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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LYNDA CARTWRIGHT,
LLOYD CARTWRIGHT,

Plaintiffs,

No. CIV S-07-2159 FCD EFB

vs.

VIKING INDUSTRIES, INC.,
et al.,

Defendants.

ORDER

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This matter was before the court on January 21, 2009, for hearing on plaintiffs’ motion to compel production of defendant’s electronic “proprietary database files,” in response to plaintiffs’ production requests served May 8, 2008 (requesting the production of electronically stored information in its native format, with all software necessary to access it). The motion argues that this electronically stored information was previously ordered produced by this court’s order filed September 11, 2008 (requiring production of defendant’s proprietary electronic database). Attorney Stephen Oroza appeared on behalf of plaintiffs. J. Mark Thacker appeared on behalf of the defendant.

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1 The discovery deadline in this case is January 26, 2009. *See* Dckt. No. 86. For the
2 reasons stated at the hearing, plaintiffs' motion to compel (Dckt. No. 71) is hereby GRANTED.
3 Defendant shall, no later Friday, January 23, 2009, produce said files in the exact format in
4 which they are maintained and stored (i.e., as a Sybase database), and provide the software or
5 "front end" application required to search and manipulate the files. *See* Fed. R. Civ. P.
6 34(b)(2)(E)(ii) (a party must produce electronically stored information "in a form or forms in
7 which it is ordinarily maintained or in a reasonably usable form or forms"); *see also*, Advisory
8 Committee Notes for the 2006 Amendment of Rule 34 ("the option to produce [electronically
9 stored information] in a reasonably usable form does not mean that a responding party is free to
10 convert electronically stored information from the form in which it is ordinarily maintained to a
11 different form that makes it more difficult or burdensome for the requesting party to use the
12 information efficiently in the litigation. If the responding party ordinarily maintains the
13 information it is producing in a way that makes it searchable by electronic means, the
14 information should not be produced in a form that removes or significantly degrades this
15 feature."). For the reasons discussed at the hearing and in the papers in support of the motion,
16 prior attempts to provide plaintiffs with the data in converted forms have not resulted in a full
17 and complete production of the electronically stored information.

18 Plaintiffs' related motions for sanctions are submitted for later decision, and will be
19 addressed in a subsequent order.

20 SO ORDERED.

21 DATED: January 21, 2009.

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23 EDMUND F. BRENNAN
24 UNITED STATES MAGISTRATE JUDGE
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