

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT NEW YORK**

BMADDOX ENTERPRISES LLC,

Plaintiff,

No. 17-cv-1889 (RA)

v.

MILAD OSKOUIE, OSKO M LTD, and
PLATINUM AVENUE HOLDINGS PTY, LTD,

Defendants.

**REPLY TO DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION TO
PLAINTIFF'S APPLICATION FOR PRELIMINARY INJUNCTION**

Brief addressing the Memorandum of Law in Opposition to Plaintiff's Application for Preliminary Injunction ("Defendants' Memo") filed by counsel for Milad Oskouie, Okso M Ltd., and Platinum Avenue Holdings Pty., Ltd. (collectively, "Defendants"), which memorandum represents Defendants' *second* last hour attempt to frustrate Plaintiff's attempt to seek relief from this Court. Despite having notice of this action *at least as early as* June 2, 2017 and notice of the hearing scheduled for June 29, 2017 *at least as early as* June 9, 2017, Defendants neither contacted Plaintiff nor Plaintiff's counsel, except for early morning phone calls from an Australian attorney to both this Court and the undersigned counsel just hours before this Court's June 6, 2017 hearing. Plaintiff's counsel has not heard from this attorney since. Defendants instead filed a memorandum of law just before the close of business on June 28, 2017. Because Defendants' memorandum is based entirely on knowing misstatements of fact recited in Defendant Milad Oskouie's declaration, Plaintiff is compelled to file this Reply Brief to underline a few of Defendants' more brazen misrepresentations.

Defendants' factual allegations are contradicted not only by evidence in the record, but by a plethora of additional publicly available sources. Given the last-minute nature of Defendants' filing, Plaintiff includes only *some* of this evidence by way of illustration.

First, Defendants' Memo states that Defendant Osko M. Ltd. ("OML") "has no material involvement in the operation of Platinum's Website [defined as <FFLTrust.com>]." (Dkt. No. 25, p. 3; Dkt. No. 27, ¶3). This statement is easily controverted by the footer of nearly every page from Defendants' currently disabled website from which all publicly available content was saved by Plaintiff on March 2, 2017. As shown in the attached example, the foot reads "Copyright (c) 2016 – Osko m Ltd." and "Osko M Ltd. a NRA Business Alliance Partner." (Ex. A.) For the Court's convenience, only three such examples out of *many* are included in Exhibit A.

misrepresented in every example provided by Plaintiff save two. (Dkt. No. 25, p. 6; Dkt. No. 27, ¶18). In this assertion, Defendants *not only* deny that their infringing website contained a doctored version of Plaintiff's federal firearms license, references to a fake chief executive officer known as Henry Jackson whose photograph was taken from a stock photo website, and slightly altered testimonials from Plaintiff's website, Defendants *also* seemingly assert that Plaintiff has doctored or fabricated *all of the evidence to the contrary* that it has submitted. The Court need not take Plaintiff's word.

Google search results have cached references to "Henry Jackson" on Defendants' infringing website and at least one relevant discussion thread shows the relevant consumers discussing "Henry Jackson" in connection with Defendants' infringing website. (Ex. B.) The discussion thread in Exhibit B also highlights the irreparable damage Defendants have already caused to Plaintiff. With respect to Defendants' use of fraudulent federal firearms licenses in on its website and in its materials, Defendants' publication "The FLL Insider Report 2016" contains additional examples. On page 3 of the report, the image of a license appears and illustrates Defendants' lack of knowledge with respect to the relevant licensing issues. The license number listed includes the prefix "3-45." Those numbers reference specific geographic regions that do no overlap with the address recited. Specifically, the number "3" references the Midwest and the number "45," upon information and belief references Plaintiff's location in North Dakota. (Ex. C.) Finally, until the Australian ISP hosting Defendants' website finally made the decision to disable it, several testimonials remained on the site that specifically referenced Plaintiff by name, namely, Brandon. (Ex. D.)

It is worth noting that copyright infringement cases often hinge on evidence of substantial similarity only because evidence of actual copying is rarely available to a Plaintiff. In this case, the above examples and those already of record show repeated,

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unrepentant actual copying from Plaintiff's website and educational materials. Actual copying is also shown on page 4 of Defendants' Terms of Use, which requires a litigant to file in "the state or federal courts located in Minnehaha County, Luxembourg." (Ex. E.) Minnehaha County is located in South Dakota and was lifted directly from Plaintiff's website. Upon information and belief, there is no Minnehaha County in Luxembourg. (Ex. F.) As a final example of actual copying, roughly one-third of the URLs shown in Exhibit G are identical to URLs previously contained on Plaintiff's website, with the small change from "ffl123" to "ffltrust." (Ex. G.) Upon information and belief, the content at each of these identical URLs was also identical to content on Plaintiff's website.

Defendant Osoukie's declaration punctuates his willingness to make false representations before this Court. Further evidence of Defendant Osoukie's knowing misrepresentations abound. Already of record is a counter-notice to a DMCA takedown request from the email address info@ffltrust.com. Defendants claim that they did not have access to this email account during that time. (Dkt. No. 25, p.8; Dkt. No. 27, ¶33). Defendants claim that they had little to no access to their email during the entire month of March 2016 and most of April 2016. (Dkt. No. 25, pp.8-9; Dkt. No. 27; 29, 32). Defendants also claim they did not hack into any of Plaintiff's accounts or steal any of Plaintiff's content. Despite these claims, Plaintiff's mother-in-law, who did *not* sign up for Defendants' newsletter, received an email from Defendants' email address, info@ffltrust.com, during that period. (Ex. H.) Many of Plaintiff's customers received such emails during the relevant time.

Defendant Osoukie has once again thumbed his nose at Plaintiff and continues to waste the judicial resources needed to seriously consider his misrepresentations. This is an extraordinary case, and Plaintiff should be entitled to extraordinary remedies.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court grant an order temporarily restraining Defendants from selling their infringing goods via the Infringing Website, Defendants' known financial providers to transfer any assets, Defendants from making any unauthorized use of Plaintiff's Works, substantially similar works, or derivative works thereof. Plaintiff further respectfully asks that this Court grant an order to show cause for a preliminary injunction as well as an order for expedited discovery.

Dated: New York, New York
June 29, 2017

Respectfully submitted,

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