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10
11 UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 ROBERT JACOBSEN,) No. C-06-1905-JSW-JL
15)
Plaintiff,)
16 v.) **DECLARATION OF VICTORIA K.
HALL IN SUPPORT OF REPLY TO
17) DEFENDANTS MATTHEW KATZER
MATTHEW KATZER, et al.,) AND KAMIND ASSOCIATES, INC.'S
18) OPPOSITION TO ROBERT
Defendants.) JACOBSEN'S MOTION FOR
19) DISCOVERY PLAN**

20) Courtroom: F, 15th Floor
21) Judge: Hon. James Larson
22) Date: Weds., June 17, 2009
23) Time: 9:30 a.m.

24 I, Victoria K. Hall, have personal knowledge to the facts stated herein and hereby declare as
25 follows:

26 I represent Robert Jacobsen in this action. I am submitting this Declaration in Support of
27 the Reply to Defendants Matthew Katzer and KAMIND Associates, Inc.'s Opposition to Robert

1 Jacobsen's Motion for Discovery Plan.

- 2 1. In his initial disclosures, Jacobsen has disclosed 79 developers who have contributed code and
3 assigned their rights to Jacobsen.
- 4 2. Per his declaration, Jacobsen identified more than 100 Decoder Definition Files which
5 Defendants copied, modified, and distributed initially. Currently, approximately 200 Decoder
6 Definition Files exist. Declaration of Robert Jacobsen in Support of Motion for Preliminary
7 Injunction [Docket #237] at 3 (¶ 8).
- 8 3. In seeking to make changes to discovery limits, I contacted Katzer's counsel Scott Jerger.
9 Attached as Exhibit A is a true and correct copy of the email exchange.
- 10 4. Defendants' counsel, Scott Jerger, objected to my failure to file a declaration with Jacobsen's
11 moving papers. I have no objection if Mr. Jerger wants to file a supplemental declaration to
12 respond to this declaration.

13 I declare under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct.

15 Executed this 8th day of June, 2009, in Bethesda, Maryland.

16
17
18 By _____ /s/
19 Victoria K. Hall

Hall Declaration Exhibit A

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Subject: RE: Stipulated protective order & discovery plan
From: "Scott Jerger" <scott@fieldjerger.com>
Date: Fri, May 15, 2009 12:07 pm
To: <victoria@vkhall-law.com>

Dear Victoria:

Please see my responses to your requests **IN ALL CAPS** below. Generally speaking, I don't believe that this case necessitates veering off from requirements of the FRCP for discovery and I believe that we already have an adequate discovery plan addressing the relevant deadlines from our judge.

Best,
Scott

-----Original Message-----

From: victoria@vkhall-law.com [<mailto:victoria@vkhall-law.com>]
Sent: Friday, May 15, 2009 10:39 AM
To: Scott Jerger
Subject: Stipulated protective order & discovery plan

Scott,

A couple of subjects in this email: stipulated protective order and discovery plan.

Here is the Stipulated Protective Order. I based it on the N.D. Cal. version. The redline adds or removes text from the main body that was in the original.

Let me know your comments.

I WILL SEND YOU MY COMMENTS ON THIS PROTECTIVE ORDER NEXT WEEK.

Also, as I mentioned earlier, I would like to discuss a discovery plan with you.

I propose 35 interrogs, max.

I DO NOT BELIEVE THAT THIS CASE IS ANY MORE COMPLEX THAN THE AVERAGE CASE, THEREFORE I BELIEVE THAT THE 25 INTERROGATORY LIMIT IN FRCP 33(a) IS APPROPRIATE AND WILL NOT AGREE TO INCREASE THIS LIMIT.

I propose 85 hours of deposition, instead of 10 depositions times 7 hours max. Maximum for each deponent is 7 hours, except for Bob and Matt, who are 14 hours (7 hours max/day), not including any 30(b)(6) deposition. No limits on depositions, aside from those above. We reserve the right to seek more hours if we need to depose all JMRI authors.

AGAIN, I DON'T FIND THIS PARTICULAR CASE VERY FACT INTENSIVE, THEREFORE I WILL ONLY AGREE TO THE LIMITS IN THE RULES. 10 DEPOSITIONS MAXIMUM, AND EACH DEPOSITION IS LIMITED TO ONE DAY OF SEVEN HOURS AND THIS INCLUDES BOB AND MATT.

Subjects for discovery include information relating to Bob's copyright infringement, DMCA, and cybersquatting claims, and Matt's copyright infringement claim, as well as damages and equitable relief relating to any of these claims, any issues relating to credibility, and any other issues that the parties must inquire into under the circumstances of the case.

SUBJECTS FOR DISCOVERY INCLUDE ONLY ANYTHING THAT IS REASONABLY CALCULATED TO LEAD TO THE DISCOVERY OF ADMISSIBLE EVIDENCE REGARDING ANY EXISTING CLAIM OR COUNTERCLAIM IN THE LAWSUIT. I WILL NOT AGREE TO DEFINE WHAT IS RELEVANT IN ANY OTHER WAY.

Deadline for Rule 26(a) disclosures is May 29, 2009.

WE HAVE BOTH ALREADY FILED OUR INITIAL DISCLOSURES. TO THE EXTENT ANY PARTY NEEDS TO SUPPLEMENT THESE, I PROPOSE THAT WE AGREE TO SEND THESE TO EACH OTHER NO LATER THAN JUNE 5, 2009.

Deadline to add additional parties is September 4, 2009.

NO. THIS DEADLINE HAS PASSED. I WILL NOT AGREE TO ADD ANY PARTIES AT THIS TIME. THIS CASE IS THREE YEARS OLD ALREADY.

Please let me know if you have changes to this proposal.

Regards,

Victoria

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