

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

HILLER, LLC,)
)
Plaintiff,)
)
v.)
)
SUCCESS GROUP INTERNATIONAL)
LEARNING ALLIANCE, LLC, and)
REBECCA CASSEL,)
)
Defendants.)
)
and)
)
CLOCKWORK IP, LLC,)
)
Intervenor/Counter-Plaintiff.)

Civil Action Number 3:17-CV-743
Judge Jon Phipps McCalla
Magistrate Judge Jeffery S. Frensley

MEMORANDUM IN SUPPORT OF CLOCKWORK'S MOTION FOR
JUDGMENT NOTWITHSTANDING THE VERDICT

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Pursuant to Federal Rule of Procedure 50(b), Intervenor Clockwork IP LLC (“Clockwork”) respectfully submits this Memorandum in Support of its Motion for Judgment Notwithstanding the Verdict. Alternatively, Clockwork moves for the judgment to be altered or amended or for a new trial pursuant to Fed. R. Civ. P. 59.

I. INTRODUCTION

At summary judgment, the Court identified three areas of factual dispute to be resolved at trial. First, how the Technician’s Guide was created—whether it was an original work created from scratch by Janice Horne, as claimed by Hiller, or whether Horne used preexisting Clockwork materials. Second, what were the similarities between the Clockwork materials and the materials in the Technician’s Guide. Third, whether Hiller and Horne were authorized to use Clockwork materials in the Technician’s Guide.

At trial Hiller failed to present any evidence on these three points. Hiller failed to present any witness who could testify as to where the content in the Technician’s Guide came from. Mr. Hiller took the stand and could not point to any content Ms. Horne (or he) created, and Mr. Mobley had no involvement in the creation of the Technician Guide and also did not point to any content Ms. Horne created. In fact, Janice Horne herself explained that she only drafted five pages (which were themselves derived from third-party material) of content in the entire Technician’s Guide. She admitted that the rest of the content in the Technician’s Guide was preexisting material that was given to her. In contrast, Rebecca Cassel and Jocelyn Silvio testified at length regarding how they contributed Clockwork preexisting content to the Technician’s Guide and identified specific pages containing that content. Clockwork’s witness, Lance Sinclair, linked Clockwork copyrighted material to specific pages in the Technician’s Guide, showing the matching pages side by side. It is undisputed that the only source identified for any particular content in the Technician’s Guide is Clockwork material.

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