

March 4, 2004

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 03-30826

CPIP INC.; SECURE COMPUTING SYSTEMS, INC.,

Plaintiffs-Appellees,

VERSUS

ALAN GUTIERREZ,

Defendant-Appellant.

Appeal from the United States District Court
For the Eastern District of Louisiana
03-CV-1826-S

Before REAVLEY, DAVIS and DeMOSS, Circuit Judges.

PER CURIAM:*

We are unpersuaded that the record supports the district court's finding that Gutierrez was an employee or that the work on the software was "made for hire" under 17 U.S.C. § 301(b). However, we are unwilling to say at this stage of the proceedings that the district court abused its discretion in entering the

*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

preliminary injunction to maintain the status quo pending a hearing on the permanent injunction.

AFFIRMED.