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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THE HON. JUDGE MANUEL L. REAL, JUDGE PRESIDING

| | | |
|------------------------------|---|------------------|
| NINA PARKINSON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | NO. 13-CV-7029-R |
| |) | |
| ROBANDA INTERNATIONAL, INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |

REPORTER'S TRANSCRIPT OF PROCEEDINGS
Los Angeles, California
Monday, November 25, 2013

LISA M. GONZALEZ, CSR No. 5920, CCRR
U.S. District Courthouse
312 North Spring Street - Room 438
Los Angeles, California 90012
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APPEARANCES :

FOR THE PLAINTIFF: TROJAN LAW OFFICES
BY: R. JOSEPH TROJAN
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(310) 777-8399

FOR THE DEFENDANT: GABRIEL, SALOMONS LLP
BY: DAVIS S. MAYES
16311 Ventura Boulevard
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Encino, California 91436-2124

1 **Los Angeles, California, Monday, November 25, 2013**

2 **10:00 A.M.**

3 **-oOo-**

4 THE CLERK: Calling item number 2, CV-13-7029,
5 Nina Parkinson versus Robanda International.

6 MR. TROJAN: Good morning, Your Honor. Joseph
7 Trojan for Nina Parkinson.

8 MR. MAYES: Good morning, Your Honor. David Mayes
9 for Robanda International, Inc.

10 THE COURT: Counsel, anything to add to the
11 documents which have been filed?

12 MR. TROJAN: No, Your Honor.

13 MR. MAYES: No, Your Honor.

14 THE COURT: Parkinson has sued Robanda
15 International, Inc., for trademark infringement and unfair
16 competition. Robanda has moved to dismiss this suit.

17 On a motion to dismiss, the trial court takes all
18 well pleaded facts in the Complaint to be true and
19 determines whether, based upon those facts, the Complaint
20 states a claim upon which relief may be granted. Federal
21 Rule of Civil Procedure 12(b)(6).

22 Although factual assertions are taken as true, the
23 court does not accept legal conclusions as true: Ashcroft
24 v. Iqbal, 556 U.S. 662 (2009). A sale of a trademark
25 divorced from its goodwill is an assignment-in-gross and

1 barred by the Latham Act, McCarthy Trademarks and Unfair
2 Competition, section 18.1. The recitation of a transfer of
3 goodwill in an assignment does not satisfy the anti
4 assignment-in-gross rule: Money Store v. Harriscorp
5 Finance, Inc., 689 F.2d 667, (Seventh Circuit 1982).

6 Parkinson alleges that she is the owner of
7 Maryland trademark. Ownership of a valid trademark is a
8 legal conclusion that this court cannot accept as
9 necessarily true.

10 Parkinson alleges that the trademark was assigned
11 to her but also alleges that she never sold products under
12 the Maryland mark and the business assets were transferred
13 to Robanda, nor does Parkinson aver that any goodwill was
14 actually transferred besides the formal recitation in the
15 assignment.

16 Parkinson has thus alleged an assignment-in-gross
17 of only the trademark without the business or goodwill
18 accompanying the mark. Thus, Parkinson has failed to allege
19 facts that support a claim of trademark ownership.

20 Defendant's motion to dismiss is granted.

21 Counsel to prepare the order.

22 MR. TROJAN: Your Honor, is it with leave to
23 amend?

24 THE COURT: I don't know what you can amend to
25 under those circumstances.

1 MR. TROJAN: Well, I do believe we can amend. We
2 can amend based upon the fact that --

3 THE COURT: You've alleged all the things that
4 have to do with the trademark and with what Ms. Parkinson
5 owns.

6 MR. TROJAN: Well, we can amend the Complaint to
7 allege additional facts because we can allege that at the --
8 the -- at the time of the trademark, simultaneously with the
9 assignment of the trademark, there was the license from
10 Ms. Parkinson to Robanda. So therefore the law is clear
11 that a licensee's use of the mark inures to the benefit of
12 the licensor.

13 THE COURT: That doesn't change anything in the
14 ownership of the trademark.

15 No, it's with prejudice.

16 MR. MAYES: Thank you, Your Honor.

17 *(Thereupon, proceedings adjourned)*

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CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript format is in conformance with the regulations of the Judicial Conference of the United States.

Date: January 23, 2014

Lisa M. Gonzalez

**/s/ _____
Lisa M. Gonzalez, U.S. Court Reporter
CSR No. 5920**