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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ROBERT JACOBSEN, an individual,	)	No. C06-1905-JSW
	)	
Plaintiff,	)	<b>[PROPOSED] ORDER GRANTING</b>
	)	<b>PLAINTIFF’S MOTION TO STRIKE</b>
v.	)	<b>PORTIONS OF DECLARATIONS OF</b>
	)	<b>MATTHEW KATZER AND KEVIN</b>
MATTHEW KATZER, an individual, and	)	<b>RUSSELL</b>
KAMIND Associates, Inc., an Oregon	)	
corporation, dba KAM Industries,	)	Courtroom: 2, 17th Floor
	)	Judge: Hon. Jeffrey S. White
Defendants.	)	
	)	
	)	

Having considered Plaintiff’s Motion to Strike Portions of Declarations of Matthew Katzer and Kevin Russell, and any opposition thereto, the Court GRANTS the motion.

From the Declaration of Matthew Katzer in Opposition to Plaintiff’s Motion for a Preliminary Injunction [Docket #261], the following are stricken:

The Heading “KAM HAD AND CONTINUES TO HAVE A GOOD FAITH BELIEF IN THE VALIDITY OF THE NOW-DISCLAIMED ‘329 PATENT”.

43. At all times prior to the disclaimer of the ‘329 patent, I believed that KAM’s patent was valid and that the JMRI software infringed that patent. To this date, I still believe that the ‘329 patent was valid.

44. Nothing that Jacobsen or his attorney has filed in this lawsuit has shaken my belief that KAM’s ‘329 patent was valid prior to the disclaimer. Nothing that Jacobsen or his attorney has filed in this lawsuit has shaken this belief.

1 47. This request was to gather information in support of a possible lawsuit against JMRI for  
2 patent infringement. Since a Department of Energy email account was being used by  
3 Jacobsen in his capacity as a developer of JMRI software, I believed that a FOIA request to  
the Department of Energy would produce relevant information relating to JMRI's  
infringement of the '329 patent.

4 From Declaration of Matthew Katzer Supporting the Reply of Defendant Kevin Russell to  
5 Plaintiff's Opposition Brief [Docket #256], the following are stricken:

6 3. At all times prior to the disclaimer of the '329 patent, I believed that KAM's patent was  
7 valid and that the JMRI software infringed that patent. To this date, I still believe that the  
'329 patent was valid.

8 4. I believe that KAM's '329 patent was valid prior to the disclaimer and that JMRI's  
9 product infringed the '329 patent prior to the disclaimer. Nothing that Jacobsen or his  
attorney has filed in this lawsuit has shaken this belief.

10 7. This request was to gather information in support of a possible lawsuit against JMRI for  
11 patent infringement. Since a Department of Energy email account was being used by  
12 Jacobsen in his capacity as a developer of JMRI software, I believed that a FOIA request to  
the Department of Energy would produce relevant information relating to JMRI's  
infringement of the '329 patent.

13 From Declaration by Defendant Kevin Russell Supporting Reply to Plaintiff's Opposition  
14 Brief [Docket #254], the following are stricken:

15 2. At all times previous to the filing of Jacobsen's complaint in this matter, I believed that  
16 KAMIND Associates, Inc.'s Patent No. 6,530,329 B2 was a valid patent, and that software  
sponsored and made available by JMRI infringed that patent. To this date, I still believe  
17 these things to be true.

18 3. ... I told Jacobsen that in my opinion software sponsored and made available in the  
19 market by JMRI infringed the '329 Patent, and that JMRI should either apply for a license  
or cease distributing the infringing product.

20 4. A reason for the request was to gather information for a possible lawsuit against JMRI  
for patent infringement.

21 5. Nothing Jacobsen said to me, and nothing his attorney has filed or otherwise presented  
22 in this litigation has done anything to shake my belief that KAMIND Associates, Inc.'s  
Patent No. 6,530, 329 is valid and the JMRI product directly infringed it.

23 7. I have read the accompanying declaration of Matthew Katzer, and the statements made in  
24 Paragraphs 5, 6, and 7 of that declaration are true to my personal knowledge.

25 IT IS SO ORDERED.

26 Dated: \_\_\_\_\_

27 \_\_\_\_\_  
Hon. Jeffrey S. White  
United States District Judge