
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 12-438-JST-ANx

Date: March 21, 2012

Title: Mgame Corp. v. K2 Network, Inc.

Present: **Honorable JOSEPHINE STATON TUCKER, UNITED STATES DISTRICT JUDGE**

Nancy Boehme
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

**PROCEEDINGS: (IN CHAMBERS) ORDER DENYING PLAINTIFF’S
REQUEST FOR A TEMPORARY RESTRAINING ORDER
(Doc. 4)**

On March 20, 2012, Plaintiff Mgame Corp. (“Plaintiff”) filed a “Verified Complaint for Temporary Restraining Order and Preliminary Injunction” (“Complaint”). The Complaint asserts only one claim, titled “Claim For Temporary Restraining Order and Preliminary Injunction.” (Compl. ¶¶ 82-89.) The Complaint also states that disputes between Plaintiff and Defendant K2 Networks, Inc. (“Defendant”) are to be resolved through binding arbitration in Singapore according to the UNCITRAL Arbitration Rules. (*Id.* ¶ 81.) In its Memorandum of Points and Authorities, Plaintiff asserts that it intends to initiate arbitration against Defendant, and will bring claims including breach of contract, wrongful conversion, violation of the Computer Fraud and Abuse Act, and copyright infringement. (Mem. of P. & A at 2, 4.)

Federal Rule of Civil Procedure 65 sets forth the procedure for issuing a preliminary injunction. However, “the substantive basis and the jurisdictional authority for use of this procedure must be sought elsewhere.” *F.T.C. v. H.N. Singer, Inc.*, 668 F.2d 1107, 1109 (9th Cir. 1982). Here, Plaintiff does not point to any jurisdictional authority that allows the Court to provide preliminary injunctive relief without an underlying claim. While Plaintiff states that this case “arises under” federal copyright laws and the Computer Fraud and Abuse Act, neither of these claims is actually asserted in the Complaint. Plaintiff also asserts that there is diversity jurisdiction, which gives the Court subject matter over the case, but is of no import to the Court’s authority to issue a temporary restraining order. Furthermore, Plaintiff asks the Court to find a likelihood of success on the merits of its claims—claims not asserted in the Complaint, but claims

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Plaintiff merely intends to assert in arbitration. This is insufficient to establish jurisdictional authority to issue a temporary restraining order. Accordingly, Plaintiff's request for a temporary restraining order is DENIED.

Initials of Preparer: nkb