

Federal Court



Cour fédérale

Date: 20110304

Docket: T-514-10

Ottawa, Ontario, March 4, 2011

PRESENT: The Honourable Mr. Justice Harrington

BETWEEN:

**HIS HIGHNESS PRINCE KARIM AGA KHAN**

Plaintiff

and

**NAGIB TAJDIN, ALNAZ JIWA,  
JOHN DOE AND DOE CO. AND ALL OTHER  
PERSONS OR ENTITIES UNKNOWN TO THE  
PLAINTIFF WHO ARE REPRODUCING,  
PUBLISHING, PROMOTING AND/OR  
AUTHORIZING THE REPRODUCTION  
AND PROMOTION OF THE  
INFRINGEMENT MATERIALS**

Defendants

**JUDGMENT**

**WHEREAS** at the conclusion of reasons for judgment dated January 7, 2011, cited as 2011 FC 14, the plaintiff was directed to prepare for endorsement a draft judgment approved as to form and content by the defendants, Nagib Tajdin and Alnaz Jiwa, or if the parties could not agree, to bring on a motion for judgment in writing in accordance with rule 369 of the *Federal Courts Rules*;

**WHEREAS** the said parties have agreed on some points, but not others, and have submitted written representations;

**UPON REVIEWING** the said representations, and the reasons for judgment;

**TAKING INTO ACCOUNT** the declaration sought is broader in scope than the injunctive relief sought;

**THIS COURT ORDERS AND ADJUGES THAT:**

1. Copyright subsists in the Farmans and Talikas authored by the plaintiff and reproduced in whole or in part in a book entitled *Farmans 1957-2009 - Golden Edition Kalam-E Imam-E-Zaman* (the Golden Edition) and in the Farmans and Talikas contained therein (the Farmans and Talikas).
2. Copyright subsists in the MP3 audio bookmark accompanying the Golden Edition, being an audio reproduction of a reading of certain of the Farmans and Talikas (the MP3).
3. The plaintiff is the owner of the copyright in the Golden Edition and the Farmans, Talikas and the MP3.
4. The defendants, Nagib Tajdin and Alnaz Jiwa, have infringed copyright in the plaintiff's Farmans and Talikas and the MP3 audio bookmark by the reproduction and distribution of the Golden Edition and the Farmans and Talikas contained therein.

5. The defendants, Nagib Tajdin and Alnaz Jiwa, by whatever names known, their agents, employees, servants, associates, representatives and all other persons, personal or corporate, acting on their behalf or under their control, are permanently prohibited, restrained and enjoined from producing, reproducing, copying, publishing, selling, giving away, promoting, translating, making and sound or video recording of, performing, communicating electronically, telecommunicating, making available or distributing any work that infringes the plaintiff's copyright in the Golden Edition and accompanying MP3.
  
6. The defendants, Nagib Tajdin and Alnaz Jiwa, by whatever names known, their agents, employees, servants, associates, representatives and all other persons, personal or corporate, acting on their behalf or under their control, are ordered to deliver up all copies of the Golden Edition and the Farmans and Talikas contained therein, and MP3 audio bookmark in their possession, care or control, and all other wares, labels, packages, signage, advertising materials, plates or moulds or other materials or things in their power, custody or possession, which refer to all or any part of, or which are used to produce, the Golden Edition and the Farmans, Talikas and MP3 audio bookmark contained therein; such delivery up to be made to the appropriate ITREB authority as identified in the *Ismaili Constitution* in whatever country the Golden Edition and Farmans, Talikas and MP3 audio bookmark contained therein are located or as agreed by the defendants with the plaintiff's representatives or solicitors.

7. There shall be a reference to a judge or other person designated by the Chief Justice of the Federal Court for the determination of damages or profits owing to the plaintiff, with any such damages or profits to be payable to the plaintiff for use by the Aga Khan Development Network (AKDN) Foundation, or such other non-profit organization or purpose as he may see fit. Directions regarding the conduct of the reference shall be made by the referee designated by the Chief Justice.
  
8. Pre-judgement and post-judgement interest on any amount awarded in the reference for damages or profits shall be paid to the plaintiff as determined in accordance with the reference.
  
9. The costs of the proceedings to date, including the cost of the motion under rule 394 of the *Federal Courts Rules* are fixed at C\$30,000.00, all inclusive, payable to the plaintiff forthwith.

“Sean Harrington”

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Judge