

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 07-1298 JNE/JJG

CHRISTOPHER ROLLER,)	
)	
Plaintiff,)	
)	
v.)	FEDERAL DEFENDANT'S
)	REPLY TO PLAINTIFF'S
)	OPPOSITION OF MOTION
CENTRAL INTELLIGENCE AGENCY,)	TO DISMISS
)	
Defendant.)	

PROCEDURAL SUMMARY

On April 30, 2007 defendant, CIA brought its Motion to dismiss plaintiff's complaint pursuant to Federal Rules of Civil Procedure, Rules 12(b)(1), 12(b)(2) and 12(b)(6). Defendant relies on all of the arguments set forth in its opening brief, none of which plaintiff can overcome given the posture of his case. In fact, in his pleadings before this court, plaintiff has conceded that he does not have a patent infringement case right now. See Plaintiff's Motion for Partial Summary Judgment, C.D. 16-17 p. 1. He also admitted that he has no patent in his Memo to Oppose Motion to Dismiss, C.D. 11 p. 2.

DISCUSSION

Plaintiff fails to address or refute the arguments defendant CIA has made in its Motion to Dismiss. Plaintiff misapprehends the law when he states in his memorandum that

"[l]ack of statements in the allegations means all the allegations are true". Pls. Opp. p. 4. Defendant has challenged the complaint on its face as lacking in jurisdiction over the subject matter, or the person. F.R.Civ.P., Rules 12(b)(1) and 12(b)(2). The burden of showing the court's jurisdiction falls on plaintiff. Plaintiff fails to refute defendant's jurisdictional arguments which must result in the dismissal of his case.

Pursuant to Fed.R.Civ.P. 12(b)(6) a complaint may be dismissed for failure to state a claim upon which relief may be granted. F.R.Civ.P. 12(b)(6). As argued in defendant's memorandum in support of its motion to dismiss, dismissal of a complaint may result where plaintiff cannot prove any set of facts in support of his claim that would entitle him to relief. Fed. Def.'s Memorandum of Points and Authorities In Support of Motion to Dismiss, p. 3, citing Schaller Tel. Co. v. Golden Sky Sys., Inc., 298 F.3d 736, 740 (8th Cir. 2002). Moreover, plaintiff has failed to properly plead any of his claims, and they should be dismissed.¹

¹FDIC v. Meyer, 510 U.S. 471, 477 (1994)

CONCLUSION

Plaintiff wholly fails to set forth any basis for jurisdiction against defendant, or any claim which can survive defendant's motion to dismiss.

Dated: June 27, 2007

Respectfully submitted,
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