

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
LAS VEGAS DIVISION

RIGHTHAVEN LLC,)	CASE NO: 2:11-CV-0050-PMP-RJJ
)	
Plaintiff,)	CIVIL
)	
vs.)	Las Vegas, Nevada
)	
WAYNE HOEHN,)	Monday, March 5, 2012
)	(4:13 p.m. to 4:25 p.m.)
Defendant.)	

MOTION HEARING

BEFORE THE HONORABLE PHILIP M. PRO,
UNITED STATES DISTRICT JUDGE

Appearances: See Next Page

Court Recorder: Joan Quiros; FTR

Courtroom Administrator: D. Sherwood

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APPEARANCES FOR:

Plaintiff: None Appearing

Defendant: MARC RANDAZZA, ESQ.
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Receiver: LARA PEARSON, ESQ. (Telephonically)
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Incline Village, NV 89451

1 Las Vegas, Nevada; Monday, March 5, 2012; 4:13 p.m.

2 (Ms. Pearson Appeared Telephonically)

3 (Call to Order)

4 THE CLERK: All rise.

5 THE COURT: Have a seat everybody. All right. We're
6 convened in *Righthaven v. Hoehn*, 11-Civil-50. The record
7 should reflect the presence of -- we have Mr. James DeVoy and
8 Marc Randazza for Defendants; is that correct?

9 MR. RANDAZZA: Yes, your Honor.

10 THE COURT: And also Laura Tucker, a UNLV student
11 present. Welcome.

12 We have Lara Pearson, Receiver. Is she here on the
13 phone?

14 MS. PEARSON: On the phone, your Honor.

15 THE COURT: And what about Mr. Mangano, Donna?

16 THE CLERK: No, your Honor.

17 THE COURT: He's not here. Well, have you had
18 contact with Mr. Mangano?

19 MR. RANDAZZA: We haven't heard from him, your Honor.

20 THE COURT: All right. Go ahead and put a call into
21 him, Donna. I don't know what -- Mr. Mangano has not withdrawn
22 as counsel?

23 MR. RANDAZZA: No, your Honor.

24 (Pause)

25 THE CLERK: It's just ringing.

1 **THE COURT:** Well, let's see what we have on the
2 filings.

3 Ms. Pearson, when did you last have contact with Mr.
4 Mangano?

5 **MS. PEARSON:** I have not heard from Mr. Mangano since
6 mid-January, your Honor.

7 **THE COURT:** All right. And --

8 **THE CLERK:** The telephone number on his last pleading
9 is 304-0432 and that's also the number on CMECF and it's just
10 ringing.

11 **THE COURT:** Yes, I was just checking that.

12 Mr. Randazza, when did you last have contact with Mr.
13 Mangano?

14 **MR. RANDAZZA:** In probably January.

15 **THE COURT:** Mid-January?

16 **MR. RANDAZZA:** Your Honor, unfortunately, this has
17 been pretty common in this case and in the other cases we have
18 with him.

19 **THE COURT:** He doesn't show up?

20 **MR. RANDAZZA:** Yes. He didn't show up for a
21 mandatory Tenth Circuit Court of Appeals mediation. We had a
22 debtor's exam here that he didn't show up to.

23 **THE COURT:** He didn't show up but then he did, didn't
24 -- I mean, it was aborted and then reset?

25 **MR. RANDAZZA:** He did ultimately show up, yes, but

1 the first time he just didn't show up and said that he had
2 scheduled it for a different day despite being given five
3 notices in writing when it was to be.

4 **THE COURT:** I don't think I've had this experience
5 with him. I don't recall that he's -- really that we've had
6 maybe more than one hearing but I don't recall that he failed
7 to appear.

8 Well, we're not able to reach him on --

9 **THE CLERK:** No. There's not even a voicemail, your
10 Honor. There's nothing.

11 **THE COURT:** All right. Well, that rather handicaps
12 us a bit. Obviously, I want to show cause why he's not here
13 but, you know, since these filings were made I made an
14 adjustment on the writ of execution, writ of attachment. I
15 also denied the contempt because the debtor exam went forward
16 ultimately.

17 But as a live issue and the subject of complying with
18 the Court's order regarding transferring of any copyright --
19 any rights, intellectual property rights -- now I realize
20 there's filings on both sides debate but I need to have his
21 argument as well as yours to address the merits of that.

22 Now did you travel in from out of town?

23 **MR. RANDAZZA:** No, your Honor, I'm local here now.

24 **THE COURT:** Okay. All right. I see the Warm Springs
25 address so okay.

1 **MR. RANDAZZA:** Yes. Since this case has begun, your
2 Honor, I've moved to Las Vegas.

3 **THE COURT:** You've become a full time -- a full time
4 job.

5 **MR. RANDAZZA:** I am.

6 **THE COURT:** Well, Ms. Pearson, maybe you can update
7 me. I know your last report indicated you were looking for
8 some direction but I guess there is no help if you haven't had
9 any contact with counsel for Righthaven during the interim. Am
10 I correct?

11 **MS. PEARSON:** No, your Honor. Since I wrote the
12 initial motion, I did hear from Mr. Mangano and he and Mr.
13 DeVoy agreed that they would ask the Court to transfer the
14 copyrights and the two trademarks. Mr. Mangano then prepared a
15 motion which was not -- it didn't really effectuate the
16 transfer. Mr. DeVoy then prepared a countermotion to which the
17 parties would stipulate and then we haven't heard from Mr.
18 Mangano since, despite attempts at contact both by myself and
19 Mr. Hoehn's counsel.

20 **THE COURT:** All right. Now I recall from the motion
21 for writ of body attachment part of the debate back and forth
22 focused on how can we transfer what the Court has said we don't
23 own and who prepares the paperwork.

24 Are you really addressing that that -- there was some
25 effort to reach a stipulation to accomplish that actual

1 transfer then?

2 **MR. RANDAZZA:** We tried that, your Honor, but, you
3 know, really --

4 **THE COURT:** I don't recall seeing a filing with the
5 stip --

6 **MR. RANDAZZA:** No.

7 **THE COURT:** -- that didn't get filed in other words?

8 **MR. RANDAZZA:** No, it did not, your Honor.

9 **THE COURT:** Okay.

10 **MR. RANDAZZA:** And, you know, we understand that they
11 have some -- that they are at least taking the position that
12 they cannot transfer that which they do not have.

13 **THE COURT:** Right.

14 **MR. RANDAZZA:** We're not asking for that. We're
15 asking --

16 **THE COURT:** Well, I can't order them to transfer what
17 they don't have, obviously.

18 **MR. RANDAZZA:** We're asking for a quitclaim
19 assignment.

20 **THE COURT:** Yes.

21 **MR. RANDAZZA:** Whatever it is they do have --

22 **THE COURT:** In essence, such right as they have --

23 **MR. RANDAZZA:** -- they should transfer. And they
24 have, you know, really the behavior has been a little weird.

25 **THE COURT:** Well, why can't I just order that?

1 **MR. RANDAZZA:** You could order it, your Honor.

2 **THE COURT:** Why can't I just order that such right as
3 they have is hereby transferred?

4 **MR. RANDAZZA:** Well, because we have to then have all
5 -- we have to have all of the individual copyrights assigned
6 and we think it would be better if they simply executed the
7 assignments. I suppose you could simply order that they are
8 all now hereby transferred to Ms. Pearson.

9 **THE COURT:** Ms. Pearson, would you need more than
10 that? Would you need something signed by Mr. Mangano on behalf
11 of his clients?

12 **MS. PEARSON:** To be honest, your Honor, I'm not
13 certain. I'm not sure --

14 **THE COURT:** Neither am I.

15 **MS. PEARSON:** -- what we need to record with the
16 copyright office, if it would be sufficient to submit a court
17 order transferring me rights, or if we have to actually have to
18 have something signed by the owner.

19 **THE COURT:** Well, I would think -- I don't know.
20 You-all might be able to determine if the copyright office
21 would accept such an order, particularly if it's prepared along
22 the lines of this stipulation that you-all apparently had
23 prepared --

24 **MR. RANDAZZA:** Yes.

25 **THE COURT:** -- or proposed that articulated --

1 **MR. RANDAZZA:** Your Honor, under 17 USC Section 201,
2 a copyright can be transferred under operation of law. So I do
3 believe your Honor could order all of these copyrights to be
4 hereby transferred to the receiver. With respect to any
5 patents, other software, or trademarks, I don't know of any
6 specific statutory authority that would allow that. However, I
7 don't see any reason why you couldn't order the trademark to be
8 transferred or cancelled within a certain period of time. You
9 certainly have the authority to cancel it as a district court
10 judge.

11 **THE COURT:** But you're not seeking cancellation.

12 **MR. RANDAZZA:** We are not, your Honor. We are
13 seeking --

14 **THE COURT:** You're seeking transfer.

15 **MR. RANDAZZA:** -- it to be auctioned off, yes.

16 **THE COURT:** Right.

17 **MR. RANDAZZA:** So, I guess, that would be the --

18 **THE COURT:** It's got to be an effective transfer or
19 you're not going to have anything to auction, you know, not
20 effectively.

21 **MR. RANDAZZA:** Right.

22 **THE COURT:** That's the problem.

23 Well, we can go one of two ways. I mean, I'm
24 prepared, in view of the history of this and the failure of --
25 unexplained failure of Plaintiff to attend, to simply order the

1 transfer and direct that you prepare along the lines of
2 whatever that stipulation was the proposed order which I would
3 then sign that could be filed with the copyright office. I'm
4 certainly prepared to do that.

5 **MR. RANDAZZA:** Okay.

6 **THE COURT:** Or we can set a further hearing and try
7 and figure out what is going on with Mr. Mangano, why he's not
8 here, and delay further and explore further.

9 **MR. RANDAZZA:** Your Honor, I think your Honor's
10 suggestion is elegant and takes care of the problem.

11 **THE COURT:** Let's just get to it, get it done.

12 **MR. RANDAZZA:** Okay.

13 **THE COURT:** That really -- instead of ordering a writ
14 of body attachment, I'll simply order that the copyright
15 interests, to the extent any such interests remain, or exiting
16 writ will be transferred to Defendant and if you can prepare
17 the order to accomplish that the Receiver can then go forward.

18 **MR. RANDAZZA:** And the same for the trademarks and
19 the same for --

20 **THE COURT:** Yes.

21 **MR. RANDAZZA:** -- any patents as well?

22 **THE COURT:** Yes.

23 **MR. RANDAZZA:** Great. We will --

24 **THE COURT:** I mean, you have an idea what we're
25 talking about --

1 **MR. RANDAZZA:** Yes, your Honor.

2 **THE COURT:** -- what they are and that's why I said,
3 and since you had had this dialog with Mr. Mangano back and
4 forth. I mean, you've got the parameters of what you need,
5 let's go ahead and get that issue, get it submitted to me and I
6 think that's the only thing that's remaining right now in this
7 case unless I'm missing something.

8 **MR. RANDAZZA:** At this time, that's all, your Honor.

9 **THE COURT:** All right. And Ms. Pearson, is there
10 anything else that you need direction on to the extent that I
11 can provide it?

12 **MS. PEARSON:** No, your Honor. I think it was just
13 getting the assets transferred to me so that I can auction them
14 and get some assets to be then distributed to the Defendant.

15 **THE COURT:** Right. I saw your report where you had
16 some that were distributed. I appreciate that. But all right,
17 well that at least will be a step forward unless there's
18 something else.

19 **MR. RANDAZZA:** Okay. We'll prepare that for you
20 immediately, your Honor, as the --

21 **THE COURT:** All right. So the minutes should reflect
22 the Plaintiff having failed to attend today's hearing, the
23 Court deems that an admission by a Defendant or acquiescence by
24 Defendants to be ordered to transfer along the lines that we've
25 just outlined. Okay.

1 **MR. RANDAZZA:** Thank you, your Honor.

2 **THE CLERK:** The motion is --

3 **MS. PEARSON:** Thank you, your Honor.

4 **THE COURT:** No, the motion for writ of body
5 attachment is not granted. That was a --

6 **THE CLERK:** Okay.

7 **THE COURT:** -- different creatures. Instead, what
8 I've -- so, for purposes of your minutes, 68 should be denied
9 and instead I'm ordering the transfer and counsel for Defendant
10 will prepare the order.

11 **THE CLERK:** Yes, your Honor.

12 **THE COURT:** Okay. All right.

13 **MR. RANDAZZA:** Thank you, your Honor.

14 **THE COURT:** Thank you, everybody, appreciate it.

15 **MS. PEARSON:** Thank you, your Honor.

16 **THE COURT:** Thanks, Ms. Pearson.

17 **MS. PEARSON:** You're welcome, thank you.

18 **(Proceeding was adjourned at 4:25 p.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



March 19, 2012

TONI HUDSON, TRANSCRIBER