

MOTION CALENDAR
WEDNESDAY, SEPTEMBER 10, 2008
Honorable Lawrence E. Kahn, U.S.D.J.

Clerk: Scott A. Snyder & Suzanne Gunter Law Clerks/ Mor Wetzler & Lisa Cloutier

Court Reporter: Theresa Casal / Bonnie Buckley / _____

RICHARD MINSKY,

V.

1:08-CV-0819 (LEK/DRH)

LINDEN RESEARCH, INC.; JOHN DOE; PHILIP ROSEDALE; MITCHELL KAPOR and OTHER DOES

ORDER TO SHOW CAUSE - FOR TEMPORARY RESTRAINING ORDER / MOTION FOR PRELIMINARY INJUNCTION and DEFENDANTS' MOTION TO VACATE

NOTE:

Richard Minsky	Pro Se	() -	Plaintiff
Daniel J. Hurteau	Nixon, Peabody Law	(518) 427 - 2650	Defendants
Andrew Rose	Nixon, Peabody Law	(518) 427 - 2650	Defendants
Janet Cullum	Cooley, Godward	(212) 479 - 6500	Linden, Rosedale & Kapor

Start: 2:15 P.M.

End: 3:02 P.M.

Appearances: All of the above. Judge Kahn addresses the Court. Defendants are allowed to go 1st. Ms. Cullum is moved in Pro Hac. Ms. Cullum states that there are many issues to address. Claims the TRO is not necessary nor is it properly entered. She claims she is willing to work with this Court & with the plaintiff. Ms. Cullum states that there is no reason for this TRO to be in place. She further states that evidence is being preserved in this matter. The allegation that evidence has been disappearing is not true. Ms. Cullum states that her client immediately took action - as soon as the plaintiff made them aware of the trademark infringement. She names an avatar and states that "he" is no longer posting as SLART. Mr. Minsky states that the infringement is taking place by more than 1 avatar at Second Life. Ms. Cullum states that there is no harm taking place here due to the removal of the trademark infringement taking place. Ms. Cullum further states that the trademark is invalid. The Court directs Ms. Cullum to focus her arguments on the infringement at this point. She states that it is unclear if the use of his trademark in Second life is an infringement. Some users call their art "SL - art" which would not be an infringement. She states that she is willing to work with the plaintiff & the court on what to do if the combination of characters is defined as an infringement or not. Mr. Minsky counters Ms. Cullum's arguments. Mr. Rose states that he feels the demands of the plaintiff have been met & the TRO should be removed. There is no underpinning to the TRO left - no urgency or showing of a legal wrong. The plaintiff wants

