



Fitness Anywhere LLC v. Woss Enterprises LLC

2015 | Cited 0 times | N.D. California | July 2, 2015

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 United States District Court

Northern District of California

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FITNESS ANYWHERE LLC,

Plaintiff, v. WOSS ENTERPRISES LLC,

Defendant.

Case No. 14-cv-01725-BLF ORDER DENYING DEFENDANT'S MOTION FOR RELIEF FROM
NONDISPOSITIVE ORDER OF MAGISTRATE JUDGE [Re: ECF 82]

In this patent and trademark dispute involving fitness equipment, Defendant Woss order imposing monetary sanctions for failure to comply with discovery obligations set forth in the federal and local rules

each of the products accused of infringing plaintiff Fitness Anywhere LLC disclose such redesign in either its Federal Rule of Civil Procedure 26(a) initial disclosures served on August 14, 2014 or its Patent Local Rule 3-4(a) disclosures served on December 1, 2014. Order at 2. Indeed, Defendant did not disclose the redesign until a March 9, 2015 response to Id. Judge Lloyd found such lack of forthrightness violated the federal and local rules and prejudiced Plaintiff, whose Patent Local Rule infringement contentions were due in October 2014 and had to be subsequently amended to account for the redesign. Id. at 3-6. As such, Judge Lloyd awarded Plaintiff its eparing and briefing its motion for leave to amend its infringement contentions; (2) preparing amended infringement contentions; and (3) preparing and 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 United States District Court

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Id. at 6. Defendant now challenges that order. 1



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A district court may refer nondispositive pretrial issues to a magistrate under 28 U.S.C. §

arly erroneous or contrary to see also Fed. R. Civ. P. 72(a); Civ. L.R. 72-2; Bhan v. NME Hospitals, Inc.

Perry v. Schwarzenegger, 268 F.R.D. 344, 348 (N.D. Cal. 2010). This standard is highly deferential, and a district judge may not simply substitute his or her judgment for that of the magistrate judge as he or she would on de novo review. Grimes v. City and Cnty. of San Francisco, 951 F.2d 236, 241 (9th Cir. 1991). overturned only r Internal Rev. Serv., 979 F.2d 1369, 1370 (9th Cir. 1992).

Defendant advances a number of objections s order, essentially recapitulating the arguments that Judge Lloyd rejected. On the second pass, the arguments still fail to persuade. Critically, Defendant does not dispute that it redesigned the accused products in June 2014, well before even its Rule 26(a) initial disclosures were due (in August of that year). Had the redesign been properly and timely disclosed, Plaintiff, whose infringement contentions were due in October 2014, would have had time to incorporate the information into its contentions. Instead, Plaintiff did not discover the redesign until Defendant disclosed it in March 2015, whereupon Plaintiff diligently sought and obtained leave of court to amend its infringement contentions, as required by the Patent Local Rules. Patent L.R. 3-6; see also ECF 70. That Defendant opposed the amendment on the ground that Plaintiff was seeking to introduce new products (an argument justifiably rejected by Judge Lloyd) is evidence enough that Plaintiff

1 which Defendant had an opportunity to object. ECF 76, 84. This order does not address the amount of the challenged sanction, as Judge Lloyd has yet to set the amount. 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 United States District Court

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needed to move for leave to amend its contentions. 2

See Order at 4-5. As such, the Court rejects ed disclosure was harmless. See s Mot. 3-5.

objections findings are clearly erroneous or contrary to law. Rule 26(a) requires a party in its initial disclosures to provide:

a copy or a description by category and location of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment. August 14, 2014 initial disclosures identify only two categories of documents:

(1) Public records of the patents in suit, including file histories and



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any other related documents. (2) Various documents in custody or under its control that

were available to it, or produced by or to it, during other litigation involving one or more of the patents in suit here. Decl. of H. Michael Brucker, ECF 77-1, Exh. C at 2 (emphasis added). Read literally, this disclosure would indicate that Defendant possesses no documents relevant to its own claims or defenses and, as such, will not challenge infringement. To the extent Defendant wishes to argue noninfringement (as it has in its Amended Answer), the disclosures are incomplete for failure to identify documents relating to the redesigned accused products and, indeed, duplicitous in their silence. Order at with its discovery obligations. See -2.

assertion that Patent Local Rule 3-4 did not require the disclosure of its redesigned product is based on a stilted interpretation of the rule that Judge Lloyd appropriately -4 to require t. 2, is not a justifiable basis for withholding information required by the letter of the rule:

2 see Contentions at 1-3, ECF 65. 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27
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patent infringement shall produce or make available for inspection and copying: (a) Source code, specifications, schematics, flow charts, artwork,

formulas, or other documentation sufficient to show the operation of any aspects or elements of an Accused Instrumentality identified by the patent claimant in its Patent L.R. 3-1(c) chart. Patent L.R. 3-4 obligated under Rule 26(a) and Patent Local Rule 3-4(a) to timely disclose the redesign and that

roneous or contrary to -3.

pursuant to Rule 37(c) and Civil Local Rule 1-4, both of which authorize sanctions for -4(a) -6. These conclusions are entirely in line with the law.

of Magistrate Judge, ECF 82, is DENIED.

IT IS SO ORDERED. Dated: July 2, 2015

----- BETH LABSON FREEMAN United States District Judge

