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JULIUS BAER BANK AND TRUST CO. LTD

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BANK JULIUS BAER & CO.
LTD, a Swiss entity; and JULIUS
BAER BANK AND TRUST CO.
LTD, a Cayman Islands entity,

Plaintiffs,

v.

WIKILEAKS, an entity of unknown
form, WIKILEAKS.ORG, an entity
of unknown form; DYNADOT,
LLC, a California limited liability
corporation, and DOES 1 through
10, inclusive,

Defendants.

CASE NO. CV08-0824 JSW
[Hon. Jeffrey S. White; CRTM 2]

PLAINTIFFS' NOTICE OF
NON-OPPOSITION BY DEFENDANTS
WIKILEAKS AND WIKILEAKS.ORG
TO PLAINTIFFS' APPLICATION
FOR TRO

[Filed Concurrently With: Declaration of
Evan Spiegel in Support Thereof]

DATE: FEBRUARY 14, 2008
TIME: 10:00 a.m.
CTRM: 2, 17th FL

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that there has been no written opposition filed by
Defendants Wikileaks and Wikileaks.org (collectively, the "Wikileaks Defendants")
to Plaintiffs Bank Julius Baer & Co. Ltd's ("BJB") and Julius Baer Bank and Trust

1 Co. Ltd's ("JBBT") (collectively, "Plaintiffs") Application for TRO (the
2 "Application") and the Order to Show Cause, dated February 11, 2008, as to why
3 a temporary restraining order should not issue against Defendants, which is set for
4 hearing on February 14, 2008, at 10:00 a.m. before this Court.

5 On February 8, 2008, Plaintiffs filed the Application, the Memorandum of
6 Points and Authorities and supporting documents with this Court. On February 11,
7 2008, the Court issued an OSC re Issuance of TRO and Setting Briefing and Hearing
8 Schedule ("OSC re Issuance of TRO"). Plaintiffs served the Wikileaks Defendants
9 with the Application, the Memorandum of Points and Authorities and the supporting
10 documents and OSC re Issuance of TRO on February 11, 2004, via personal service
11 on their counsel. Plaintiffs also, alternatively, served the Wikileaks Defendants on
12 February 11, 2004, via Overnight Priority Mail to their listed contact/agent via their
13 Dynadot registration privacy service listing. Plaintiffs served defendant Dynadot
14 with the Application, the Memorandum of Points and Authorities and the supporting
15 documents and OSC re Issuance of TRO on February 11, 2004, via personal service
16 at its place of business. See the accompanying Declaration of Evan N. Spiegel
17 ("Spiegel Decl."), ¶¶3, 4; and see Proofs of Service filed with this Court, Docket
18 Numbers 15-17 and 20-25.

19 The OSC re Issuance of TRO set Tuesday, February 12, 2008 at 3:00 p.m.
20 as the deadline for Defendants to file and serve any opposition to the Application and
21 OSC re Issuance of TRO. As of Tuesday, February 12, 2008 at approximately
22 11:30 p.m., no opposition papers to the Application and OSC re Issuance of TRO
23 have been served by the Wikileaks Defendants to Plaintiff (Spiegel Decl., ¶5).¹

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26 ¹ Dynadot has not filed an Opposition as Dynadot and Plaintiffs have reached an
27 agreement and stipulation in this matter, which will be presented to the Court at
28 the time of hearing on the OSC re Issuance of TRO. Pursuant to Dynadots' and
Plaintiffs' agreement, Dynadot will stipulate to entry of a Permanent Injunction
upon terms to be presented to the Court. (Id., ¶6).

1 Based on the foregoing, Plaintiffs requests that the Wikileaks Defendants be
2 precluded from offering oral argument at the hearing on the Application and OSC
3 re Issuance of TRO, and that the Court find that the failure of the Wikileaks
4 Defendants to file any opposition papers creates an inference that the Application is
5 meritorious.

6 Wherefore, Plaintiffs respectfully request that the Application be granted in
7 its entirety and the TRO issue.

8 **CONCLUSION**

9 Based on the foregoing, Plaintiffs respectfully request that this Court issue a
10 Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction
11 in the form set forth in the Amended [Proposed] Temporary Restraining Order and
12 Order to Show Cause re Preliminary Injunction submitted herewith, and for such
13 other alternative and further relief as the Court may deem to be just and appropriate.

14 Respectfully submitted,

15 DATED: February 13, 2008

LAVELY & SINGER
PROFESSIONAL CORPORATION
MARTIN D. SINGER
WILLIAM J. BRIGGS, II
EVAN N. SPIEGEL

18 /s/ William J. Briggs, II
19 By: _____

20 WILLIAM J. BRIGGS, II
21 Attorneys for Plaintiffs BANK JULIUS
22 BAER & CO. LTD and JULIUS BAER
23 BANK AND TRUST CO. LTD
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