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July 12, 2013

Honorable Robert N. Chatigny
United States District Judge
District of Connecticut
United States Courthouse
450 Main Street - Room 135 Annex
Hartford, CT 06103

Re: Bruce Kirby, Inc. et al. v. LaserPerformance (Europe) Ltd. et al., 13-cv-00297

Dear Judge Chatigny:

We represent defendant International Sailing Federation Limited (“ISAF”). We write pursuant to this Court’s March 4, 2013 Order on Pretrial Deadlines, and this Court’s Individual Rules, to request a pre-filing conference before making a dispositive motion to dismiss the amended complaint under Federal Rule of Civil Procedure 12(b). The grounds for the motion to dismiss the amended complaint are: (1) lack of personal jurisdiction over ISAF; and (2) failure to state a claim as to ISAF.

Background and Claims Against ISAF

Plaintiffs Bruce Kirby and Bruce Kirby, Inc. (collectively “Kirby”) filed an Amended Complaint against defendants LaserPerformance (Europe) Limited, Quarter Moon, Incorporated, Karaya (Jersey) Limited, Velum Limited ITM SA (Antigua and Barbuda), ISAF, International Laser Class Association, and Farzad Rastegar on April 30, 2013. The initial complaint was filed on March 4, 2013.

Kirby alleges that he is the designer of a 13 foot 10 ½ Laser class sailboat which he refers to as the “Kirby Sailboat.” Compl. ¶ 13. ISAF is a regulatory body which certifies that sailboats of certain classes comply with applicable class rules. ISAF is an Isle of Man company with offices in England.

Kirby asserts claims against ISAF for violation of the Lanham Act, unfair competition under the Connecticut Unfair Trade practices Act, misappropriation of Kirby’s “publicity rights” and inducing other defendants to breach their contracts with Kirby. The allegations against ISAF relate to its role in the issuance of plaques to builders of Laser class sailboats that the builders then place on the boats. The amended complaint alleges that the plaques, which are physically

issued by another entity, previously included the "BRUCE KIRBY" trademark. The amended complaint also confirms that after the dispute between Kirby and certain Laser class sailboat builders arose, the plaques were changed to remove references to Kirby.

Grounds for ISAF's Motion to Dismiss

Lack of Personal Jurisdiction

This Court lacks personal jurisdiction over non-resident ISAF under the Connecticut long-arm statute because the claim does not arise from: (1) a contract made in Connecticut or to be performed in Connecticut, (2) solicitation of business by ISAF in Connecticut; (3) the production, manufacture, or distribution of goods by ISAF; or (4) tortious conduct committed by ISAF in Connecticut. See Conn. Gen. Stat. § 33-929. ISAF has no offices, employees, bank accounts or other ongoing presence in Connecticut. The allegations against ISAF in the complaint relate to actions it took in the United Kingdom or the Isle of Man to allow issuance of plaques.

Failure to State a Claim

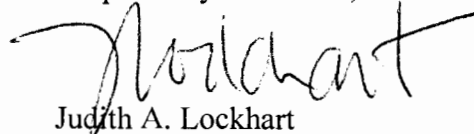
The Amended Complaint fails to state a claim as to ISAF as Kirby concedes that his trademark is no longer being used on the plaques, see Compl. ¶ 78, and has failed to allege that ISAF advertises, sells, manufactures, leases, or distributes any goods or any malice on the part of ISAF.

Conference Among Counsel

On July 10, 2013, my colleague, Jeffrey Boxer conferred with Andy I. Corea, counsel for plaintiffs, in an attempt to clarify the issues, eliminate or reduce the area of controversy and arrive at a mutually satisfactory resolution. Their conference did not result in a resolution of the proposed motion or a narrowing of the issues presented. Plaintiffs maintain their position that this Court has personal jurisdiction over ISAF and that the amended complaint properly states a claim against ISAF.

Therefore, ISAF respectfully requests a pre-filing conference on its proposed motion to dismiss, or in the alternative, permission to file its motion on the grounds set forth above.

Respectfully submitted,



Judith A. Lockhart

cc: Wesley W. Whitmyer, Jr., Esq. (via email)
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