IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIGARS INTERNATIONAL, INC.	:	CIVIL ACTION
	:	
v.	:	
	:	
FAMOUS SMOKE SHOP, INC., et al.	:	NO. 06-4752

MEMORANDUM & ORDER

JACOB P. HART
UNITED STATES MAGISTRATE JUDGE

DATE: April 18, 2007

On February 1, 2007, the undersigned conducted a settlement conference in this case. The case was settled amicably, with one of the terms being that the parties would draft a mutually acceptable statement to be posted on the internet, announcing that the matter had been resolved. Although the parties have now agreed on the language of the statement, a dispute remains as to where on the internet it should be posted. Plaintiff insists that the statement be posted on the home page of Defendant's web site. Defendant, however, wants to post the statement only on the two internet cigar blogs (Herfersparadise.net and Clubstogie.com) where the Defendant's principal, David Zaretsky, had himself posted certain critical statements about the Plaintiff and this litigation. Both parties have agreed to let me resolve the dispute, and each has now written to the Court outlining its position.

After reviewing the letters from counsel, and consulting my own notes taken during the

settlement conference, it is my decision that the statement should be posted on the two blogs only, and need not be posted on the Defendant's web site.

Although the Plaintiff is correct when it points out that the Defendant cannot control the exact placement of a blog posting, nor the length of time that any such posting remains on the blog, the fact remains that it was only Mr. Zaretsky's blog activities that prompted Plaintiff to insist that the statement be part of the settlement in the first place. There is no allegation that the Defendant ever criticized the Plaintiff on the Defendant's website. Rather, Plaintiff's complaints about the Defendant's website concerned only the fact that Defendant had copied Plaintiff's proprietary code. The monetary component of the settlement addresses that issue.

However, the Plaintiff was very upset about the fact that Mr. Zaretsky had used the blogs to publicize the lawsuit and criticize the Plaintiff for filing it. It follows, therefore, that only visitors to the blog could have thought ill of the Plaintiff because of Mr. Zaretsky's conduct. Someone who visited only Defendant's website could not have even seen, much less been influenced by, what Mr. Zaretsky said in his blog postings. Since the blogs were the sole source of this issue, the blogs are the obvious place where the conciliatory statement should reside.

I therefore issue the following:

ORDER

AND NOW, this 18th Day of April, 2007, it is ORDERED that, as part of the settlement in the above captioned matter, the Defendant shall post the agreed-upon statement on the web blogs Herfersparadise.net and Clubstogie.com.

Defendant shall include, in the text of each of the postings, a specific request that the statement remain on the blogs for a minimum of 60 days.

BY THE COURT

/s/Jacob P. Hart

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JACOB P. HART
UNITED STATES MAGISTRATE JUDGE