



Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Thu, Sep 25, 2014 at 11:17 AM

To: hwong@ftc.gov, charles.thomas@usdoj.gov, lfrazier@ftc.gov, tkosmidis@ftc.gov

Cc: Ari Rodopoulos <ari@woodlaw.com>

Bcc: Tammy Reed <tammy@woodlaw.com>

Counsel:

I am plaintiff counsel in the action *Alexander et al. v. BF Labs, Inc.*, Case No. 14-02159, pending in the United States District Court for the District of Kansas before Judge Vratil. The Alexander suit seeks, among other relief, damages against BF Labs on behalf of the customers who pre-paid BF Labs for bitcoin mining equipment. The Alexander lawsuit is currently set for trial and a mediation is scheduled for November 5, 2014.

The *ex parte* order obtained by the FTC from Judge Wimes on September 18 could be construed to prohibit the customers of BF Labs from proceeding with recovery of their damages in the Alexander suit. See, e.g. Order at 26.

Please let me know whether or not the FTC objects to relief permitting the customers of BF Labs to proceed with the lawsuit to recover their damages from BF Labs.

If you would like to discuss this further, I can be reached today by e-mail or my mobile phone at [REDACTED].

Thank you.

--
Noah K. Wood
Wood Law Firm, LLC
1100 Main Street, Suite 1800
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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Frazier, Leah <lfrazier@ftc.gov>

Thu, Sep 25, 2014 at 1:24 PM

To: Noah Wood <noah@woodlaw.com>, "Wong, Helen" <hwong@ftc.gov>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Kosmidis, Teresa" <tkosmidis@ftc.gov>

Cc: Ari Rodopoulus <ari@woodlaw.com>

Hi Noah-

Thank you for reaching out. We would appreciate an opportunity to speak with you about the issues that you have raised. However, we are tied up through early next week. Wednesday afternoon or Thursday would work on our end.

Thanks,

Leah

From: Noah Wood [mailto:noah@woodlaw.com]**Sent:** Thursday, September 25, 2014 12:17 PM**To:** Wong, Helen; charles.thomas@usdoj.gov; Frazier, Leah; Kosmidis, Teresa**Cc:** Ari Rodopoulus**Subject:** FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Thu, Sep 25, 2014 at 2:34 PM

To: "Frazier, Leah" <lfrazier@ftc.gov>

Cc: "Wong, Helen" <hwong@ftc.gov>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Kosmidis, Teresa" <tkosmidis@ftc.gov>, Ari Rodopoulos <ari@woodlaw.com>

Bcc: Tammy Reed <tammy@woodlaw.com>

Leah,

Thank you for the reply. I understand and appreciate your team is no doubt busy in light of the hearing scheduled before Judge Wimes on Monday morning. However, as it appears the Court will be considering the terms of a preliminary injunction and extension of the receivership at that hearing, I may have to act to preserve the interests of the customer class prior to or concurrent with that hearing.

I am concerned the customer class has or will be put into an impossible position of attempting to comply with conflicting orders from two district court judges. If the preliminary injunction is entered by Judge Wimes on terms similar to those in the TRO, the customer class will be put into a position where it is impossible to comply with orders already entered in the District of Kansas and the preliminary injunction.

Further, as the remedies and relief available in the Alexander suit are not limited to those which may be available in the action filed in the Western District of Missouri, I am concerned possible outcomes which may be more beneficial to the customers than the injunctive and equitable remedies sought in the Western District of Missouri suit may not be considered by the Court or may be foreclosed by the actions of the parties in Western District of Missouri action.

It may be in the interests of the customer class (and certainly appears likely be in interest of the FTC) to address these issues within the suit pending in the Western District of Missouri rather than the class seeking relief from Judge Vratil, but in order to do so the class representatives would likely need to intervene in the pending Western District of Missouri suit.

Towards that end, I can agree to delay the discussion of whether or not the FTC objects to relief permitting the customers of BF Labs to proceed with the Alexander lawsuit to recover damages from BF Labs, until a time after the hearing on Monday if the FTC does not object or oppose intervention of the class representatives in the Western District of Missouri lawsuit. Please let me know if this is acceptable.

Thank you.

--

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Wong, Helen <hwong@ftc.gov>

Thu, Sep 25, 2014 at 4:11 PM

To: Noah Wood <noah@woodlaw.com>, "Frazier, Leah" <lfrazier@ftc.gov>

Cc: "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Kosmidis, Teresa" <tkosmidis@ftc.gov>, Ari Rodopoulos <ari@woodlaw.com>

Hi Noah,

Thank you for your email. We would need to run this email with our supervisor and will get back to you.

Helen

Helen Wong

Federal Trade Commission

Phone: (202) 326-3779

From: Noah Wood [mailto:noah@woodlaw.com]**Sent:** Thursday, September 25, 2014 3:34 PM**To:** Frazier, Leah**Cc:** Wong, Helen; charles.thomas@usdoj.gov; Kosmidis, Teresa; Ari Rodopoulos**Subject:** Re: FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Thu, Sep 25, 2014 at 4:13 PM

To: "Wong, Helen" <hwong@ftc.gov>

Cc: "Frazier, Leah" <lfrazier@ftc.gov>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Kosmidis, Teresa" <tkosmidis@ftc.gov>, Ari Rodopoulos <ari@woodlaw.com>

Thanks Helen. I will wait to file anything until I hear from you.

--

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Fri, Sep 26, 2014 at 4:15 PM

To: "Wong, Helen" <hwong@ftc.gov>

Cc: "Frazier, Leah" <lfrazier@ftc.gov>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Kosmidis, Teresa" <tkosmidis@ftc.gov>, Ari Rodopoulos <ari@woodlaw.com>

Helen:

Would you update me on what you were able to find out regarding this? Thank you.

--

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Wong, Helen <hwong@ftc.gov>

Fri, Sep 26, 2014 at 5:14 PM

To: Noah Wood <noah@woodlaw.com>

Cc: "Frazier, Leah" <lfrazier@ftc.gov>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Kosmidis, Teresa" <tkosmidis@ftc.gov>, Ari Rodopoulos <ari@woodlaw.com>

Noah,

I spoke to my managers and they have advised me that since this is a statutory enforcement action, intervention would not be permissible. We would oppose the motion.

Thanks,

Helen

Helen Wong

Federal Trade Commission

Phone: (202) 326-3779

From: Noah Wood [<mailto:noah@woodlaw.com>]**Sent:** Thursday, September 25, 2014 5:13 PM**To:** Wong, Helen**Cc:** Frazier, Leah; charles.thomas@usdoj.gov; Kosmidis, Teresa; Ari Rodopoulos

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[Quoted text hidden]



Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Fri, Sep 26, 2014 at 5:20 PM

To: Helen Wong <hwong@ftc.gov>

Cc: Teresa Kosmidis <tkosmidis@ftc.gov>, Ari Rodopoulos <ari@woodlaw.com>, charles.thomas@usdoj.gov, Leah Frazier <lfrazier@ftc.gov>

Helen:

Thanks for getting back to me. Does the FTC object or oppose relief from the TRO or any preliminary injunction to permit the customers of BF Labs to proceed with the Alexander lawsuit to recover their damages from BF Labs?

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Wong, Helen <hwong@ftc.gov>

Sat, Sep 27, 2014 at 1:46 PM

To: "noah@woodlaw.com" <noah@woodlaw.com>

Cc: "Kosmidis, Teresa" <tkosmidis@ftc.gov>, "ari@woodlaw.com" <ari@woodlaw.com>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Frazier, Leah" <lfrazier@ftc.gov>

Noah,

Can you please point to the provision of the TRO that would exclude customers of BF Labs to proceed with the Alexander law suit? We are a little unclear about your question.

Thanks,
Helen

From: Noah Wood [mailto:noah@woodlaw.com]**Sent:** Friday, September 26, 2014 06:20 PM**To:** Wong, Helen**Cc:** Kosmidis, Teresa; Ari Rodopoulos <ari@woodlaw.com>; charles.thomas@usdoj.gov <charles.thomas@usdoj.gov>; Frazier, Leah**Subject:** RE: FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Sat, Sep 27, 2014 at 1:54 PM

To: "Wong, Helen" <hwong@ftc.gov>

Cc: "Kosmidis, Teresa" <tkosmidis@ftc.gov>, "ari@woodlaw.com" <ari@woodlaw.com>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Frazier, Leah" <lfrazier@ftc.gov>

Bcc: Tammy Reed <tammy@woodlaw.com>

Helen,

Section XVII(A)(1), which appears on page 26 of the 9/18/2014 ex parte order.

Thanks.

--

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Sat, Sep 27, 2014 at 6:11 PM

To: "Wong, Helen" <hwong@ftc.gov>

Cc: "Kosmidis, Teresa" <tkosmidis@ftc.gov>, "ari@woodlaw.com" <ari@woodlaw.com>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Frazier, Leah" <lfrazier@ftc.gov>

Bcc: Tammy Reed <tammy@woodlaw.com>

Helen:

Please find attached a draft of an Emergency Motion to Intervene and Suggestions in Support on behalf of Kyle Alexander and Dylan Symington, the class representatives in Alexander et al. v. BF Labs, Inc. pending in the District of Kansas.

I wanted to forward this to you before we file and release the document to make sure we give the FTC every opportunity to consider this issue before we proceed.

In your e-mail you stated the FTC will oppose the motion because "this is a statutory enforcement action, intervention would not be permissible", however this does not appear to be consistent with a number of cases where both FTC and customer class claims have proceeded in the same lawsuit. The class does not seek to pursue any of the FTC statutory actions, but rather preserve their claims for damages which are distinct from the remedies available to the FTC.

I think it would be unfortunate if the FTC and the customer class are to be adverse on the issue of the customers being able to pursue their damage claims against BF Labs. I would think the FTC could benefit from the resources the class has already put forth investigating and prosecuting the Alexander action, which has already revealed much of the information the FTC has been working to obtain the past week, as well as the input of the thousands of customers who have worked to provide documents and assistance to the class action. Additionally the customer class and the class action provide the benefit of a well understood and accepted structure to provide for participation by the aggrieved customers, including notice and distribution procedures which protect the due process rights of the customers. Likewise, the customer class I am sure would also benefit from the unique tools the FTC is able to wield against defendants and the FTC's ability to effectively communicate the aims and results of the lawsuit to the public.

However, the actions of the FTC the past two weeks give me pause. The FTC sought and obtained an order ex parte in a different judicial district, without notification to the class representatives or to the court in which the class action was pending, which would subject customers to being found in contempt of court should they pursue their lawsuit against BF Labs. While the FTC's intention may be right-minded, one could question why the FTC, while claiming to act in the interest of aggrieved and defrauded consumers, is obtaining restraining orders preventing those very consumers from seeking recovery of their damages from the wrongdoer. Subsequent to obtaining the TRO the FTC has made statements to the media it has "shutdown" BF Labs, which appears to be without consideration as to whether or not such a "shutdown" would effectively eliminate the possibility of customers obtaining the equipment they have paid BF Labs for, or the possibility of customers obtaining partial compensation through the utilization of certain portions of BF Labs' business operations. Then ultimately, the FTC's present position of opposing the customer class from participation in the Western District of Missouri action while not substantively responding to my request for the FTC to consent to modification of the TRO or preliminary injunction to permit the class to pursue their damages case continues this puzzling course.

I intend to file the attached documents by tomorrow morning. If FTC reconsiders this issue and you would like to discuss this issue further, I am available by e-mail or telephone anytime.

Thank you.

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3 attachments



2014-09-27 M to Intervene.pdf
59K



2014-09-27 SIS M to Intervene.pdf
171K



2014-09-27 M for Leave re live testimony.pdf
71K



Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Wong, Helen <hwong@ftc.gov>

Sat, Sep 27, 2014 at 7:44 PM

To: "noah@woodlaw.com" <noah@woodlaw.com>

Cc: "Kosmidis, Teresa" <tkosmidis@ftc.gov>, "ari@woodlaw.com" <ari@woodlaw.com>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Frazier, Leah" <lfrazier@ftc.gov>

Noah,

Thank you for your email. I understand your concern, but as you can imagine, we have been very busy preparing for the hearing on Monday. Since the email you sent this afternoon, my team and I have been working with our managers to find a resolution. If you would like to speak further, feel free to give me a call.

Helen

From: Noah Wood [mailto:noah@woodlaw.com]**Sent:** Saturday, September 27, 2014 07:11 PM**To:** Wong, Helen**Cc:** Kosmidis, Teresa; ari@woodlaw.com <ari@woodlaw.com>; charles.thomas@usdoj.gov <charles.thomas@usdoj.gov>; Frazier, Leah

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Sun, Sep 28, 2014 at 10:35 AM

To: "Wong, Helen" <hwong@ftc.gov>

Cc: "Kosmidis, Teresa" <tkosmidis@ftc.gov>, "ari@woodlaw.com" <ari@woodlaw.com>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Frazier, Leah" <lfrazier@ftc.gov>

Bcc: Tammy Reed <tammy@woodlaw.com>

Helen:

I realize everyone is very busy, which is why I had suggested the class be permitted to intervene so it could be in a position to let the court know if there might be terms in the preliminary injunction that could negatively effect the class and then we all could spend time thinking through the best way to address the issue of the overlap between the actions after everyone has time. I'm going to go ahead and file the motion so your team can concentrate on preparing your case against defendants for Monday and I will at least be in a position to give input to the Court if I believe something is going to have an adverse effect on the class, and then after Monday we can have a less time-pressured conversation about the issue.

Thanks.

--

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FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Wed, Oct 1, 2014 at 4:41 PM

To: "Wong, Helen" <hwong@ftc.gov>

Cc: "Kosmidis, Teresa" <tkosmidis@ftc.gov>, "ari@woodlaw.com" <ari@woodlaw.com>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Frazier, Leah" <lfrazier@ftc.gov>

Helen:

It was my understanding from the statements made in court on Monday, the FTC was going to file its written opposition to our motion to intervene yesterday. As the judge suggested, I would like to have a telephone conference and get a ruling on the motion prior to the court entering another order on Friday. Does FTC still oppose our motion?

Thanks.

--

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Wong, Helen <hwong@ftc.gov>

Wed, Oct 1, 2014 at 4:45 PM

To: Noah Wood <noah@woodlaw.com>

Cc: "Kosmidis, Teresa" <tkosmidis@ftc.gov>, "ari@woodlaw.com" <ari@woodlaw.com>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Frazier, Leah" <lfrazier@ftc.gov>

Noah,

Yes, we still oppose. From my conversation with the Receiver's counsel, I thought you were planning to remove the emergency status from the motion. It sounds like I'm mistaken but in either event, I will be filing the motion later today and can have a telephone conference soon.

Thanks,

Helen

Helen Wong

Federal Trade Commission

Phone: (202) 326-3779

From: Noah Wood [mailto:noah@woodlaw.com]**Sent:** Wednesday, October 01, 2014 5:41 PM**To:** Wong, Helen**Cc:** Kosmidis, Teresa; ari@woodlaw.com; charles.thomas@usdoj.gov; Frazier, Leah

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Noah Wood <noah@woodlaw.com>

FTC v. BF Labs, 14-00815 (W.D.Mo.) / Alexander et al. v. BF Labs, 14-02159 (D.Ks)

Noah Wood <noah@woodlaw.com>

Wed, Oct 1, 2014 at 4:53 PM

To: "Wong, Helen" <hwong@ftc.gov>

Cc: "Kosmidis, Teresa" <tkosmidis@ftc.gov>, "ari@woodlaw.com" <ari@woodlaw.com>, "charles.thomas@usdoj.gov" <charles.thomas@usdoj.gov>, "Frazier, Leah" <lfrazier@ftc.gov>

Bcc: Tammy Reed <tammy@woodlaw.com>

Helen:

Thanks. I will look for your filing. Also, could you let me know if the order the parties are going to seek to have entered Friday still contains a stay prohibiting the customers from proceeding with their pending class action lawsuit for damages?

--

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