

TJH 367

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May 1, 2013

Sent By Facsimile

Honourable Justice Daniele Tremblay-Lamer
 Federal Court of Canada
 30, McGill St.
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 T-514-10

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Dear Madam Justice Tremblay-Lamer,

His Highness Prince Karim Aga Khan vs. Nagib Tajdin and Alnaz Jiwa
Federal Court File No. T-514-10

We are writing to seek clarity with respect to the Order dated April 24, 2013 (the "Order") that was issued pursuant to the hearing that was held before you on Monday April 15, 2013 in Montréal, in the above-noted proceeding.

Paragraph two of the Order states as follows:

"The Order of the Prothonotary dated October 29, 2012 is set aside, with the sole exception that the Court orders the Defendants to provide the Plaintiff and his legal counsel with the names of ten (10) purchasers of the material in dispute, being a book entitled "*Farmans 1957-2009 - Golden Edition Kalam-E Imam-E-Zaman*", for the sole purpose of ascertaining the purchase price paid by them."

The Plaintiff understands that this paragraph of the Order is intended to uphold paragraph six of the Order of Prothonotary Milczynski dated October 29, 2012 (the "Prothonotary Order") which states as follows:

"The Defendant Mr. Tajdin shall answer the questions represented by Item Nos. 14 to 22 on the Revised Summary chart of refusals by producing the names of ten people who ordered books, as indicated on the "Golden Edition Shipping Spreadsheet" (Exhibit 2, Tab 8 of the Discovery Transcript of Mr. Tajdin taken November 8, 2011). The Plaintiff is entitled to select the ten names it wishes to have produced by Mr. Tajdin from this spreadsheet. If Mr. Tajdin does not have names in connection with the shipping orders identified by the Plaintiff, then Mr. Tajdin is to produce any customer names he has in connection with this spreadsheet."

Paragraph two of the Order, as drafted, could lead to an interpretation that Mr. Tajdin provide the Plaintiff with the names of any ten purchasers of the infringing book, regardless of whether such names are from purchasers listed on the Spreadsheet which was the subject of the question before the court. In contrast, paragraph six of the Prothonotary Order states that the Plaintiff be

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allowed to select the ten names it wishes to have produced from the "Golden Edition Shipping Spreadsheet" (Exhibit 2, Tab 8 of the Discovery Transcript of Mr. Tajdin taken November 8, 2011). Only if the plaintiff selects the names can there be any assurance that those persons will be able to give evidence that is representative of the actual purchase price and source of the printed goods.

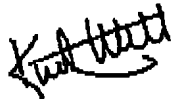
In the hopes of avoiding the time and expense of a motion for reconsideration or an appeal, the Plaintiff respectfully requests that this Court dispense with the formality of a motion by amending this omission in the Order as follows:

"The Order of the Prothonotary dated October 29, 2012 is set aside, with the sole exception that the Court orders the Defendants to provide the Plaintiff and his legal counsel with the names of ten (10) purchasers of the material in dispute, being a book entitled "*Farmans 1957-2009 - Golden Edition Kalam-E Imam-E-Zaman*", as set out in paragraph six of the Order of Prothonotary Milczynski dated October 29, 2012, for the sole purpose of ascertaining the purchase price paid by them."

The Plaintiff submits that clarifying the Order in relation to the underlying question that was before the Court will bring certainty to this matter, thereby securing a just, most expeditious and least expensive resolution of this issue.

It terms of the timing for resolving this matter, the Plaintiff has until May 6, 2013 to serve and file a Motion for reconsideration (*Federal Courts Rules*, Rule 397) and/or a Notice of Appeal (*Federal Courts Act*, section 27(2)(a)).

Respectfully submitted,



FGL: Brian W. Gray

BWG/KEW/jb

Enclosure

Copy(ies): Mr. Jean-Philippe Gervais