents. *Id.* § 1. Transworld believes that SecureOne's patent rights are at
risk because it claims there are certain intellectual property rights that have not been
assigned to SecureOne. It cites two, the "Abel Disclosure" and the "Cairns Provisional"

1 as examples of rights that were not assigned to SecureOne as required under their
2 inventors' employment contracts. Transworld subsequently learned of an allegedly
3 pending transaction involving the sale of SecureOne's source code (and hiring of
4 SecureOne employees) by a man named John Poeta which would compete with
5 SecureOne. *See* Anania Decl., docket no. 6, Ex. J. This motion followed.¹

6 A plaintiff seeking a preliminary injunction must establish: (i) that he or she is
7 likely to succeed on the merits; (ii) that he or she is likely to suffer irreparable harm in the
8 absence of preliminary relief; (iii) that the balance of equities tip in his or her favor; and
9 (iv) an injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555
10 U.S. 7, 20 (2008). The Ninth Circuit has additionally held that "a preliminary injunction
11 is appropriate when a plaintiff demonstrates that serious questions going to the merits
12 were raised and the balance of hardships tips sharply in the plaintiff's favor," so long as
13 the plaintiff additionally establishes the likelihood of irreparable injury and the public
14 interest element. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132-35 (9th
15 Cir. 2011). Plaintiff seeks a preliminary injunction solely in relation to its claim for
16 declaratory judgment relating to the Cairns Provisional and Abel Disclosure.

17 The Court concludes that plaintiff has met the burden for a preliminary injunction
18 with respect to these rights. Defendants' independent contracting agreements provided

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20 ¹ After setting a briefing schedule, docket no. 8, only two defendants responded. The
21 first, Jan Drake, responded and addressed the merits. The second, Miller Thomas Abel in
22 essence stated that he lacks a connection to the case or dispute, and agreed that he would
23 not be disclosing or otherwise doing anything to impact the Abel Disclosure or Cairns
Provisional. While counsel for defendant Baisch has since appeared, only Drake and
Abel were represented at argument.

1 that all intellectual property rights would be assigned to SecureOne. *See, e.g.,* Drake
2 Decl., docket no. 21, Ex. A (Baisch 2015 Consulting Agreement Ex. B). Indeed,
3 defendant Abel confirmed he has already assigned ownership over the Abel Disclosure to
4 SecureOne. Defendants appear to have no basis to exploit or otherwise disseminate these
5 rights as it is likely that they are the sole property of SecureOne. At argument, counsel
6 for both Drake and Abel expressed no objection to the issuance of a preliminary
7 injunction prohibiting their clients from exploiting, disclosing, or in any way transferring
8 the Cairns Provisional and Abel Disclosure or any related rights.

9 It is hereby ORDERED that:

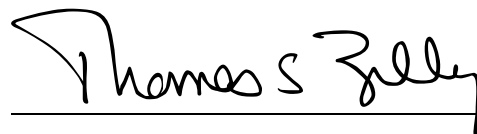
10 (1) The motion for a preliminary injunction is GRANTED in part. Defendants
11 and any individual or entity acting on behalf or at the direction of defendants are
12 ENJOINED from publically disclosing, transferring, or otherwise disposing of the Cairns
13 Provisional and/or Abel Disclosure or any rights related to them, from August 4, 2016,
14 until further order of the Court.

15 (2) Plaintiff will not be required to post a bond.

16 (3) Plaintiff's motion for expedited discovery is DENIED.

17 IT IS SO ORDERED.

18 Dated this 5th day of August, 2016.

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21 Thomas S. Zilly
22 United States District Judge
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