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P-5

Cause Number: 2011-13952

HELLENE V. HINER,

Plaintiff,

vs.

VALERI KOUKHTIEV,

Defendant.

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IN THE DISTRICT COURT

270th JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

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JUDGMENT

On January 14, 15, 16 & 17, 2013, came on to be heard the above-entitled and numbered cause, in which **HELLENE V. HINER** sued **VALERI KOUKHTIEV**. The plaintiff appeared in person and by attorney, J. Nathan Overstreet. The defendant appeared by and through his attorney of record, Leonid Kishinevsky, Esquire, **Coane & Associates, PLLC**. All parties announced ready for trial and a jury having been previously demanded, a jury consisting of twelve qualified jurors was duly empaneled and the case proceeded to trial.

Findings

The Court further finds that it has proper subject matter jurisdiction and in personam jurisdiction over the parties involved in this suit. The Court further finds that venue is proper in this county.

Jury verdict

At the conclusion of the evidence, the Court submitted the questions of fact in the case to the jury. The charge of the Court and the verdict of the jury are incorporated for all purposes by reference. Because it appears to the Court that the verdict of the jury was for the Plaintiff and against the Defendant, judgment should be rendered on the verdict in favor of the Plaintiff and against the Defendant. Upon careful deliberation, the jury returned a verdict in favor of the Plaintiff.

FILED
Chris Daniel
District Clerk

JAN 30 2013

Time: _____
By: OK HAND!
Deputy

DC/2-1

Awards

The Court hereby renders judgment for **HELLENE V. HINER** sued **VALERI KOUKHTIEV**.

IT IS THEREBY ORDERED, ADJUDGED AND DECREED that **HELLENE V. HINER** have and recover judgment against **VALERI KOUKHTIEV** the sum of ONE THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$1,400.00) which represents the amount of Valeri Koukhtiev's profits in selling the software, SIXTEEN THOUSAND EIGHT HUNDRED FIFTY-SEVEN AND 90/100 DOLLARS (\$16,857.90) which represents the reasonable and necessary cost to develop replacement software and FORTY-SIX THOUSAND SIX HUNDRED FIFTY AND NO/100 DOLLARS (\$46,650.00) which represents the amount incurred for reasonable and necessary attorney's fees incurred for the prosecution of the breach of contract action, of \$15,000.00 if there is an appeal to the Court of Appeals and **HELLENE V. HINER** is successful before the Court of Appeals and of \$15,000.00 if there is an appeal to the Texas Supreme Court and **HELLENE V. HINER** is successful before the Texas Supreme Court under the breach of contract action.

IT IS THEREFORE ORDERED by the Court that **HELLENE V. HINER** recover from Defendant, **VALERI KOUKHTIEV**, pre-judgment interest for the actual damages and attorney's fees from the date that the petition was filed through trial at the rate of five (5%) percent.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the judgment hereby rendered shall bear post judgment interest at the rate of 5% from the date of Judgment until paid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that **HELLENE V. HINER** have and recover its costs of court from **VALERI KOUKHTIEV** which costs are a part of the judgment hereby rendered.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED **HELLENE V. HINER** is entitled to all writs which are necessary for the enforcement of this judgment.

Declaratory Judgment Findings

The Court finds that **HELLENE V. HINER** sued **VALERI KOUKHTIEV** entered into a binding Work for Hire Agreement on or about January 29, 2002, in which **VALERI KOUKHTIEV** agreed to assign any or all of his interest in the ownership of his work product including copyrightable works, ideas, discoveries, programming code, software, inventions, trademarks and patents to **HELLENE V. HINER**.

The Court further adopts the jury's factual findings with respect to the ownership interest of the intellectual properties made the subject of this lawsuit. The Court finds that **HELLENE V. HINER** owns solely and exclusively the following property:

1. US Patent No. 7,629,527;
2. Trademark Reg. No. 2,967,051 and Serial Number: 78426642 Soft Way to Mozart;
3. The websites DoReMiFaSoft.com and SoftMozart.com;
4. The software and code, called Soft Way to Mozart, for both PC and Mac; and
5. Do Re Me Fa Soft, a D/B/A.

The Court further finds that **VALERI KOUKHTIEV** does not have any right, title, or ownership interest in the following property:

1. US Patent No. 7,629,527;
2. Trademark Reg. No. 2,967,051 and Serial Number: 78426642 Soft Way to Mozart;
3. The websites DoReMiFaSoft.com and SoftMozart.com;
4. The software and code, called Soft Way to Mozart, for both PC and Mac; and
5. Do Re Me Fa Soft, a D/B/A.

The Court further finds that the company, Do Re Me Fa Soft, LLC, is jointly owned by **HELLENE V. HINER** and **VALERI KOUKHTIEV** with each owning an equal and undivided one-half (½) interest in the corporation.

Permanent Injunctions

The Court finds that **HELLENE V. HINER** is entitled to the injunctive relief because **VALERI KOUKHTIEV** has performed, is procuring or allowing the performance of, and will continue performing an act or acts relating to the subject of pending litigation in violation of the **HELLENE V. HINER's** rights, and the act(s) would tend to render the final judgment in this cause ineffectual.

The permanent injunctions granted shall be effective immediately and shall be binding on **VALERI KOUKHTIEV**; on his agents, servants, employees, and attorneys; and on those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise. The requirement of a bond is waived.

IT IS ORDERED that **VALERI KOUKHTIEV** is enjoined from:

1. Selling, distributing, or offering for sale the software and code, called Soft Way to Mozart, for both PC and Mac;
2. Engaging in any activity or sale of any aspect of the subject matter covered by US Patent No. 7,629,527; and
3. Advertising or using any of the protected sign, design or expression which are covered under Trademark Reg. No. 2,967,051 and Serial Number: 78426642 Soft Way to Mozart.

All other relief not specifically granted herein is expressly denied.

SIGNED on this the 25 day of February, 2013.

FEB 25 2013


JUDGE PRESIDING

Approved as to form and entry requested by:

J. Nathan Overstreet & Assoc. P.C.

/s/ J. Nathan Overstreet
James Nathan Overstreet
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Attorney for
HELLENE V. HINER

Approved as to form:

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I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this March 5, 2013

Certified Document Number: 54893878 Total Pages: 5

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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