

Full Email Correspondence

On 11 Jun 2019, at 12:01, Noltenius, Elisabeth <E.Noltenius@skwschwarz.de> wrote:

Dear Ms. Ara,

Thank you for your swift reply. We have only been able to discuss the matter with our client in detail this morning (yesterday was a public holiday) and he will prepare a statement today detailing the timeline of his creation. In the meantime, I would like to draw your attention to the White Paper published on VM's website (attached hereto) which also tells the story behind VM.

I am sure the misunderstandings can be resolved and a solution achieved. May I thus also ask that you confirm to us upfront that, provided that you receive the documentation, you will in a sufficient way that you deem appropriate clarify to your social media followers that the matter has been resolved amicably. Happy to discuss wording. In our view, such clarification would only be fair as my clients are giving you the requested information in order to provide transparency, although they have been (in an aggressive manner that was uncalled for, if I may add) accused publicly of IP infringement, without having the opportunity to tell you their viewpoint before you go public.

Very much looking forward to your confirmation. We can work on the wording later.

Kind regards,

Elisabeth

Von: Rachel Ara [<mailto:rachel@fluxit.co.uk>]

Gesendet: Dienstag, 11. Juni 2019 15:26

An: Noltenius, Elisabeth <E.Noltenius@skwschwarz.de>

Betreff: Re: AW: Value Manifesto GmbH re "Value Manifesto Crypto Multiple" // 3074/19/M

Dear Ms Noltenius

Thank you for your email.

It is difficult to give assurances in advance without seeing the content of statement and the evidence that supports it, but I confirm that I will review it in good faith and update my social media followers accordingly as soon as I am able.

Please confirm that I will be provided with the statement today. In the meantime I reserve all my rights.

Kind regards

Rachel Ara

From: Diesbach, Martin <m.diesbach@skwschwarz.de>
Sent: 11 June 2019 19:40
To: rachel@fluxit.co.uk
Cc: Massar, Tamara <T.Massar@skwschwarz.de>; Noltenius, Elisabeth <E.Noltenius@skwschwarz.de>
Subject: AW: AW: Value Manifesto GmbH re "Value Manifesto Crypto Multiple" // 3074/19/M
Importance: High

Dear Ms. Ara,

I am writing on behalf my colleague Elisabeth who is unavailable tonight. I attach a letter from our client as well as supporting documentation to the extent accessible at such a short notice, and given our client is fully occupied with ArtBasel.

I trust that the matter is now resolved. In fact, our client (who has chosen to provide transparency and not engage in a legal fight despite your public accusations) would very much hope that he and you may enter a stage of open and collegial dialogue among artists, in order to leave the current discussion behind.

I would like to repeat, though, that our client clearly expects that you correct your earlier public accusations. There is an imminent risk of actions directed against the VM installation at ArtBasel, induced by your public call for action. Respectfully note that my client will have no other choice but to inform ArtBasel, as well as security on site and the press about the imminent threat to his installations (despite his clear and immediate clarification of the matter) should there be no public statement on your social media channels by **Wednesday, June 12, 2 pm CET**, clarifying your earlier statements.

Again, our client does not wish to escalate things, but needs to see his constructive approach mirrored, as well as the integrity of his reputation protected – and of his VM installations.

Sincerely yours,

Dr. Martin Diesbach

Von: Rachel Ara [<mailto:rachel@fluxit.co.uk>]
Gesendet: Mittwoch, 12. Juni 2019 01:58
An: Diesbach, Martin <m.diesbach@skwschwarz.de>
Cc: Massar, Tamara <T.Massar@skwschwarz.de>; Noltenius, Elisabeth <E.Noltenius@skwschwarz.de>
Betreff: RE: AW: Value Manifesto GmbH re "Value Manifesto Crypto Multiple" // 3074/19/M

Dear Mr Diesbach

Thank you for your email.

Given that your colleague Ms Noltenius promised that your client would prepare "a statement detailing the timeline of his creation", you will understand my disappointment at reading Mr Niemeyer's cursory letter to your firm today.

Mr Niemeyer says that he "initiated the creative process that led to Value Manifesto in its current form and appearance, by no later than 2014" but this is hopeless - the key question has to be "when was Value Manifesto's current form finalised?"

Mr Niemeyer's letter has provided clarity on the precise date he says he first learned of my work, namely 30 June 2018. The "Whitepaper" he has referred to several times now is dated "July 2018" and the file properties of the version he has sent me previously show that that pdf was created at 13:39 on 30 July 2018 - i.e. a whole month after he learned of my work for the first time, and, by his own account, went through my website in great detail.

There are other points of interest in the Whitepaper - for example, it says "In late 2016 a hint from a software developer brought both back to an old idea, which was turn down before: the Nixie tube." Who was that software developer and was he/she familiar with my work? When was the form of the VM as it is today settled upon? Are there any design drawings?

I now accept that Mr Niemeyer was working on an art project from 2014 onwards and that as early as 2015 he was shopping for Nixie tubes for that project. For me that still leaves important questions outstanding:

1. To what extent was the final form of the VM, along with the supporting literature, influenced by a detailed consideration of my TMIW work?
2. What documentary material is there that shows the form of the VM and its supporting literature before 30 June 2018?
3. If the form of the VM work was settled upon before any of the VM team (or anyone helping them) encountered my work, why did they not take steps to differentiate the VM from my TMIW, instead of launching it in this strikingly similar form more than 11 months after they encountered the TMIW work?
4. After fully knowing about my work, that is uncannily similar both visually and in concept, did Mr Niemeyer still continue to create his VM work without making any changes that would distance his work from mine? (Did he not consider how this may impact on my work or even the potential of embarrassment for his project?)

Please provide answers to these questions by no later than a week today.

In the meantime I will post on my social media today that we are in dialogue and VM is putting forward the case that it created its work without knowing about mine and that discussions about whether that can be proven are ongoing. In the meantime, and although it beggars belief that there can be any serious doubt on this point, I will make it clear to my followers that I do not want any of them to disrupt the VM launch tonight in any way, despite my obvious joke about people chaining themselves naked to railings.

Kind regards

Rachel

From: Noltenius, Elisabeth <E.Noltenius@skwschwarz.de>

Sent: 19 June 2019 15:50

To: 'Rachel Ara' <rachel@fluxit.co.uk>

Cc: Massar, Tamara <T.Massar@skwschwarz.de>

Subject: AW: AW: Value Manifesto GmbH re "Value Manifesto Crypto Multiple" // 3074/19/M

Dear Ms. Ara,

Our client is currently collecting the data which was partially stored elsewhere. As he is now travelling overseas, we will get back on this in due course, likely by early next week.

Kind regards

Elisabeth

Von: Rachel Ara <rachel@fluxit.co.uk>

Datum: 20. Juni 2019 um 14:49:02 MESZ

An: "Noltenius, Elisabeth" <E.Noltenius@skwschwarz.de>

Kopie: "Massar, Tamara" <T.Massar@skwschwarz.de>

Betreff: Aw: AW: Value Manifesto GmbH re "Value Manifesto Crypto Multiple" // 3074/19/M

Dear Ms Noltenius

Thank you for the update.

I intend to make a public statement on this on Wednesday next week. It would be good to have your clients' response by then, and to be able to say that this is resolved, so please update me on timing by the close of business on Tuesday.

Kind regards

Rachel

From: Noltenius, Elisabeth <E.Noltenius@skwschwarz.de>

Sent: 25 June 2019 10:06

To: 'rachel@fluxit.co.uk' <rachel@fluxit.co.uk>

Cc: Massar, Tamara <T.Massar@skwschwarz.de>

Subject: WG: AW: Value Manifesto GmbH re "Value Manifesto Crypto Multiple" // 3074/19/M

Importance: High

Dear Ms. Ara,

please see below our comments to your queries. Let me emphasize that the responses below are given without recognition of any legal obligation to do so.

My client has now repeatedly been constructive in giving you full transparency, despite your wave of public accusations which were entirely uncalled for. To this date, our client is being digitally harassed by what appears to be your followers / supporters.

This needs to stop now.

Again, my client is willing to meet and discuss. He is also willing to fly tom London to have a personal meeting which I am sure would be mutually beneficial.

But there is no doubt whatsoever that the two works have been developed and created independently. There is no doubt whatsoever that there is no infringement of rights.

You have been openly damaging my client's reputation, without bothering to learn about the facts first. My client expects a clear and unequivocal open statement that the matter has been resolved and that the two works have been developed in parallel.

If there is no such statement by

tomorrow, Wednesday, 3 pm,

we are advising our client to seek for all remedies available against you personally, and my client will inform the public accordingly.

Again, my client does not wish this to escalate, but after all he has done to shine a light on the facts and the good will he has shown, it is time that you reciprocate good will.

All rights and remedies are reserved.

With kind regards,

Elisabeth Noltenius

Questions and answers:

„Mr Niemeyer's letter has provided clarity on the precise date he says he first learned of my work, namely 30 June 2018. The "Whitepaper" he has referred to several times now is dated "July 2018" and the file properties of the version he has sent me previously show that that pdf was created at 13:39 on 30 July 2018 - i.e. a whole month after he learned of my work for the first time, and, by his own account, went through my website in great detail.“

The whitepaper was updated several times before and after knowledge of TMIW, but its core content (the form of VM, and its conceptual basis) was developed a long time before knowledge of TMIW. See below and attached.

„There are other points of interest in the Whitepaper - for example, it says "In late 2016 a hint from a software developer brought both back to an old idea, which was turned down before: the Nixie tube." Who was that software developer and was he/she familiar with my work?“

The developer's name is Sebastian Arnd, a former student at TU Berlin. At that time, he kept his eyes open to an analogue medium that could only display the numbers 0-9. Sebastian was neither familiar with you nor with your work.

To what extent was the final form of the VM, along with the supporting literature, influenced by a detailed consideration of my TMIW work?

Neither the final form of the VM nor the supporting literature was influenced by a detailed consideration of your work. See below and attached.

What documentary material is there that shows the form of the VM and its supporting literature before 30 June 2018?

I attach printouts from 2016 illustrating both the conceptual basis for VM as well as its intended (and eventually realized) form.

If the form of the VM work was settled upon before any of the VM team (or anyone helping them) encountered my work, why did they not take steps to differentiate the VM from my TMIW, instead of launching it in this strikingly similar form more than 11 months after they encountered the TMIW work?

As stated before, the form of VM was completed when gaining knowledge of TMIW. As our client has developed this project from the scratch and considered to have with Dalibor Farny the only existing Nixie tube producer in the world at that time. Our client first thought of your project as a copy of his when he learned about it - when he started to consult and read your documentation, it gave him the impression and he believes that you have developed your art work in parallel. He continues to be convinced that both pieces of art can co-exist.

After fully knowing about my work, that is uncannily similar both visually and in concept, did Mr Niemeyer still continue to create his VM work without making any changes that would distance his work from mine?

See previous response. The final physical product (Ed. 1 of 250) arrived in Berlin on May 20th 2017 (three months after my client's first meeting with Dalibor Farny). It's technically nearly identical with Zen Clock produced by Dalibor Farny since 2016 (only difference: platine with 7 instead 6 nixie tubes). Dalibor has a great network within the maker's scene and got / gets information about all ongoing Nixie projects. He only learned about TMIW from our client after June 2018.

From: Rachel Ara <rachel@fluxit.co.uk>
Sent: 25 June 2019 15:14
To: 'Noltenius, Elisabeth' <E.Noltenius@skwschwarz.de>
Cc: 'Massar, Tamara' <T.Massar@skwschwarz.de>
Subject: RE: AW: Value Manifesto GmbH re "Value Manifesto Crypto Multiple" // 3074/19/M

Dear Ms Noltenius

Thank you for your email.

It is totally inappropriate of you to make these kinds of threats and to require a public statement from me in just over 24 hours, when it has taken your clients several weeks to provide this information.

Despite your repeated references to "public accusations", my public comments have been characterised by my giving people the available facts and asking them what their opinion is. Please list the public 'accusations' you would like me to withdraw.

I cannot be held responsible for the actions of others on social media, but I nevertheless intend to make a full statement that sets out what new information I now have - I agree that it is important that the public has the full picture on this. I can't help but point out that part of the reason that some on social media have reacted as they have is that your clients started responding to them individually in a manner that many regarded as being patronising, and then systematically deleted all of those comments, thus increasing frustration and suspicion.

I will make a public statement when I have had time to digest the material provided fully and to discuss it with my advisers.

Kind regards

Rachel

[As of 01.07.2019 there has been no more correspondance]
