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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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MINDMASTER, California
sole proprietorship,
Plaintiff,

NO. CIV. 2:12-1640 WBS EFB

v.

ELIMINATOR WORKS, INC., a
Texas corporation, and
MINDMAKER, a Texas company,
Defendants.

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STATUS (PRETRIAL SCHEDULING) ORDER

After reviewing the parties' Joint Status Report, the court hereby vacates the Status (Pretrial Scheduling) Conference scheduled for October 15, 2012, and makes the following findings and orders without needing to consult with the parties any further.

I. SERVICE OF PROCESS

The defendants have been served and no further service is permitted without leave of court, good cause having been shown

1 under Federal Rule of Civil Procedure 16(b).

2 II. JOINDER OF PARTIES/AMENDMENTS

3 No further joinder of parties or amendments to
4 pleadings will be permitted except with leave of court, good
5 cause having been shown under Federal Rule of Civil Procedure
6 16(b). See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604
7 (9th Cir. 1992).

8 III. JURISDICTION/VENUE

9 Jurisdiction is predicated upon federal question
10 jurisdiction, 28 U.S.C. § 1331, because plaintiff's claims arise
11 under the Lanham Act, 15 U.S.C. § 1051 et seq. Venue is
12 undisputed and is hereby found to be proper.

13 IV. DISCOVERY

14 The parties shall serve initial disclosures required by
15 Federal Rule of Civil Procedure by October 15, 2012.

16 Plaintiff shall disclose experts and produce reports in
17 accordance with Federal Rule of Civil Procedure 26(a)(2) by no
18 later than March 15, 2013. Defendants shall disclose experts and
19 produce reports in accordance with Federal Rule of Civil
20 Procedure 26(a)(2) by no later than April 26, 2013. With regard
21 to expert testimony intended solely for rebuttal, those experts
22 shall be disclosed and reports produced in accordance with
23 Federal Rule of Civil Procedure 26(a)(2) on or before June 7,
24 2013.

25 All discovery, including depositions for preservation
26 of testimony, is left open, save and except that it shall be so
27 conducted as to be completed by July 19, 2013. The word
28 "completed" means that all discovery shall have been conducted so

1 that all depositions have been taken and any disputes relevant to
2 discovery shall have been resolved by appropriate order if
3 necessary and, where discovery has been ordered, the order has
4 been obeyed. All motions to compel discovery must be noticed on
5 the magistrate judge's calendar in accordance with the local
6 rules of this court and so that such motions may be heard (and
7 any resulting orders obeyed) not later than July 19, 2013.

8 V. MOTION HEARING SCHEDULE

9 All motions, except motions for continuances, temporary
10 restraining orders, or other emergency applications, shall be
11 filed on or before August 30, 2013. All motions shall be noticed
12 for the next available hearing date. Counsel are cautioned to
13 refer to the local rules regarding the requirements for noticing
14 and opposing such motions on the court's regularly scheduled law
15 and motion calendar.

16 VI. FINAL PRETRIAL CONFERENCE

17 The Final Pretrial Conference is set for December 9,
18 2013, at 2:00 p.m. in Courtroom No. 5. The conference shall be
19 attended by at least one of the attorneys who will conduct the
20 trial for each of the parties and by any unrepresented parties.

21 Counsel for all parties are to be fully prepared for
22 trial at the time of the Pretrial Conference, with no matters
23 remaining to be accomplished except production of witnesses for
24 oral testimony. Counsel shall file separate pretrial statements,
25 and are referred to Local Rules 281 and 282 relating to the
26 contents of and time for filing those statements. In addition to
27 those subjects listed in Local Rule 281(b), the parties are to
28 provide the court with: (1) a plain, concise statement which

1 identifies every non-discovery motion which has been made to the
2 court, and its resolution; (2) a list of the remaining claims as
3 against each defendant; and (3) the estimated number of trial
4 days.

5 In providing the plain, concise statements of
6 undisputed facts and disputed factual issues contemplated by
7 Local Rule 281(b)(3)-(4), the parties shall emphasize the claims
8 that remain at issue, and any remaining affirmatively pled
9 defenses thereto. If the case is to be tried to a jury, the
10 parties shall also prepare a succinct statement of the case,
11 which is appropriate for the court to read to the jury.

12 VII. TRIAL SETTING

13 The jury trial is set for February 4, 2014 at 9:00 a.m.
14 The parties estimate that the trial will last four court days.

15 VIII. SETTLEMENT CONFERENCE & VDRP

16 The parties have expressed an interest in pursuing the
17 Voluntary Dispute Resolution Program, which the parties may
18 pursue pursuant to Eastern District Local Rule 271(c)(3).

19 A Settlement Conference will be set at the time of the
20 Pretrial Conference. All parties should be prepared to advise
21 the court whether they will stipulate to the trial judge acting
22 as settlement judge and waive disqualification by virtue thereof.

23 Counsel are instructed to have a principal with full
24 settlement authority present at the Settlement Conference or to
25 be fully authorized to settle the matter on any terms. At least
26 seven calendar days before the Settlement Conference counsel for
27 each party shall submit a confidential Settlement Conference
28 Statement for review by the settlement judge. If the settlement

1 judge is not the trial judge, the Settlement Conference
2 Statements shall not be filed and will not otherwise be disclosed
3 to the trial judge.

4 IX. MODIFICATIONS TO SCHEDULING ORDER

5 Any requests to modify the dates or terms of this
6 Scheduling Order, except requests to change the date of the
7 trial, may be heard and decided by the assigned Magistrate Judge.
8 All requests to change the trial date shall be heard and decided
9 only by the undersigned judge.

10 DATED: October 10, 2012

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12 WILLIAM B. SHUBB
13 UNITED STATES DISTRICT JUDGE
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