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Swiss Bank Drops Case Against Wikileaks.org

After a federal judge in San Francisco reversed his earlier ruling suspending the Wikileaks.org domain name, Switzerland-based Bank Julius Baer said it would voluntarily dismiss its case over leaked documents posted on the site alleging that the bank supports "ultra-rich's offshore tax avoidance, tax evasion, asset hiding, and money laundering."

Bank Julius Baer filed court papers last week saying it would withdraw its complaint, while reserving the right to file it again or pursue its claim "in an alternate court, jurisdiction, or venue."

The bank's action came on the heels of an order by U.S. District Judge Jeffrey White reversing his earlier ruling, in which he expressed his doubts that the bank could win the case.

After a panoply of First Amendment advocates – including Public Citizen, the California First Amendment Coalition, the American Civil Liberties Union, the Project on Government Oversight, and the Electronic Frontier Foundation – presented arguments on reconsideration, Judge White changed his mind. In his order reversing the injunctions, he suggested that he had questions regarding jurisdiction, the effectiveness of any injunctive relief, and First Amendment considerations.

In the original decision, the court ordered the Dynadot domain registrar to shelve the registration of the Wikileaks.org domain name and stop any transfer to another registrar. It also banned Wikileaks itself "from displaying, posting, publishing, distributing, linking to, and/or otherwise providing

UPCOMING EVENTS

October 21, 2008

ACI: Sports Sponsorship Advertising and IP

Topic:

"When Retired Players Sue From Coscarart v. Major League Baseball to Parrish v. NFLPA"

Ronald S. Katz

"Morality and an Agreement Mortality--Taking Appropriate Measures to Avoid the Termination of an Endorsement Deal"

Linda Goldstein

The Carlton Hotel
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October 22, 2008

D.C. Bar CLE Seminar

Topic:

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Kenneth M. Kaufman

D.C. Bar Conference Center
Washington, D.C.

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November 20-21, 2008

PMA's 30th Annual Promotion Marketing Law Conference

Topic:

"Navigating the Potholes: The Evolving Landscape for Sweepstakes, Games

any information" considered confidential by Bank Julius Baer.

Wikileaks' summary of the leaked documents from the bank, which calls itself the "leading dedicated wealth manager in Switzerland," focuses on Rudolf Elmer, the bank's ex-COO in the Cayman Islands. It alleges that the bank enables "ultra-rich's offshore tax avoidance, tax evasion, asset hiding, and money laundering."

In a statement last week the bank said: "The documents in question are protected and prohibited from unauthorized publication under U.S., California, and foreign consumer banking and privacy protection laws. The posting of confidential bank records by anonymous sources significantly harms the privacy rights of all individuals.... Julius Baer denies the authenticity of [the material posted on Wikileaks.org] and wholly rejects the serious and defamatory allegations which it contains."

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FDA Bans Health Claims by Two Companies

The U.S. Food and Drug Administration announced February 22 that two companies and two of their executives are banned from making and selling any food or other products with health claims on the label.

This type of ban is a rare foray by the agency. Under the February 19 consent decree with the FDA, Brownwood Acres Foods Inc. and Cherry Capital Services Inc. (doing business as Flavonoid Sciences) are permanently barred from manufacturing and distributing any products with claims in the label to cure, treat, mitigate, or prevent diseases.

Brownwood Acres Foods Inc. and Cherry Capital Services Inc. make and sell products such as juice concentrates, soft fruit gel capsules, fruit bars, dried fruits, liquid glucosamine, and salmon oil capsules. They have a record of making unapproved health-related claims on their product labels, brochures, and Web sites, such as "Chemicals found in Cherries may help fight diabetes," according to the FDA.

Under the consent decree, the companies may only make these claims if and when the FDA approves the products as new drugs or exempts them from approval as investigational new drugs. In the meantime, the companies have agreed to delete drug and unauthorized health claims from their labels, brochures, and Web sites, as well as links to other Web sites making such claims. They have also agreed to employ an independent expert to evaluate claims they make for their products and to certify that they have removed all violative claims.

Contests"

[Linda Goldstein](#)

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"Consumer Product Safety: Hear from the Regulators How the New Laws Affect Your Promotion"

[Kerrie L. Campbell](#)

Marriott Downtown Magnificent Mile
Chicago, IL

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December 4-5, 2008 Film & Television Law

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[Linda Goldstein](#)

Topic:

"The Value of Fame: Understanding the Right of Publicity"

[Mark S. Lee](#)

Century Plaza Hyatt Regency
Los Angeles, CA

[For more information](#)

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OUR PRACTICE

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ASA Grounds EasyJet's Ad Claims

After a complaint from rival airline Ryanair, the U.K.'s Advertising Standards Authority has banned an ad campaign by the budget airline easyJet claiming "lowest price guarantee," on the grounds that the applicable terms and conditions were too restrictive to readily find comparable flights.

Ryanair, which itself recently tussled with the ASA for banning one of its ads, took issue with easyJet's claims in print and online ads for its 2007 summer fares, claiming they were misleading. The watchdog agency sustained the complaint, finding easyJet's terms and conditions stated that the "double the difference refund" offer applied only to flights leaving within one hour of easyJet flights from the same airport to the same destination.

It noted further that although the layout and design of the ads gave the sense that refunds were readily available, the overly restrictive terms and conditions gave lie to that impression. EasyJet also offered no proof that customers had been able to take advantage of the offer, the ASA noted.

However, the ASA refused to sustain a second Ryanair complaint that the easyJet ads misled the public because the claim was only a pledge to refund any customer who found a less expensive flight and was not a guarantee that easyJet is always less expensive than its rivals.

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Radio Host's Suit Against Islamic Group Loses Signal Strength

A federal judge in San Francisco said on March 7 that she was inclined to throw out a copyright infringement lawsuit by conservative radio talk show host Michael Savage against the Council on American-Islamic Relations.

Savage sued the Washington, D.C.-based Islamic lobbying group over its use of parts of his program, *The Savage Nation*, in a bid for donations and an ad boycott of the popular show, which is heard by up to 8 million listeners a day. U.S. District Judge Susan Illston said she would allow Savage to revise his complaint, but she considered the defendant's arguments "persuasive."

CAIR posted on its Web site a four-minute clip of Savage's two-hour show on October 29 in which he described the Quran as a "book of hate." CAIR juxtaposed the clip and a link for donations and pushed for the ad boycott. The group said that it and its allies had persuaded more than a dozen companies to pull their ads from the program.

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The judge said she considered “persuasive” CAIR’s arguments that its use of the clip to criticize and comment on Savage’s views – even if it is also used for fundraising purposes – deserved First Amendment protection.

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