

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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MIKHAIL FRIDMAN, PETR AVEN, and	:	
GERMAN KHAN,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No. 1:17-cv-02041 (RJL)
	:	
BEAN LLC (a/k/a FUSION GPS) and GLENN	:	
SIMPSON,	:	
	:	
<i>Defendants.</i>	:	
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**NOTICE OF LETTER FROM A THIRD PARTY SUBJECT OF
PLAINTIFFS’ MOTION FOR ISSUANCE OF LETTER OF REQUEST FOR
INTERNATIONAL JUDICIAL ASSISTANCE**

Plaintiffs respectfully file this Notice of a letter received from counsel for Sir Andrew Wood (the “Wood Letter”). Wood, a third party located in the United Kingdom, is one of the subjects of Plaintiffs’ pending Motion for Issuance of a Letter of Request for International Judicial Assistance to the Senior Master of the High Court (Queen’s Bench Division) of England and Wales (the “Motion”) (Dkt. 90).¹

The Wood Letter, attached as Exhibit A, is addressed to Plaintiffs’ counsel in the United Kingdom. It conveys that Wood will not cooperate with Plaintiffs’ request for evidence from him—and that Wood will not seek to intervene in this Court in connection with the Motion.

Notwithstanding Wood’s position as stated in the Wood Letter, Plaintiffs’ position remains that Wood possesses documents responsive to Plaintiffs’ request and that Wood can give

¹ In the Motion, Plaintiffs promised to update the Court with any response from Wood to Plaintiffs’ request that he cooperate with Plaintiffs’ request for evidence.

testimony relevant and material to issues in this case. Furthermore, it remains Plaintiffs' position that the information Wood could provide by producing documents and giving testimony are not otherwise available to Plaintiffs. For example, Wood submitted a witness statement in a recent English High Court proceeding that references a March 2018 report that he provided to the U.S. Senate Select Committee on Intelligence about his involvement in memoranda that Christopher Steele created in 2016 for the Defendants. One of these memoranda, Company Intelligence Report 112, is the subject of this case. Plaintiffs do not have a copy of Wood's report to the U.S. Senate Select Committee on Intelligence, which Plaintiffs continue to seek. In addition, the transcript of the English High Court trial in which Wood submitted evidence reveals that there are text messages between Wood and Steele relating to Steele's memoranda, which Plaintiffs do not have and seek to obtain. While the Wood Letter expresses the view that Wood has already testified on all relevant matters in the English High Court proceeding, Plaintiffs were not parties to that proceeding. Moreover, providing evidence in that proceeding is not a substitute for doing so in this one. The Plaintiffs in this case were not among the claimants in the English High Court proceeding and the two cases concern different defamatory statements. Plaintiffs' additional bases for seeking evidence from Wood are set forth in the Motion (*see* Motion ¶¶ 15, 24, 25).

Accordingly, Plaintiffs have informed Wood's counsel, in response to the questions posed in the Wood Letter, that Plaintiffs will (a) continue to request that the Court issue a letter of request that includes requests directed to Wood, and (b) provide notice to Wood of any application Plaintiffs make to the English High Court, sufficient to enable him to make his position known to that court.

Dated: New York, New York
September 8, 2020

Respectfully submitted,

Alan S. Lewis

Alan S. Lewis (#NY0252)
CARTER LEDYARD & MILBURN LLP
2 Wall Street
New York, NY 10005
Tel: (212) 732-3200
Fax: (212) 732-3232
lewis@clm.com

-and-

Kim Spurduto (DC Bar No. 416127)
SPERDUTO THOMPSON & GASSLER PLC
1747 Pennsylvania Avenue, NW, Suite 1250
Washington, DC 20006
Tel: (202) 408-8900
Fax: (202) 408-8910
ksperduto@stglawdc.com

Attorneys for Plaintiffs

EXHIBIT A



CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place
78 Cannon Street
London
EC4N 6AF

D: +44 20 3060 6244
E: ciara.cullen@rpc.co.uk

By email: Bernard.o'sullivan@cms-cmno.com

Our ref: MM06/CC03/ORB4.5
Your ref: AIDR/GEPT/LOPO/CAP/O34899.00003

24 August 2020

Dear Sirs

Request for oral evidence and documents in respect of US Proceedings

We refer to your letter to Sir Andrew Wood dated 30 July 2020. Please note that we act for Sir Andrew in respect of this matter. Please therefore address any future correspondence to us.

Despite your request that Sir Andrew Wood respond to your letter by 7 August 2020, we note that you issued your application to the US Court, pursuant to the Hague Convention, prematurely on 4 August 2020 (**US Application**). We reserve our client's right to draw this to the attention of the courts, at the appropriate time.

The extent of Sir Andrew's involvement with Orbis Business Intelligence Limited (**Orbis**) with reference to the 'Dossier' is set out in his witness statement dated 15 April 2020 in the proceedings of *Gubarev and anor v Orbis Business Intelligence Limited and anor*. We provided a copy of this statement to you on 31 July 2020. You are aware that he was cross-examined in the same proceedings and you also have copies of the transcripts of this cross-examination.

Sir Andrew has no further information to supplement his existing testimony in respect of the items set out in Annexure A to your letter. Further, we are instructed that Sir Andrew does not possess any documents which would be responsive to the descriptions listed in the same Annexure. As such, a deposition would not provide any further relevant information or documents and would be a significant waste of time and costs.

We trust you will reconsider matters in light of the above.

ADVISORY | DISPUTES | TRANSACTIONS

Tower Bridge House St Katharine's Way London E1W 1AA
T +44 203 060 6000 F +44 203 060 7000 DX 600 London/City rpc.co.uk

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London Bristol Hong Kong Singapore



Should you nonetheless choose to proceed and obtain a Letter of Request in respect of our client, we would draw your attention to Senior Master Fontaine's judgement in *Productivity-Quality Systems Inc v Cybermetrics Corporation v Jeffrey Aughton* 2019:

"21 ...In my judgment, it is only where there may be reason to consider that a proposed witness may try to evade service if forewarned about the request for evidence or fails to respond to a request prior to an application being issued, that an application without notice is appropriate."

As such, a without notice application would not be appropriate in the present circumstances.

For the avoidance of doubt, Sir Andrew does not intend to seek to intervene in the US case, as he has not engaged US counsel nor shall he incur such expense for this unnecessary and burdensome fishing expedition on your clients' part. However, Sir Andrew expressly reserves his objections and defences against these efforts and intends to seek the protections of the English High Court should your clients proceed with their pursuit of a Letter of Request that advances to the jurisdiction of the English High Court.

In light of the above, please confirm by return:-

- a. whether it is your intention to proceed with the US Application in respect of our client; and
- b. if the answer to (a) is in the affirmative, that you will provide us with sufficient notice of any consequent application you might make to the English High Court so that appropriate submissions can be made on behalf of our client. Failure to do so would cause significant prejudice to our client and would likely result in a further waste of court time and resources.

We await your response. In the meantime, we fully reserve all of our client's rights.

Yours faithfully



RPC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served electronically via the CM/ECF electronic filing system on all counsel or parties of record this 8th day of September 2020.

Alan S. Lewis

Alan S. Lewis