UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

ALESSANDRA LATOUR,

Plaintiff,

-against- 12 Civ. 9209 (LAK)

COLUMBIA UNIVERSITY and MARK WIGLEY,
Individually and as agent for Columbia University,

Defendants.

- x

MEMORANDUM OPINION

Appearances:

Mary E. Mulligan
Robert S. Landy
FRIEDMAN KAPLAN SEILER & ADELMAN LLP
Attorney for Defendants The Trustees of Columbia University in the City of New York and Mark Wigley

Susan B. Egan
EGAN LAW FIRM
Attorney for Plaintiff Alessandra Latour

LEWIS A. KAPLAN, *District Judge.*

Alessandra Latour brings this action for copyright infringement and related state law claims against Columbia University and Mark Wigley, the dean of Columbia University's Graduate School of Architecture, Planning and Preservation ("GSAPP"). Defendants move for judgment on the pleadings dismissing the complaint. For the reasons set forth below the motion is granted.

Facts

Latour, an Italian citizen residing in New York,[1] decided in 2007 to create a joint post-graduate architectural program on globalization and its consequences focusing on New York and Moscow.[2] She called this program "Global Metropolis: New York-Moscow" and wrote a five-page proposal (the "Proposal") describing the history and rationale of the program and a proposed curriculum.[3] The Proposal specified that the program would be "jointly carried out" by GSAPP and the Moscow Architectural Institute ("MARKHI").[4] Latour pitched the program, using the Proposal, first to the Rector of MARKHI and then to Wigley at GSAPP.[5]

MARKHI and GSAPP entered into a Memorandum of Agreement in September 2008, which incorporated the Proposal.[6] Thereafter, Latour asserts, "MARKHI and GSAPP agreed

---

1 Cpt. ¶ 5.

2 *Id.* ¶ 19.

3 *Id.* ¶¶ 19, 22.

4 Cpt., Ex. 1, at 1-2.

5 *Id.* ¶¶ 23, 25.

6 *Id.* ¶ 27 & Ex. 2.

that [she] would head the effort to organize and implement the [p]rogram," that Wigley promised to compensate her for her work and reimburse her expenses, that she was to be identified as "coordinator" of the program, and that all of this would be memorialized in an agreement with GSAPP.[7] Latour allegedly relied on these representations and worked to develop and implement the program for several years.[8] In 2010, Wigley said that Latour would be paid more quickly if she were considered a "teacher," though they agreed that a written contract would identify her as "coordinator."[9] The program began in June 2011 with eight students.[10] In its second semester, the plaintiff jointly ran a studio in Moscow with a Russian colleague.[11]

The complaint asserts that in late 2010 "Wigley began taking steps to gain control of the Program from Plaintiff."[12] In January 2012, Latour was offered a written contract but it "did not contain the terms that Wigley had represented."[13] Among other things, it "did not describe her

---

7 *Id.* ¶¶ 28, 30-32.

8 *Id.* ¶¶ 33, 35, 37, 38, 41, 45-47.

9 *Id.* ¶¶ 43, 44.

10 *Id.* ¶ 48.

11 *Id.* ¶ 49.

12 *Id.* ¶ 51.

13 *Id.* ¶ 69.

role as coordinator or teacher of the [p]rogram."[14] No contract ever was signed.[15]

On March 20, 2012, Wigley informed Latour that she no longer could be a part of the program.[16] Latour responded that GSAPP could not use the Proposal – "the [p]rogram was her idea[,] she did all the work to implement it, and it didn't belong to GSAPP."[17] Latour asserts that defendants continued to operate the program and used the Proposal on the GSAPP website through the summer of 2012 without permission.[18] On September 19, 2012, Latour obtained Certificates of Registration from the United States Copyright Office for two versions of the Proposal, dated July 26, 2007 and August 3, 2008, respectively.[19]

Latour alleges that Columbia University committed copyright infringement when it continued to display and use the Proposal on the GSAPP website. The complaint seeks statutory damages for copyright infringement, as well as an order enjoining Columbia University from reproducing and displaying the Proposal and from running a post-graduate degree program entitled "Global Metropolis: New York-Moscow." The complaint seeks damages also for common law claims of breach of contract, *quantum meruit*, misappropriation, unfair competition, and libel and slander.

---

14 *Id.*

15 *Id.* ¶ 70.

16 *Id.* ¶ 73.

17 *Id.*

18 *Id.* ¶¶ 78, 122.

19 *Id.* ¶ 22 & Ex. A.

Defendants argue that the complaint fails to state a claim for copyright infringement and that there is no other basis for subject-matter jurisdiction.

Discussion

I. The Standard

Rule 12(c) governs motions for judgment on the pleadings.[20] When deciding a Rule 12(c) motion, the Court applies the same standard that would be applied to a Rule 12(b)(6) motion to dismiss.[21] The Court therefore views the pleadings in the light most favorable to, and draws all reasonable inferences in favor of, the non-moving party.[22] To withstand a Rule 12(c) motion, the plaintiff must plead sufficient facts, accepted as true, "to state a claim to relief that is plausible on its face."[23] A claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."[24] A

---

20 "After the pleadings are closed – but early enough not to delay trial – a party may move for judgment on the pleadings." FED. R. CIV. P. 12(c).

21 *See,e.g., Hayden v. Paterson*, 594 F.3d 150, 160 (2d Cir. 2010) (citing *Johnson v. Rowley*, 569 F.3d 40, 43 (2d Cir. 2009)); *Burnette v. Carothers*, 192 F.3d 52, 56 (2d Cir. 1999); *Nat'l Ass'n of Pharm. Mfrs., Inc. v. Ayerst Labs., Div. of/and Am. Home Prods. Corp.*, 850 F.2d 904, 909 n.2 (2d Cir. 1988) ("Pursuant to Fed.R.Civ.P. 12(h)(2) . . . a defense of failure to state a claim may be raised in a Rule 12(c) motion for judgment on the pleadings, and when this occurs the court simply treats the motion as if it were a motion to dismiss.").

22 *See Hayden*, 594 F.3d at 160; *Sheppard v. Beerman*, 18 F.3d 147, 150 (2d Cir. 1994); *Madonna v. United States*, 878 F.2d 62, 65 (2d Cir. 1989).

23 *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *see also Hayden*, 594 F.3d at 160, *Johnson v. Rowley*, 569 F.3d at 43.

24 *Ashcroft v. Iqbal*, 556 U.S. 662, 663 (2009) (citing *Twombly*, 550 U.S. at 556).

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.