

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

DEC 20 2007

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

ROBERT GUICHARD,

Plaintiff - Appellant,

v.

UNIVERSAL CITY STUDIOS LLLP,

Defendant - Appellee.

No. 07-16089

D.C. No. CV-06-06392-JSW

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Jeffrey S. White, District Judge, Presiding

Argued and Submitted December 3, 2007  
San Francisco, California

Before: B. FLETCHER, BERZON, and RAWLINSON, Circuit Judges.

Plaintiff-Appellant Robert Guichard (Guichard) appeals the denial of his motion for a preliminary injunction. This court's review is therefore "limited and deferential." *Community House, Inc. v. City of Boise*, 490 F.3d 1041, 1047 (9th Cir. 2007) (citation omitted).

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

The district court's conclusion that Guichard's web presence at [whisperoftheblue.com](http://whisperoftheblue.com) was not a use in commerce sufficient to create a protectable trademark interest is consistent with our precedent. *See Brookfield Commc'ns, Inc. v. W. Coast Entm't Corp.*, 174 F.3d 1036, 1052 (9th Cir. 1999). Because Guichard had no protectable trademark interest, no infringement occurred. Similarly, as Guichard is suing with respect to his website, not a motion picture, he cannot demonstrate that the Title Registration Bureau of the Motion Picture Association of America has caused him any antitrust injury. Accordingly, no viable cause of action under California Business and Professions Code section 17200 could be sustained. *See Sprewell v. Golden State Warriors*, 266 F.3d 979, 992 (9th Cir. 2001) (noting that such a claim requires one to demonstrate engagement in an unlawful or unfair business practice). As Guichard demonstrated no likelihood of success on the merits, the district court did not abuse its discretion in denying the preliminary injunction motion. *See Grocery Outlet, Inc. v. Albertson's, Inc.*, 497 F.3d 949, 951 (9th Cir. 2007) (per curiam). Finally, the district court adequately articulated its findings. *See FTC v. Enforma Natural Products, Inc.*, 362 F.3d 1204, 1212 (9th Cir. 2004) (concluding that no reversal is required as long as "a full understanding" of the issue is possible).

AFFIRMED.