

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 9:15-cv-80098

ARRIVALSTAR S.A. and MELVINO
TECHNOLOGIES LIMITED,

Plaintiffs,

v.

DEMANDWARE, INC.,

Defendant.

_____ /

PLAINTIFFS MOTION TO AMEND CASE CAPTION

COMES NOW, Plaintiffs ArrivalStar S.A. and Melvino Technologies Limited (collectively "Plaintiffs") file the attached motion seeking to amend the case caption in the above-captioned matter to reflect the present alignment of parties, as the Plaintiffs have undergone a change in ownership from ArrivalStar SA and Melvino Technologies Limited to Shipping and Transit, LLC, and should read:

SHIPPING AND TRANSIT, LLC,

Plaintiffs,

vs.

DEMANDWARE, INC.,

Defendant.

_____ /

For the reasons set forth in detail in the accompanying Memorandum, Plaintiffs respectfully request that the Court grant this Motion.

Dated: June 3, 2015

Respectfully submitted,

/s/ Jason P. Dollard

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2015, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I also certify that the foregoing document is being served this day, via transmission of Notices of Electronic Filing generated by CM/ECF, on the counsel listed below.

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TECHNOLOGIES LIMITED,

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**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO AMEND CASE
CAPTION**

Plaintiffs file this memorandum in support of Plaintiffs' Motion to Amend Case Caption because the caption in this matter no longer accurately reflects the parties to this litigation. The Plaintiffs, ArrivalStar SA and Melvino Technology Limited, has undergone an ownership change to Shipping and Transit, LLC, since the initiation of this Litigation. Accordingly, the caption should read:

SHIPPING AND TRANSIT, LLC,

Plaintiffs,

vs.

DEMANDWARE, INC.,

Defendant.

Argument

Federal Rule of Civil Procedure 10 states that "every pleading must have a caption with the court's name, a title, a file number, and a Rule 7(a) designation. The title of the complaint **must name all the parties.**" Fed. R. Civ. P. 10(a) (emphasis added). The original Complaint in

this matter, pursuant to Rule 10(a), was titled: ArrivalStar SA and Melvino Technologies Limited v. Demandware, Inc.

Since the filing of this matter Plaintiffs underwent a change in ownership and rights thereto, more specifically a purchase of the patents and all rights related thereto including any matters currently in litigation and as such Shipping and Transit, LLC ("Shipping") has proper standing. The current title, *ArrivalStar, SA and Melvino Technologies Limited v. Demandware, Inc.*, no longer accurately reflects the parties to this case.

When the Complaint was filed on January 28, 2015, and the Defendants were served on February 11, 2015, the Plaintiffs ArrivalStar and Melvino Technologies Limited were the correct parties. However, on March 23, 2015, the patents were assigned to Shipping.¹ To avoid any confusion, Plaintiffs held off filing this Motion until the time period to attack the initial pleadings had passed. Now that the time period to attack the initial pleadings has closed, Plaintiffs bring forth this Motion.

Since the ArrivalStar SA and Melvino Technologies Limited should no longer be referred to as the Plaintiffs in this matter, it would be inaccurate to refer to the case as *ArrivalStar SA and Melvino Technologies Limited v. Demandware, Inc.*, and because further proceedings appear likely in this matter, amending the case caption at this time will alleviate the possibility of confusion down the road.

Plaintiffs have contacted Defendant seeking consent for this purely technical motion, and Defendant has stated that it is in agreement that Plaintiffs have assigned all right, title and ownership of the patents-in-suit to a new entity, Shipping and Transit, LLC. *See* Defendant's

¹ Attached please find a copy of the patent assignment to Shipping. Please not there was a scrivners error "Shipping and Transit, LLP" when it should read "Shipping and Transit, LLC"

Reply in Support of its Motion for Sanctions (Doc 31) at p.6-7. Defendant further states that because Plaintiffs have divested themselves of all rights to the patents-in-suit they therefore lack standing to pursue infringement claims against Defendant. *Id.* Defendant does not agree that it was appropriate for Plaintiffs to wait more than two months to inform the Court that they had assigned away their rights in the patents-in-suit.

CONCLUSION

For the reasons set forth in detail in the above Memorandum, Plaintiff respectfully requests that the Court grant this Motion.

Respectfully submitted,

 /s/ Jason P. Dollard
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