15 MISC 00148

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

Plaintiff, :

-v.- :

Oculus, hoc est: Fundamentum Opticum, in quo ex accurata Oculi Anatome, abstrusarum experientiarum sedula pervestigatione, ex invisis specierum visibilium tam everso quam erecto situ spectaculis, necnon soldidis rationum momentis Radius Visualis ervitur, sua Visioni in Oculo sedes decernitur; Anguli Visorii ingenium aperitur..., a book by Christopher Scheiner, printed in Oeniponti, by Danielem Agricolam, 1619 ("Oculus"), located at Cornell University, in Ithaca, New York, :

Defendant-in-rem. :

- x

STIPULATION AND ORDER

15 Misc. _____

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WHEREAS, the Federal Bureau of Investigations (the "FBI") and the United States Attorney's Office ("USAO") have determined the following facts:

(a) Between 1995 and 2004, Anders Burius ("Burius"), an employee of the National Library of Sweden stole at least fifty-six rare or one-of-a-kind books from the National Library of Sweden's collection;

(b) After stealing the books, Burius consigned or sold the books to Ketterer Kunst ("Ketterer"), an auction house in Germany;

(c) In 2004, Burius confessed to the book thefts and admitted to Swedish law enforcement that he had sold and/or consigned the stolen books to Ketterer under the alias "Carl/Karl Fields";

(d) Burius further informed Swedish law enforcement that his contact at Ketterer, an individual named Christoph Calaminus ("Calaminus"), did not check his identity or the provenance of the books, and that all transactions between Burius and Ketterer were conducted in cash;

(e) Shortly after confessing to the thefts, Burius committed suicide;

(f) Swedish authorities have received information that thirteen of the stolen books were sold by Ketterer to individuals and/or entities in the United States;

(g) On or about May 31, 1999, a bookseller in New York, New York (the "bookseller") purchased, at a Ketterer auction, the following book that had been stolen from the National Library of Sweden by Burius: *Oculus, hoc est: Fundamentum Opticum, in quo ex accurata Oculi Anatome, abstrusarum experientiarum sedula pervestigatione, ex invisis specierum visibilium tam everso quam erecto situ spectaculis, necnon soldidis rationum momentis Radius Visualis ervitur, sua Visioni in Oculo sedes decernitur; Anguli Visorii ingenium aperitur…*, a book by Christopher Scheiner, printed in Oeniponti, by Danielem Agricolam, 1619 ("Subject Property");

(h) On or about November 21, 2001, Cornell University, in Ithaca, New York purchased, without knowledge of the theft, the Subject Property from the bookseller;

(i) The Subject Property belongs to the National Library of Sweden.

WHEREAS, Cornell University, in Ithaca, New York, was advised that the Subject Property was stolen from the National Library of Sweden;

WHEREAS, Cornell University has denied any knowledge, on the part of its agents, officers, employees, and trustees, at the time of purchase and until contacted by the United States, that the Subject Property was stolen;

WHEREAS, Cornell University is in possession of the Subject Property;

WHEREAS, Cornell University wishes to have the Subject Property returned to the National Library of Sweden and has agreed to voluntarily relinquish all right, title, and interest it may have in the Subject Property;

WHEREAS, the USAO, the FBI, and Cornell University have determined that the Subject Property should be returned to the National Library of Sweden;

WHEREAS, Cornell University consents to voluntarily tender the Subject Property to the FBI, so that the Subject Property may be returned to the National Library of Sweden;

WHEREAS, the USAO has uncovered no evidence of wrongdoing on the part of Cornell University, or its agents, officers, employees, and trustees; and

WHEREAS, Cornell University has cooperated fully with the FBI's investigation and wishes to resolve this matter by providing for the return of the Subject Property to the National Library of Sweden, its rightful owner, through the FBI and the USAO;

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned parties, as follows:

1. Cornell University consents to tender the Subject Property to the FBI, to allow for its return to the National Library of Sweden.

2. The FBI will return the Subject Property to the National Library of Sweden.

3. This Stipulation and Order shall in no way be deemed an admission of culpability, liability, or guilt on behalf of Cornell University or any of its agents, officers, employees, or trustees, past and present, and the United States stipulates that Cornell University has cooperated fully to recover the Subject Property for return to its rightful owner.

4. Nelson E. Roth, Deputy University Counsel and Litigation Section Head, Cornell University, warrants that he has the authority to sign this Stipulation and Order on behalf of Cornell University.

5. The signature page of this Stipulation and Order may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Fax, scanned and emailed copies shall be treated as originals.

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6. This Stipulation and Order represents the complete agreement of the parties and cannot be amended without written consent of all the parties to this Stipulation and Order.

Agreed and consented to:

PREET BHARARA
United States Attorney for the
Southern District of New York

By: Christine Magdo
CHRISTINE I. MAGDO
SARAH PAUL
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One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 637-2297 / 2239

5/29/15
Date

Cornell University

By:
Nelson E. Roth
Deputy University Counsel and
Litigation Section Head,
Cornell University
Ithaca, New York

March 31, 2015
Date

So Ordered:

United States District Judge, Part I
Southern District of New York

6/1/15
Date