Case No. 18-8382

In the Supreme Court of the United States

* * *

JEREMY C. SOUTHGATE,

Petitioner,

- v. -

LYOR COHEN, *et al.*,

Respondents.

* * *

On Petition for a Writ of Certiorari
to the United States Court of Appeals for the Fourth Circuit.

* * *

PETITION FOR A WRIT OF CERTIORARI

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March 7, 2019

QUESTIONS PRESENTED

First,

Is there arguable merit to the claim that Respondents engaged in an unlawful antitrust and/or racketeering conspiracy, intending by a pattern of frauds to obtain Petitioner's registered trademark property and damage the Petitioner's business?

Second,

Under the circumstances, have the courts erred in failing to request counsel to represent the Petitioner pursuant to 28 U.S.C. § 1915(e)(1); or, shall this Supreme Court, pursuant to this Court's inherent authority in equity, now appoint counsel for the Petitioner?

LIST OF PARTIES

UNITED STATES OF AMERICA

BARACK H. OBAMA

ALLISON D. BURROUGHS

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

ALPHABET INC., a /k /a "GOOGLE"

LYOR COHEN

WARNER MUSIC GROUP CORP.

TIME WARNER INC.

THEORY ENTERTAINMENT, LLC

IAC/INTERACTIVECORP

INTERACTIV CORPORATION

ACADEMY OF MOTION PICTURE ARTS AND SCIENCES

NATIONAL ACADEMY OF RECORDING ARTS & SCIENCES, INC.

INTERNATIONAL BUSINESS MACHINES CORPORATION

SPOTIFY AB

STARBUCKS CORPORATION

BILL, HILLARY & CHELSEA CLINTON FOUNDATION

SOUNDSPARK, INC.

DOES 1 - 10,000

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OPINIONS BELOW

True copies of the decision of the U.S. District Court for the Eastern District of Virginia, Alexandria, for its Case No. 1:2017-cv-1047-LO/MSN *sub nom. Southgate v. United States of America et al.* (Appendix 1.) and the unpublished decision of the U.S. Court of Appeals for the Fourth Circuit for its Case No. 18-1664 also *sub nom. Southgate v. United States of America et al.* (Appendix 2.) are provided in the Appendix.

JURISDICTION

The Court of Appeals entered a final judgment on December 7, 2018. Accordingly, this Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

PROVISIONS OF LAW

The Constitution of the United States

U.S. Constitution Amendment V.

> No person shall...be deprived of...property, without due process of law...

15 U.S.C. § 1 et seq. — Sherman and Clayton Antitrust Acts

15 U.S.C. § 1.

> Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States...is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony...

15 U.S.C. § 2.

> Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the

trade or commerce among the several States...shall be deemed guilty of a felony...

15 U.S.C. § 4.

The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this title...

15 U.S.C. § 15(a).

...any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

18 U.S.C. § 1961 et seq. — Racketeer Influenced and Corrupt Organizations Act

18 U.S.C. § 1961 (1) and (5).

As used in this chapter — (1) "racketeering activity" means (B) any act which is indictable under...Section 201 (relating to bribery)...section 1341 (relating to mail fraud), section 1343 (relating to wire fraud)...section 2319 (relating to criminal infringement of a copyright)...section 2320 (relating to trafficking in goods or services bearing counterfeit marks)...

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity...

18 U.S.C. § 1962 (b).

It shall be unlawful for any person through a pattern of racketeering activity ...to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

18 U.S.C. § 1962 (c).

It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity...

18 U.S.C. § 1962 (d).

> It shall be unlawful for any person to conspire to violate any of the provisions of subsection...(b), or (c) of this section.

18 U.S.C. § 1964(a).

> (a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited...

18 U.S.C. § 1964(c).

> (c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee...

18 U.S.C. § 1965 (a), (b), and (d).

> (a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.
>
> (b) ...in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned....
>
> (d) All other process in any action or proceeding under this chapter may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

28 U.S.C. — Judiciary and Judicial Procedure

28 U.S.C. § 47.

> No judge shall hear or determine an appeal from the decision of a case or issue tried by him.

28 U.S.C. § 1915(e)(1).

> The court may request an attorney to represent any person unable to afford counsel.

STATEMENT OF THE CASE

I, Jeremy C. Southgate, declare under penalty of perjury that the following is true:

Petitioner's Qualifications

I am a citizen of the United States and lifelong resident of Massachusetts. I am currently an admitted candidate for the degree of Bachelor of Liberal Arts in Extension Studies, Harvard University, GPA 3.86 (Appendix 3.).

Petitioner's Music Business

On November 22, 2011, I began my career as a musician and entrepreneur when I designed and authored the "Sound Spark Studios" logo (shown below) and registered the Internet domain name soundsparkstudios.com. This website began to advertise my musical equipment and resources and my sound recordings.

On June 28, 2012, I filed my first a trademark application and established a date of priority for my Sound Spark Studios logo vis-a-vis my anticipated goods: musical sound recordings and digital music downloads.

On April 20, 2014, I published my finished debut solo album of original music, titled "SoundSpark" (itunes.apple.com/us/album/soundspark/868153440),

and then from May to June 2014, I began focusing on promotion of that album by means of web design and development for soundsparkstudios.com.

I have continued to design web applications and to produce music, engaging in commerce under my Sound Spark Studios® brand (e.g. Appendix 11, 18, 31).

Lyor Cohen's Enterprise

Lyor Cohen departed his position as CEO of Warner Music Group in September 2012, and began partnering with two MIT Sloan Business School students, Ana Villanueva and Christopher Nolte, in November 2013. And, on August 7, 2014, I received my first e-mail (Appendix 4.), unsolicited, from Ana Villanueva, stating:

> I came across you and Sound Spark Studios when I was trying to register the trademark for SoundSpark, since you've registered a very similar trademark.

Villanueva requested a "quick call" to "talk about the trademark."

In my response to Villanueva's invitation (Appendix 5.), I first reserved my rights to "Sound Spark," but I then agreed to take have the call with Villanueva and Nolte. On the call, I communicated the same: I did not wish for them to continue using my trademark "SoundSpark" for their music-crowdfunding business idea. As a result of the call, I thought we had reached an understanding that they would "find a new name" (Appendix 6.).

However, the next e-mail from Christopher Nolte (Appendix 7.) stated the peculiar fact that "'Mr.' Cohen touches base with us [Villanueva and Nolte] often and wasn't necessarily pleased at the way this played out." This evidently shows

that Villanueva and Nolte were acting as agents for and were directed by Cohen as the principal, "trying to register the trademark for SoundSpark." And, therefore, what follows was instigated by Cohen.

A. The SoundSpark, Inc. "SparkIt" Trademark Application

Violating our understanding that they would "find a new name," Christopher Nolte used SoundSpark, Inc. — a Delaware corporation registered as a foreign corporation in Massachusetts (interstate commerce) — to file ("transact" by wire) a trademark application for "SparkIt" at the U.S. Trademark Office (Appendix 8.). Evidently, Cohen *et al.* were not going to find a new name; they were continuing their intention "to register the trademark for SoundSpark" at the U.S. Trademark Office. In response to this threat, I sent to Nolte, Villanueva, and Cohen (info@threehundred.biz) a demand to "end all unauthorized use of 'SoundSpark' and 'Spark It' and 'Spark' pertaining to music" (Appendix 9.).

B. Publications on Social Media

I heard nothing further by e-mail from Villanueva and Nolte, but on the Facebook social media website, after my demand, they published (by wire): "we no longer worry about using our initials ;) #legalfun" (Appendix 10.). Cohen, Villanueva, and Nolte were referring to a prominent "SS" logo as "our initials" for "SoundSpark." This not only breached our earlier understanding but also breached my *demand* to end use of "'SoundSpark' *or the like*." This communicates Cohen, Villanueva, and Nolte's further pursuit of obtaining my "SoundSpark."

C. 300 Entertainment

The foregoing breaches of our understanding and then my demand convinced me that Lyor Cohen was seeking to obtain my trademark. After my trademark registered with the U.S. Trademark Office (Appendix 11.), I discovered that Cohen stepped down as CEO of Warner Music Group in September 2012, a mere three months after my application for my trademark in June 2012, and that he was still working with and for Warner Music Group by means of his enterprise "300 Entertainment," launched in October 2013. A Billboard magazine article quotes Len Blavatnik, the owner of Warner Music Group, saying: "Lyor...will provide Warner with a great source of artistic talent and creativity and we are thrilled that they chose Warner as their home." The article also mentions "backing from a *wide range of investors, led by Google*" (emphasis added). Thus, apparently as a result of my efforts to bring "Sound Spark Studios" into being, Cohen was seeking to obtain my trademark property for the benefit of himself and a number of other insiders with advanced standing in the music and entertainment industries.

Thus, at the age of 23, I was faced with the necessity to defend my rights in court against corporations with billions of dollars at their disposal. I could not afford an attorney, nor could I reasonably expect a competent attorney to represent me for free in complex litigation. On October 6, 2014, I filed a lawsuit *pro se* in the U.S. District Court for the District of Massachusetts, *Southgate v. SoundSpark, Inc., et al.*, 1:2014-cv-13861 (Appendix 14.). This Mass. lawsuit's subject-matter jurisdiction was only the Lanham Act (15 U.S.C. § 1051 et seq.).

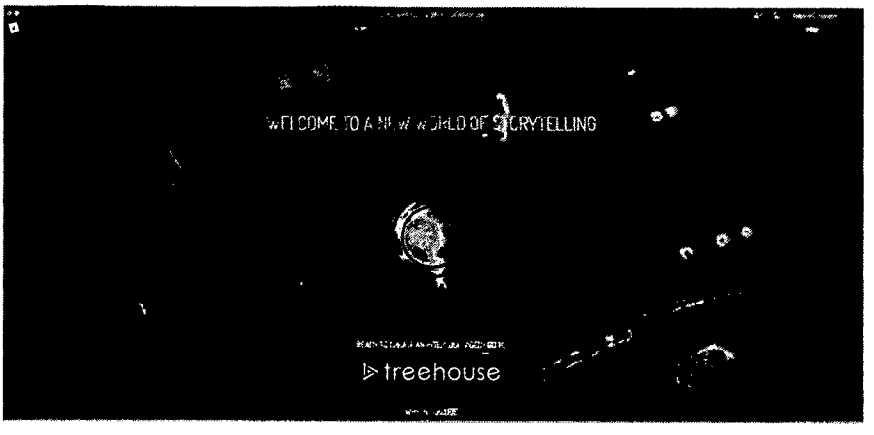
Southgate v. SoundSpark, Inc., et al.,
1:2014-cv-13861-ADB (D.Mass.)

A. Complaint

Because I filed to proceed *in forma pauperis* in the Massachusetts action, summons did not issue immediately and I was left in *pro se* limbo — seven months passed with complete silence from the Mass. District Court. Appendixes 15, 16, 17, and 18 show discoveries that occurred after my Massachusetts Complaint's filing, so they were not included in my Complaint, although they should have been.
All the while, for seven months, I was not directed by the Mass. District Court on how to proceed or how to update the Court with new information.

1. Discovery of the Interlude/Warner Music Group Counterfeit

On December 22, 2014, Warner Music Group announced a "strategic partnership" with "Interlude Music," and the Interlude website captured on December 22, 2014, clearly falls under the description of my mark: "*a gold encircled eight-point star, two red eclipses, and [three words] in blue.*" The Interlude website displayed *an encircled white-gold multipoint star, two red ellipses, and three words in blue* (Appendix 16.).



Interlude's "strategic partnership" with Warner Music Group is not coincidental; Interlude's counterfeit coincided with the launch of Lyor Cohen's 300 Entertainment in October 2013. Interlude's website's style was completely different prior to October 2013.

2. Discovery of Lyor Cohen's Motive from "The Biz"

On March 18, 2015, I discovered, via the video-streaming site YouTube, an episode of the 2006 television reality series "The Biz," featuring Lyor Cohen. It shows young persons "compet[ing] to become the president of their own record label under Warner Music Group.... In this episode: nine contestants propose their idea for a record label to Lyor Cohen" (Appendix 17.). This episode from "The Biz" not only establishes Lyor Cohen's motive to find a brand for a new record label under Warner Music Group but also shows the young persons' proposed names "Sound Shock Records" and "Sound Strive Records" which include the same prefix "Sound" and alliterative "S" sounds as "Sound Spark Studios." But Lyor Cohen was not pleased with the young persons' proposals; he says to them: "This did not move me. I think that you should re-think it." Thus, Lyor Cohen evidently felt an entitlement to my brand because it was exactly a rethought logo he was wanting since 2006.

3. Petitioner's Further Commercial Activities

Also, while I was discovering more about Lyor Cohen, I continued to use my trademark in commerce and thereby obtained a new U.S. service mark registration for "provision of information relating to music," noting my first use on November 22, 2011 (Appendix 18.).

B. District Judge Allison Burroughs (D.Mass.)

On May 1, 2015, the Mass. District Court issued summonses for Cohen *et al.* (Appendix 19.). Meanwhile, Lyor Cohen continued to promote on social media, saying via a YouTube video of "Lyor Cohen at Stanford University:"

"I actually am funding SoundSpark" (Appendix 20.).

However, the Mass. District Court proceeded only to ignore me and shut me out of court. First, the Judge Allison Burroughs of the Mass. District Court ordered that I was "not to amend until after the...defendants...had an opportunity to respond to the complaint," i.e. an opportunity to file a motion to dismiss. Then, Judge Burroughs of the Mass. District Court ordered: "Plaintiff shall not file any... substantive motions until after the...defendants have had an opportunity to respond to the complaint," i.e. an opportunity to file a motion to dismiss. In other words, I could not even file a Fed.R.Civ.P. 11 motion (a substantive motion) if the defendants made misrepresentations to the court, as they did to obtain dismissal.

Judge Burroughs of the Mass. District Court was using my *pro se pleadings* as an obstruction to the *truth* — that, meanwhile, Cohen et al. continued to use SoundSpark Inc. and "SPARK" and "SPARKIT" as trademarks for music in commerce (Appendix 22.) in violation of my Constitutional property rights.

C. Obstruction of Justice by the Mass. District Court

Judge Burroughs dismissed my Mass. trademark lawsuit, finding on very limited Lanham Act jurisdiction: "no likelihood of confusion" *for consumers.*

However, the present case before this Court, on writ to the Fourth Circuit, would stem from deeper issues of public confidence and trust in our judiciary and our institutions like those from the media industry. The present case is about conspiracy:

> A conspirator...adopt[s] the goal of furthering or facilitating the criminal endeavor. It is elementary that a conspiracy may exist and be punished whether or not the substantive crime ensues, for the conspiracy is a distinct evil, dangerous to the public, and so punishable in itself.

Salinas v. United States, 522 U.S. 52, 64-65 (1997).

1. IFP Status is Omitted and a False Case Number is entered on the "Clerk's Certificate and Appeals Cover Sheet"

Mass. District Judge Allison Burroughs conspired to deprive me of the due process of an appeal as of right. In so doing, she conspired with Respondents to deprive me of my property claims.

As of right, I appealed Judge Burroughs' dismissal of *Southgate v. SoundSpark, Inc., et al.*, to the First Circuit. However, the "Clerk's Certificate and Appeals Cover Sheet" to initialize the appeal was entered with (1) a false case number and (2) an omission of my *in forma pauperis* status vis-a-vis my unpaid filing fee for the appeal (Appendix 23.). This error would have resulted in dismissal of my appeal for apparent failure to pay a filing fee.

Upon noticing the error, I immediately went in-person to the Mass. District Court Clerk's Office to resolve it. However, shortly after leaving the courthouse, I received an e-mail from Deputy Clerk Matthew Paine (Appendix 24.), stating that "according to Judge Burroughs...IFP status on your DISTRICT COURT case...do[es]

not apply to your...Appeal" (caps. emphasis in original). In reply, I cited to Deputy Clerk Matthew Paine the Fed.R.App.P. 24(a)(3), providing that I "may proceed on appeal in forma pauperis without further authorization" (Appendix 25.). But Deputy Clerk Paine still misled me; he admitted: "I understand the Fed.App.R.P. 24," but he lied on: "the discretion lies with the court of appeals whether to carry over your IFP status. It is not necessarily automatic" (Appendix 26.). I raised my due process rights, "the Court of Appeals certainly will not discern...if the District Court neglects to inform" (Appendix 27.). And then, I discovered and communicated the additional error of the false, deceptive case number: a "6" looks like a "9," so I didn't notice at first (Appendix 28.). After I struggled against these undue obstructions, my appeal then proceeded until the next, final obstruction.

2. Allison Burroughs' "Closing Order Dismissing Case," after Notice of Appeal but before appellate judgment, obstructed appellate jurisdiction

Suddenly, after the appeal was fully briefed and "submitted" for a decision on the briefs at the end of August 2016: on September 20, 2016, Allison Burroughs entered an order, ruling that "this case is hereby dismissed and closed" (Appendix 29.). This "Closing Order Dismissing Case" by Burroughs deprived me of due process in several ways:

First, the U.S. Court of Appeals for the First Circuit had valid "final decision" jurisdiction pursuant to 28 U.S.C. § 1291 when I filed my Notice of Appeal. But, when Burroughs' "Closing Order Dismissing Case" became the

effective "final decision" as a result of its later and more declarative entry, the Court of Appeals lost jurisdiction over the no-longer-final order I appealed from.

Second, Burroughs' "Closing Order Dismissing Case," filed after the Notice of Appeal but before the entry of appellate judgement (Appendix 30.), deprived Article III jurisdiction for my appeal as an actual, *open* case, as opposed to a "closed," moot one.

Third, Burroughs effectively affirmed her own prior dismissal of my case, the dismissal from which I appealed, thereby violating 28 U.S.C. § 47: "No judge shall...determine an appeal from the decision of a case or issue tried by him."

For the above reasons, the subsequently-entered judgments of the U.S. Court of Appeals for the First Circuit in my Mass. case of *Southgate v. SoundSpark, Inc., et al.*, are void for lack of Article III subject-matter jurisdiction. My Notice of Appeal in *Southgate v. SoundSpark, Inc., et al.* (D.Mass.) was valid at the time I filed it; the process and results I received were not lawful and not valid.

This Action

Without an actual, open case properly "in" the Court of Appeals (see 28 U.S.C. § 1254), I was deprived of the right to seek certiorari from this Court in the case of *Southgate v. SoundSpark, Inc., et al.* I sought a Writ of Mandamus from the First Circuit and from this Court, to strike the "Closing Order Dismissing Case" and obtain the appellate *review* to which I was entitled. Pursuant only to the *discretion* of the courts, I was denied such relief. But as I hold the First Circuit appeal to be void, and as 'the denial of a writ by this Court says nothing as to this Court's views

of the merits of a case', I filed the case presently before this Court as my "appeal as of right" against Cohen's conspiracy.

This action invokes the specific statutory jurisdiction of the district courts pursuant to the antitrust and racketeering laws, 15 U.S.C. § 4 and 18 U.S.C. § 1964(a), against Lyor Cohen and those "*wide range of investors, led by Google*" (Appendix 12.) who have facilitated Cohen's unlawful conspiracy to obtain my trademark property by frauds.

The complexity of this case and my lack of advanced legal training has led to this Petition. The U.S. District Court for the Eastern District of Virginia has found on purely procedural grounds that my Complaint document is defective as to venue, personal jurisdiction, and conciseness. All of these issues could be remedied by this Court's appointment of an attorney to represent me — for indeed, an attorney chosen from among this Court's bar, experienced in procedure, and particularly experienced in racketeering and antitrust law, is what is needed here in order to *ascertain the truth of my allegations*.

REASONS FOR GRANTING THE WRIT

I. THERE IS A NEED FOR A NATIONALLY UNIFORM RULE ON APPOINTMENTS OF COUNSEL VIS-A-VIS CIVIL RIGHTS CASES, ESPECIALLY AFTER THIS COURT'S IQBAL/TWOMBLY DECISIONS

It is self-evident from my *in forma pauperis* that on October 6, 2014, when I was age 23 with a start-up business, I could not afford an attorney, nor could I reasonably expect a competent attorney to represent me in complex litigation

without payment for a considerable amount of work — the amount of work is such that one person can't do it alone.

My status of *in forma pauperis* has been abused by the Respondents, who have an incentive to make their conspiracy complex, and demonstrates the truth of Justice Stevens' dissent in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 572 (2007):

> instead of requiring knowledgeable executives...to respond to these allegations by way of sworn depositions or other limited discovery—and indeed without so much as requiring petitioners to file an answer denying that they entered into any agreement—the majority permits immediate dismissal based on the assurances of company lawyers that nothing untoward was afoot.... If the allegation of conspiracy happens to be true, today's decision obstructs the congressional policy...and the Sherman Act itself.

With the current jurisprudence, *pro se litigants can be deprived of property as long as the complaint public-at-large isn't likely to notice*. But that is plainly not what the Fifth Amendment declares as the law of the land: "No person shall...be deprived of...property, without due process of law," even if he or she lacks the ability to plead the claims the way a ~~lawyer~~ *team of lawyers* would for a complex case.

Especially in the aftermath of this Court's renowned *Iqbal* and *Twombly* decisions, requiring a heightened pleading standard for complaints, this Court should resolve an apparent circuit split (Owens) bearing on the rights of those *pro se* litigants who cannot afford an attorney to draft that elusive "plausible" complaint on specialized law and numerous, complex fact patterns.

It appears that the 1st, 4th, 5th, 6th, 9th, and 11th Circuits permit appointment of counsel "only in exceptional circumstances:" *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993) (justifying appointment of counsel only in

exceptional circumstances); *Fowler v. Jones*, 899F.2d 1088, 1096 (11th Cir. 1990) (requiring exceptional circumstances for appointment of counsel in civil action); *Cookish v. Cunningham*, 787 F.2d 1, 2 (1st Cir. 1986) (requiring demonstration of exceptional circumstances to justify appointment of counsel); *Whisenant v. Yuam*, 739 F.2d 160, 163 (4th Cir. 1984)(finding that refusal to appoint counsel is abuse of discretion when exceptional circumstances exist); *Ulmer v. Chancellor*, 691 F.2d 209, 213 (5th Cir. 1982) (noting that appointment of counsel is appropriate when exceptional circumstances exist); *Branch v. Cole*, 686 F.2d 264, 266 (5th Cir. 1982) (stating that appointment of counsel is justified only when exceptional circumstances are present); *Aldabe v.Aldabe*, 616 F.2d 1089, 1093 (9th Cir. 1980) (limiting court's power to appoint counsel in civil cases to exceptional circumstances); *Cook v. Bounds*, 518 F.2d 779,780 (4th Cir. 1975) (agreeing with other circuit decisions that counsel should only be appointed in exceptional circumstances); *United States v. Madden*, 352 F.2d792, 794 (9th Cir. 1965) ("In civil actions for damages, appointment of counsel should be allowed only in exceptional cases.").

It appears that the 2nd, 3rd, 7th, 8th, and 10th Circuits have a more nuanced approach to appointment of counsel: *Tabron v. Grace*, 6 F.3d 147, 155 (3d Cir. 1993) (rejecting conclusion that appointment of counsel is only warranted in exceptional circumstances), cert. denied, 114 S. Ct. 1306 (1994); *Rayes v. Johnson*, 969 F.2d 700, 703(8th Cir.) (providing list of non-exhaustive factors for consideration of appointment of counsel), cert. denied, 113 S. Ct. 658 (1992); *Long v. Schillinger*,

927 F.2d525, 527 (10th Cir. 1991) (noting that district court should consider variety of factors when appointing counsel); *Hodge v. Police Officers*, 802 F.2d 58, 61 (2dCir. 1986) (adopting broader set of factors for appointment of counsel); *McCarthy v. Weinberg*, 753 F.2d 836, 839 (10th Cir. 1985) (embracing broad set of factors for application under § 1915(d)); *McKeever v. Israel*, 689 F.2d 1315, 1320 (7th Cir.1982) (adopting broader Macin factors for appointing counsel); *Maclin v. Freake*, 650 F.2d 885, 887 (7th Cir. 1981) (noting lack of clear cut standards for appointment of counsel); *Manning v. Lockhart*, 623 F.2d 536, 540 (8th Cir. 1980) (finding appointment of counsel appropriate where question of witness credibility exists and where allegations of fact are not frivolous); *Peterson v. Nadler*, 452 F.2d 754,758 (8th Cir. 1971) (holding appointment of counsel justified in case where indigent plaintiff could not investigate case).

The resolution to this problem should grant me counsel and channel the language of *Williams v. Collier*, 357 Fed. Appx. 532, 535 (4th Cir. 2009):

> complex issues, including discovery and review of...records, securing expert testimony, and the nuances of ...jurisprudence — all difficult to address and properly present without the aid of counsel.

and *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103-1104 (9th Cir. 2004) (vacated and remanded):

> [The Petitioner], it is obvious from his pleadings, is literate and educated. He was able to read statutes and legal literature. But he lacks legal training.... Without a lawyer, [the Petitioner] not only did not think of obtaining this information but did not advance any coherent theory.... His case, in short, was complex. The circumstances were exceptional. The magistrate judge who ruled on...knew very little of the likelihood of his success on a claim that had not been properly framed.

II. IN EQUITY, THE JUDGMENT BELOW SHOULD BE VACATED

I request that the judgment below be vacated for the following reasons:

1. The Court of Appeals found "no *reversible* error" (Appendix 2.), but this Court should remedy an error in justice which requires *vacating* the judgment and remanding for further proceedings.

2. Venue and personal jurisdiction were proper for the reasons which I argued in my Brief for the Fourth Circuit, namely: in a racketeering action, venue is proper where a Respondent "can be found" or "has an agent" or "transacts his affairs." The filing of a trademark is a "transaction" conducted with the U.S. Patent and Trademark Office and subjects the Cohen et al. to jurisdiction at the venue where their alleged conspiracy to commit fraud on the U.S. Trademark Office occurred.

3. The District Court's finding that "Plaintiff's Complaint is 'prolix, redundant, bloated with unnecessary detail, and full of vituperative charges'" conflicts with my receiving the grade of "A" in "Academic Writing and Critical Reading" and "B+" in "Business Rhetoric" from Harvard University. There is no problem with my clarity of thought. There is a problem with the extreme complexity of the subject-matter and my lack of advanced legal training and a legal team. I would be able to work effectively with, by, and through counsel to present my claims — and I am entitled to these claims as a matter of law and our Constitution.

4. The District Court's finding that "[Plaintiff] claims that a jury could find similarities between images that no reasonable person would consider alike" is not warranted on the evidence and rather makes the Hon. Judge O'Grady seem

unreasonable. This finding conflicts with my grades of "A" in both "Visual Communication" and "Quantitative Reasoning" courses from Harvard University. As a matter of fact, both my brand (top) and the Interlude/Warner Music Group counterfeit (bottom) exhibit "a gold encircled star, two red ellipses, and three words in blue," essentially all the distinctive elements of my claim:

SOUND SPARK STUDIOS ©®

CONCLUSION

For the foregoing reasons, I the undersigned Petitioner respectfully request that this most Honorable Court grant a Writ of Certiorari, vacate the judgment below, and appoint counsel to represent me in further proceedings for this case.

Respectfully submitted,

Jeremy C. Southgate
Pro Se
24 Maynard Farm Circle
Sudbury, MA 01776
jeremy@soundsparkstudios.com
617-455-4560

Dated:

March 7, 2019
Sudbury, Massachusetts