

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SA CV 20-01319-CJC-DFM

Date: July 24, 2020

Title: GARRAPATA, LLC V. NOROK INNOVATION, INC., ET AL.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Gabriela Garcia
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

**PROCEEDINGS: (IN CHAMBERS) ORDER REGARDING PLAINTIFF'S
APPLICATION FOR TEMPORARY RESTRAINING ORDER**

On July 23, 2020, Plaintiff—an entity that holds all trademarks related to the actor Clint Eastwood—brought this action against several CBD companies alleging that they misappropriate Mr. Eastwood's name and likeness to promote their products. (Dkt. 1 [Complaint].) Alongside the Complaint, Plaintiff applied for an ex parte temporary restraining order that would temporarily enjoin Defendants from using Mr. Eastwood's name or likeness. (Dkt. 11 [Ex Parte Application for TRO]; Dkt. 11-1 [Memorandum in Support, hereinafter "TRO"].) Confusingly, at times, Plaintiff's TRO purports to request relief before Defendants are given notice of this proceeding. (See TRO at 1 [explaining that "relief is being sought on an *ex parte* basis because . . . if notice were given, the records and data of [Defendants'] activity would very likely disappear"). However, Plaintiff's counsel also attests that he sent Defendants notice of the action and the TRO application via overnight mail on July 21, 2020. (Dkt. 11-5 [Declaration of Jordan Susman, hereinafter "Susman Decl."] ¶ 12.)

"Ex parte temporary restraining orders . . . run[] counter" to the notion that underlies "our entire jurisprudence"—that there be no court action "before reasonable notice and an opportunity to be heard has been granted both sides of a dispute." See *Granny Goose Foods, Inc. v. Bhd. of Teamsters and Auto Truck Drivers Local No. 70 of Alameda Cty.*, 415 U.S. 423, 439 (1974). Accordingly, there are "very few circumstances justifying the issuance of an ex parte TRO." *Reno Air Racing Ass'n, Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006) (explaining that ex parte orders are only proper when "notice to the defendant would render fruitless the further prosecution of the action"). Especially given that Plaintiff's counsel has already notified Defendants of the pending TRO, the Court concludes Plaintiff has not sufficiently demonstrated

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why notice should be excused and believes that an opposition and reply are needed to resolve the issues raised by the application. *See Hand & Nail Harmony, Inc. v. ABC Nail and Spa Prods.*, 2016 WL 9110163, at *3 (C.D. Cal. May 31, 2016) (“Conclusory statements by the applicant’s counsel that the defendant will destroy goods will not justify ex parte issuance.”); *Reno Air Racing*, 452 F.3d at 1131 (requiring that the plaintiff “do more than assert that the adverse party would dispose of evidence if given notice”). Plaintiff’s application is therefore **DENIED** to the extent it seeks relief before Defendants are given an opportunity to be heard.

Accordingly, Plaintiff is hereby ordered to meet and confer with Defendants and propose a briefing schedule concerning Defendants’ opposition to the TRO and Plaintiff’s reply. After the briefing has been completed, the Court will schedule a hearing if necessary.

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Initials of Deputy Clerk GGA