

May 19, 2022

VIA ECFHon. William F. Kuntz, II
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 10007Re: *Artec Europe S.À.R.L. v. Shenzhen Creality 3D Tech. Co., Ltd, et al.*, 1:22-1676
(WFK)(VMS)

Dear Judge Kuntz:

This firm represents Defendant Kickstarter, PBC (“Kickstarter”) in the above-captioned matter. We write to provide the Court with an update concerning the funds at issue in Plaintiff Artec Europe S.À.R.L.’s (“Artec’s”) pending application for injunctive relief. *See* Dkts. 1, 4-5.

As the Court knows, this action relates to Defendant Shenzhen Creality 3D Technology Co., Ltd.’s (“Creality’s”) Kickstarter campaign in connection with its CR-Scan Lizard project. *See* Compl. ¶¶ 5-6. Creality’s Kickstarter campaign raised approximately \$4,000,000 from over 9,400 campaign backers. *Id.* ¶ 60. On March 25, 2022, Artec filed a complaint asserting claims for copyright infringement and patent infringement against Creality, and contributory copyright infringement against Kickstarter. *Id.* ¶¶ 44-92. In its Complaint, Artec also asked the Court to enjoin Kickstarter from transferring any funds raised through Creality’s campaign. *Id.* ¶ 92. Specifically, Artec argued in a supporting declaration that Kickstarter should be restrained from distributing the campaign funds to Creality during the pendency of this lawsuit, because otherwise, “Artec will have no way to hold Creality accountable for these violations.” Dkt. 4 ¶ 40.

As Kickstarter stated in its reply papers, as well as during a hearing before the Court on April 8, 2022, Kickstarter takes seriously its responsibilities to the creators who use its platform, as well as to the backers who use Kickstarter to support innovative projects. *See* Dkt. 23 at 6. Last week, Creality asked Kickstarter to simply refund to its campaign backers all money raised from the CR-Scan Lizard campaign. Given that the Court has not ordered Kickstarter to retain the campaign funds, Kickstarter has agreed to begin issuing refunds to all campaign backers at the beginning of next week. Since issuing these refunds will essentially return the parties to the state of affairs that existed prior to the commencement of Creality’s Kickstarter campaign, Kickstarter believes that its decision moots the pending request for injunctive relief, as well as Artec’s pending claim for liability against Kickstarter.

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We are glad to discuss these issues further if that would be helpful to the Court. Thank you very much for your attention to this matter.

Respectfully,

DAVIS WRIGHT TREMAINE LLP

/s/ James Rosenfeld

James Rosenfeld

Copy to: All counsel via ECF