

346 Fed.Appx. 232, 2009 WL 3059093 (C.A.9 (Cal.))
 (Not Selected for publication in the Federal Reporter)
 (Cite as: 346 Fed.Appx. 232, 2009 WL 3059093 (C.A.9 (Cal.)))

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This case was not selected for publication in the Federal Reporter.

Not for Publication in West's Federal Reporter See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also Ninth Circuit Rule 36-3. (Find CTA9 Rule 36-3)

United States Court of Appeals,
 Ninth Circuit.

UNIVERSAL TRADING & INVESTMENT COMPANY, INC., Plaintiff-Appellant,

v.

Petro Mikolayevich KIRITCHENKO, et al., Defendants-Appellees.

No. 07-16873.

Argued and Submitted Sept. 15, 2009.

Filed Sept. 24, 2009.

John H. Aspelin, Esquire, Aspelin & Bridgman, LLP, Jeffrey A. Needelman, Esquire, San Francisco, CA, Daniel Joseph Koes, Esquire, Brown Sheno Koes, LLP, Pasadena, CA, George A. Lambert, Esquire, Law Office Lambert and Associates, Washington, DC, for Plaintiff-Appellant.

Tracy M. Clements, Esquire, Stanley G. Roman, Esquire, Krieg Keller Sloan Reilley & Roman, LLP, Doron Weinberg, Weinberg & Wilder, Garrick S. Lew, Esquire, Law Office of Garrick S. Lew, Michael George Wah Lee, Esquire, Attorney at Law, Christopher Cannon, Sugarman & Cannon, San Francisco, CA, Allan L. Schare, Gordon Alan Greenberg, Esquire, McDermott Will & Emery, Los Angeles, CA, Robert E. Levy, Esquire, Scarinci & Hollenbeck, LLC, Lyndhurst, NJ, Daniel Horowitz, Esquire, Law Office of Daniel Horowitz, Lafayette, CA, for Defendants-Appellees.

Appeal from the United States District Court for the Northern District of California, Maxine M. Chesney

, District Judge, Presiding. D.C. No. 3:99-CV-3073-MMC.

Before: TROTT and BEA, Circuit Judges, and CONLON,^{FN*} District Judge.

FN* The Honorable Suzanne B. Conlon, United States District Judge for the Northern District of Illinois, sitting by designation.

MEMORANDUM ^{FN**}

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

****1** Universal Trading & Investment Co. ("UTI") appeals the district court's order granting summary judgment in favor of defendants. We have jurisdiction under 28 U.S.C. § 1291. We review *de novo* the district court's determination regarding standing, as well as the district court's interpretation of foreign law. *Gordon v. Virtumundo, Inc.*, 575 F.3d 1040, 1047 (9th Cir.2009); *Brady v. Brown*, 51 F.3d 810, 816 (9th Cir.1995). We affirm.

UTI's only possible basis of standing was as the assignee of claims belonging to Ukraine, and UTI bore the burden of proving the assignment's validity. *Britton v. Co-op Banking Group*, 4 F.3d 742, 746 (9th Cir.1993). The district court did not err in concluding the assignment was invalid under Ukrainian law. The purported assignment of claims by Ukraine was a sham created only to overcome defendants' initial challenge to UTI's standing. Even were it not, UTI failed to prove the assignment was valid under Ukrainian law. UTI failed to prove a deputy prosecutor general had the authority to assign the rights of the Ukrainian government against Kiritchenko and Lazarenko to UTI. UTI has also failed to demonstrate that the assignment constitutes the act of a foreign sovereign power; the act

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of state doctrine is therefore inapplicable. *See Liu v. Republic of China*, 892 F.2d 1419, 1432 (9th Cir.1989) (“The burden of proving acts of *233 state rests on the party asserting the applicability of the doctrine”).

We have considered the other issues raised by UTI in its opening brief and reject them as meritless. Issues raised for the first time in UTI's reply brief are waived.^{FN1} *Bazuaye v. INS*, 79 F.3d 118, 120 (9th Cir.1996).

FN1. Appellees' motion to strike portions of UTI's reply brief is denied as moot. UTI's motion for this court to take judicial notice of three certified Ukrainian court decisions is granted.

AFFIRMED.

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