

2777 Alvarado Str, Suite C
San Leandro, CA 94577

November 21, 2007

Hon. Mary M. Schroeder,
Chief Judge of the 9th Circuit
230 N 1st AVE
PHOENIX, AS 95003-1722

Re: Complaint against U.S. District Judge Martin J. Jenkins

Dear Chief Judge Schroeder,

It is with great reluctance that I file the attached complaint of judicial misconduct against Judge Martin J. Jenkins.

The situation reminded me a parental rights termination case in Tennessee which attracted national and international attention. *In Re Adoption of A.M.H.*, 215 S.W.3d 793 (Tenn. 2007). I was deeply involved in that case and made significant contributions in reversing the trial court's decision at the Tennessee Supreme Court. In that case, the trial judge had very good reputation -- he was a candidate for the Tennessee Supreme Court at the time. However, for whatever unknown inner reason, that judge botched the A.M.H. case. His decision was later harshly criticized by the Tennessee Supreme Court. The A.M.H. case also affected the public image of Tennessee courts. Many think it happened because Tennessee is a southern state. They say similar things would never happen in California.

But, even that Tennessee trial judge did not engage in conduct similar to what is described in the attached complaint. That Tennessee judge sat on the bench, listened patiently to all testimonies, including the Chinese father's accusation of conspiracy and such without saying a word or showing emotion. At least, that judge didn't issue *ex parte* orders.

Compared to what Judge Manuel Real did, Judge Jenkins' alleged misconduct, if proven, will have long term and more negative impact on the society. Judge Real may have caused someone to lose some rental income; Judge Jenkins' ruling centers on intellectual property -- the concept of which is the foundation of western civilization. Yet, he allowed his personal animus against me to affect his judgment and issued a ruling in the BindView case which will have far reaching effects on the laws of intellectual property. Judge Real's actions might have been a result of compassion for the weak; Judge Jenkins's actions are oppressive and unjust. A

person who used to have high praises for Judge Jenkins told me that the BindView ruling “is a shame” and created a loophole for software piracy. An attorney who claimed to know the Judge Jenkins since law school told me that he couldn’t understand why the ruling went so wrong. Because of Judge Jenkins ruling, my company wasn’t able to collect license fees on potentially millions of copies of my software distributed by BindView defendants. Some are calling Judge Real to compensate for the lost rental income. Who do I ask for compensation for the lost copyright license revenue for my software?

And, Judge Jenkins persisted his ways – see attached complaint for details. He threatened to have me taken out of the court if I don’t be quiet. I wasn’t acting improperly in court or making a disturbance. I merely asked about the court’s legal rationale after he *sua sponte* ordered me not to file anything before the court. There were a group of young people sitting in the jury box observing the whole proceeding. He even waved the copyright registration document to those young people...

I believe that the judiciary can implement its mechanism of self-regulation.

Sincerely,



Dongxiao Yue

Cc: Honorable Alex Kozinski