

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MAMMOET USA NE CORP.	:	
	:	
Plaintiff,	:	CIVIL ACTION NO.
	:	3:02CV2022(MRK)
v.	:	
	:	
DICK CORP.	:	OCTOBER 9, 2003
	:	
Defendant.	:	

**RULING ON DEFENDANT'S OBJECTIONS TO MAGISTRATE JUDGE'S RULING ON
PLAINTIFF'S APPLICATION FOR PREJUDGMENT REMEDY AND DISCLOSURE
OF ASSETS, PENDENTE LITE, AS TO DICK CORPORATION**

Defendant, Dick Corporation, objects to Magistrate Judge Joan Glazer Margolis's Ruling on Plaintiff's Application for Prejudgment Remedy and Disclosure of Assets, *Pendente Lite*, as to Dick Corporation (the "Ruling")[Doc. #26]. For reasons discussed on the record at a hearing on October 9, 2003 and as set forth below, Defendant's Objections [Doc. # 29] are rejected and the Ruling is ADOPTED.

Pursuant to Local Rule 72.2(b) of the District of Connecticut's Local Rules for Magistrate Judges and 28 U.S.C. §636(b)(1)(A), this Court will set aside the Ruling only if Defendant demonstrates that it is clearly erroneous or contrary to law. Defendant objects to the Ruling on only three grounds. The Court will consider each objection in turn.

First, Defendant asserts that the Magistrate Judge applied an erroneous legal interpretation of the subcontract, resulting in a miscalculation of the amount of damages and therefore an excessive attachment. *See* Ruling at 9-12. Defendant has manifestly failed to meet

its burden on this objection. While Defendant's interpretation of the subcontract language may be a plausible interpretation, it is certainly not the only possible interpretation, as Defendant itself acknowledged at the hearing. The arbitrators, of course, remain free to choose to interpret the subcontract for themselves and are not bound by the Magistrate Judge's reading of the subcontract at this preliminary stage of the case. Accordingly, the Court will not set aside the Ruling's calculation of damages and resulting attachment amount.

Second, Defendant next objects to a portion of the Ruling that discusses the Uniform Enforcement of Judgments Act, Conn. Gen. Stat. § 52-605 (the "Uniform Act"). *See* Ruling at 14. This objection is immaterial at this time. Plaintiff and Defendant both conceded at the hearing that nothing in the Ruling purports to grant an attachment on property located outside the State of Connecticut and that any statement in the Ruling regarding the Uniform Act is at most dicta. The Court agrees, and in adopting the Magistrate Judge's Ruling, the Court does not construe any comment in the opinion as constituting a ruling regarding the enforceability of the Ruling under Connecticut's Uniform Act or the similar laws of any other state. The Court will not, therefore, set aside the Ruling on the basis of Defendant's second objection.

Third and finally, Defendant objects to the statement in the Ruling that it is within the Court's power to effectuate a prejudgment remedy under Connecticut law by ordering the parties over whom the Court has in personam jurisdiction to bring assets into Connecticut for purposes of attachment. *See* Ruling at 14. This objection is also premature at this time, since both parties agreed at the hearing that Plaintiff never requested an injunction or order requiring Defendant to bring assets into the State and the Magistrate Judge did not purport to grant such an injunction or order in the Ruling. Indeed, as both parties acknowledged, unless and until Defendant discloses

its assets, it is not possible to determine whether and what assets Defendant has outside the State, let alone whether it is necessary to require Defendant to bring any such assets into the State in order fully to satisfy the attachment.

Defendant has not objected to the Ruling's requirement that it disclose all of its assets, regardless of location within or without the State of Connecticut. If Plaintiff is unable to satisfy the attachment from the assets of Defendant located in the State, Plaintiff is free to request additional or ancillary relief from this Court, including a request that Defendant be ordered to bring specifically identified property into the State for purposes of attachment. This Court will entertain any such a request (which should be accompanied by a memorandum of law) on an expedited basis. Until that time, however, the issue of the scope of its power to enter such orders is entirely hypothetical, as the Magistrate Judge recognized, and the Court sees no need to set aside the Ruling on the basis of hypotheticals.

Defendant's Objections [Doc. # 29] having been considered and rejected, the Ruling on Plaintiff's Application for Pre-Judgment Remedy and Disclosure of Assets, *Pendente Lite*, as to Dick Corporation [doc. # 26] is hereby ADOPTED. Defendant will disclose all of its assets, regardless of location, by October 20, 2003.

IT IS SO ORDERED,

/s/ Mark R. Kravitz

U.S.D.J.

Dated at New Haven, Connecticut: October 9, 2003

