

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

ELECTROCRAFT ARKANSAS, INC.,

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Plaintiff,

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vs.

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No. 4:09cv00318 SWW

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SUPER ELECTRIC MOTORS, LTD and
RAYMOND O’GARA, INDIVIDUALLY
AND AS PARTNER AND AGENT OF
SUPER ELECTRIC MOTORS, LTD,

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Defendants.

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ORDER

Electrocraft Arkansas, Inc. (Electrocraft) brings this action against Super Electric Motors, Ltd (Super Electric) asserting certain claims in connection with allegedly defective refrigerator motors that Electrocraft purchased from Super Electric. Super Electric has counterclaimed against Electrocraft and seeks judgment against Electrocraft for unpaid invoices and lost profits.

Super Electric recently filed a motion for summary judgment on its counterclaim, Electrocraft responded in opposition to Super Electric’s motion, and Super Electric filed a reply to Electrocraft’s response. Electrocraft has now filed a motion [doc.#39] to strike Super Electric’s reply to its response to Super Electric’s motion for summary judgment. Electrocraft argues that Super Electric has used its reply to assert arguments in support of its motion for summary judgment that were not previously advanced. Super Electric, in turn, argues that the facts and statements to which Electrocraft refers in its motion to strike are fair extensions of arguments made in the motion for summary judgment on the counterclaim and are made in direct response to Electrocraft’s arguments in its response.

Having considered the matter, the Court will deny Electrocraft's motion to strike but will allow Electrocraft twenty one (21) days from the date of entry of this Order in which to file a sur-reply to Super Electric's reply to its response to Super Electric's motion for summary judgment.¹ Upon the filing of Electrocraft's sur-reply, the briefing on Super Electric's motion for summary judgment will be complete.

As Electrocraft has recently filed its own motion for partial summary judgment, the Court will await Super Electric's response and Electrocraft's reply, if any, and rule on Super Electric's motion for summary judgment and Electrocraft's motion for partial summary judgment in the same order.

IT IS SO ORDERED this 31st day of March 2010.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE

¹ In its motion to strike, Electrocraft addressed at least some of Super Electric's alleged new arguments but it is not clear if this was just a cursory argument in support of its motion to strike or, rather, would constitute Electrocraft's full sur-reply to any new arguments set forth in Super Electric's reply to Electrocraft's response to Super Electric's motion for summary judgment.