

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

PERFORMANCE PULSATION	§	
CONTROL, INC.	§	
	§	
v.	§	Civil Action No. 4:17-CV-00450
	§	Judge Mazzant
SIGMA DRILLING TECHNOLOGIES,	§	
LLC, INTREPID CONSULTING, LLC,	§	
JUSTIN MANLEY, ALLISON MANLEY,	§	
WILLIAM GARFIELD, and PAMELA	§	
GOEHRING-GARFIELD	§	

MEMORANDUM OPINION AND ORDER

Before the Court is Sigma Drilling Technologies, LLC (“Sigma”), Intrepid Consulting, LLC (“Intrepid”), Justin Manley (“J. Manley”), Allison Manley¹ (“A. Manley”), William Garfield (“W. Garfield”), and Pamela Goehring-Garfield’s² (“P. Garfield”) (collectively “Defendants”) Rule 12(b)(1) and 12(b)(6) Motion to Dismiss Plaintiff’s First Amended Complaint (Dkt. #19). After reviewing the relevant pleadings and motion, the Court finds the motion should be denied.

BACKGROUND

Performance Pulsation Control, Inc. (“PPC”) specializes in the design and production of pulsation dampeners for pumps used in oil, gas, and mining operations. Such pumps often experience hydraulic shocks and pressure gaps that can damage them over time. PPC’s pulsation dampeners act like shock absorbers against these disturbances to protect pipe system components and promote pump efficiency, safety, and reliability.

¹ A. Manley is a former Performance Pulsation Control Employee and J. Manley’s spouse. A. Manley is a Defendant in this action to the degree that she engaged in the alleged conduct with J. Manley and to the extent that her community property is subject to this action.

² P. Garfield is W. Garfield’s spouse and is a Defendant in this action to the extent that she maintains ownership in community property which is subject to this action.

Defendant J. Manley worked at PPC from 2012 to 2016. In 2012, J. Manley worked on a team that developed certain pulsation dampeners and related technologies. In 2013, J. Manley became PPC's Sales & Marketing Manager. As such, J. Manley crafted sales and marketing strategies, identified target markets, assisted with new product development, and promoted new product introductions.

In 2014, J. Manley joined the research and development team for PPC's Project 1958, the Wave Blocker—System Orifice (“Acoustic Assassin”) and Projects 1980 and 1982—PD 05-15000 (the “PD Style Dampeners”). During that time, J. Manley signed a confidentiality agreement with PPC that covered design drawing and specifications, fixtures and fabrication techniques, computer programs and codes, customer marketing strategies, pending projects and proposals, and research and development strategies. J. Manley also agreed to not compete with PPC. In 2016, PPC terminated J. Manley. In a subsequent letter, PPC reminded J. Manley of his enduring obligation to guard PPC's confidential, proprietary, and trade secret business information.

J. Manley formed Sigma in 2014, listing himself as its managing member and registered agent. Sigma created a website in 2014 featuring the following products—the Charge Free Dampening System, the Charge Free Dampener, the Charger Free Conversion Kit, and the Acoustic Assassin. In 2010, J. Manley also formed Intrepid, naming himself as its owner and director.

In 2016, PPC determined that J. Manley, individually and as managing member of Sigma and/or as owner and director of Intrepid, along with former PPC employee W. Garfield, were using its confidential and proprietary information. PPC surmised that J. Manley and W. Garfield were using its proprietary information to market and sell pulsation control products and services to oil and gas clients including PPC's current customers. PPC further deduced that J. Manley and W. Garfield were soliciting its vendors.

On June 27, 2017, PPC sued Defendants for (1) declaratory relief as to ownership of trade secrets; (2) declaratory relief as to ownership of patent rights; (3) declaratory relief as to derivative works under the Copyright Act (17 U.S.C. § 101, et. seq.); (4) declaratory relief as to work-for-hire copyright ownership rights under the Copyright Act (17 U.S.C. § 101, et. seq.); (5) trade secret misappropriation against J. Manley, A. Manley, W. Garfield, Sigma, and Intrepid; (6) civil theft against J. Manley, A. Manley, W. Garfield, Sigma, and Intrepid; (7) conversion against J. Manley, W. Garfield, Sigma, and Intrepid; (8) unfair competition against J. Manley, W. Garfield, Sigma, and Intrepid; (9) breach of contract against J. Manley; (10) breach of fiduciary duty against J. Manley, (11) alter ego against J. Manley, Sigma, and Intrepid; and (12) requested relief in the form of a preliminary and permanent injunction (Dkt. #1). On August 10, 2017, PPC filed its First Amended Complaint, dropping its claim for declaratory relief as to ownership of patent rights (Dkt. #1 at p. 15; Dkt. #17). On August 17, 2017, Defendants filed a Rule 12(b)(1) and 12(b)(6) Motion to Dismiss Plaintiff's First Amended Complaint (Dkt. #19). On August 31, 2017, PPC filed its response (Dkt. #28). On September 7, 2017, Defendants filed their reply (Dkt. #30).

LEGAL STANDARD

Motion to Dismiss for Lack of Subject Matter Jurisdiction

Federal Rule of Civil Procedure 12(b)(1) authorizes dismissal of a case for lack of subject matter jurisdiction when the district court lacks statutory and constitutional power to adjudicate the case. *Home Builders Ass'n of Miss., Inc. v. City of Madison*, 143 F.3d 1006, 1010 (5th Cir. 1998). If a Rule 12(b)(1) motion is filed in conjunction with other Rule 12 motions, the Court will consider the jurisdictional attack under Rule 12(b)(1) before addressing any attack on the legal merits. *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001).

In deciding the motion, the Court may consider “(1) the complaint alone; (2) the complaint supplemented by the undisputed facts evidenced in the record; or (3) the complaint supplemented

by undisputed facts plus the [C]ourt’s resolution of disputed facts.” *Lane v. Halliburton*, 529 F.3d 548, 557 (5th Cir. 2008) (quoting *Barrera-Montenegro v. United States*, 74 F.3d 657, 659 (5th Cir. 1996)). The Court will accept as true all well-pleaded allegations set forth in the complaint and construe those allegations in the light most favorable to the plaintiff. *Truman v. United States*, 26 F.3d 592, 594 (5th Cir. 1994). Once a defendant files a motion to dismiss under Rule 12(b)(1) and challenges jurisdiction, the party invoking jurisdiction has the burden to establish subject matter jurisdiction. *See Menchaca v. Chrysler Credit Corp.*, 613 F.2d 507, 511 (5th Cir. 1980). The Court will grant a motion to dismiss for lack of subject matter jurisdiction only if it appears certain that the claimant cannot prove a plausible set of facts to support a claim that would entitle it to relief. *Lane*, 529 F.3d at 557.

If a district court has original jurisdiction—i.e. federal question jurisdiction—over a claim it may wield jurisdiction over “all other claims that are so related to the claims in the action with such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C.A. § 1367(a). “Federal question jurisdiction ‘exists in a declaratory judgment action if the plaintiff has alleged facts in a well-pleaded complaint which demonstrate that the defendant could file a coercive action arising under federal law.’” *Stuart Weitzmann, LLC v. Microcomputer Res., Inc.*, 543 F.3d 859, 862 (11th Cir. 2008) quoting *Household Bank*, 320 F.3d 1249, 1251 (11th Cir. 2003). A civil action to obtain a remedy expressly granted by the Copyright Act or to construe the Copyright Act arises under federal copyright law. *See Goodman v. Lee*, 815 F.2d 1030, 1031 (5th Cir. 1987); *see also Cmty. for Creative Non-Violence v. Reid*, 490 U.S. 730, 732, 109 S. Ct. 2166, 2168–60, 104 L. Ed. 2d 811 (1989) (explaining that a dispute over work-for-hire ownership requires a court to construe the Copyright Act); *Scandinavian Satellite Sys., AS v. Prime TV Ltd.*, 291 F.3d 839, 845 (D.C. Cir. 2002) (“[A] dispute that turns on whether a copyrighted work was created independently

or as a “work made for hire” is an *ownership dispute* that unquestionably arises under the Copyright Act.”) A copyright need not be registered to satisfy a court’s subject matter jurisdiction. *See Reed Elsevier, Inc. v. Muchnick*, 559 U.S. 154, 169, 130 S. Ct. 1237, 1248, 176 L. Ed. 2d 18 (2010).

Motion to Dismiss for Failure to State a Claim

The Federal Rules of Civil Procedure require that each claim in a complaint include a “short and plain statement . . . showing that the pleader is entitled to relief.” FED. R. CIV. P. 8(a)(2). Each claim must include enough factual allegations “to raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

A Rule 12(b)(6) motion allows a party to move for dismissal of an action when the complaint fails to state a claim upon which relief can be granted. FED. R. CIV. P. 12(b)(6). When considering a motion to dismiss under Rule 12(b)(6), the Court must accept as true all well-pleaded facts in plaintiff’s complaint and view those facts in the light most favorable to the plaintiff. *Bowlby v. City of Aberdeen*, 681 F.3d 215, 219 (5th Cir. 2012). The Court may consider “the complaint, any documents attached to the complaint, and any documents attached to the motion to dismiss that are central to the claim and referenced by the complaint.” *Lone Star Fund V (U.S.), L.P. v. Barclays Bank PLC*, 594 F.3d 383, 387 (5th Cir. 2010). The Court must then determine whether the complaint states a claim for relief that is plausible on its face. “A claim has facial plausibility when the plaintiff pleads factual content that allows the [C]ourt to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Gonzalez v. Kay*, 577 F.3d 600, 603 (5th Cir. 2009) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). “But where the well-pleaded facts do not permit the [C]ourt to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not ‘show[n]’—that the pleader is entitled to relief.” *Iqbal*, 556 U.S. at 679 (quoting FED. R. CIV. P. 8(a)(2)).

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.