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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 BRAD HOLTORF

No. C-09-4560-EDL

9 Plaintiff,

10 v.

**ORDER DENYING MOTION TO
DISMISS AND ORDERING PRO SE
DEFENDANT POCKET BIKES
UNLIMITED TO OBTAIN COUNSEL**

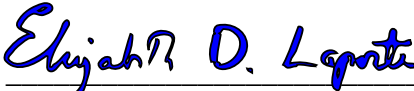
11 SCOTT VOLGER and POCKET BIKES
12 UNLIMITED

13 Defendants.
14 _____/

15 Pro se Defendant Scott Volger filed a Motion to Dismiss Defendant Brad Holtorf's
16 Complaint for patent infringement for failure to state a claim. The Motion argued that, "the design
17 and function of this product was already in use for the application(s) that Plaintiff is claiming," and
18 attached various documents to support this contention. Plaintiff countered that the Motion stated an
19 "anticipation" invalidity defense, and argued that the Court should not convert the Motion into one
20 for summary judgment and rule on the merits of the defense. The Court held a hearing on December
21 22, 2009, during which the Court denied the motion to dismiss, informed Defendant that he could
22 not represent the corporate defendant pro se, and ordered him to obtain counsel for the corporate
23 defendant. The Court hereby Orders that Plaintiff's Motion to Dismiss is DENIED and Defendant
24 Pocket Bikes Unlimited is Ordered to obtain counsel within 30 days of the date of this Order.
25 Defendant Scott Volger is referred to the Court's Pro Se Help Desk.

26 **IT IS SO ORDERED.**

27 Dated: February 8, 2010

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ELIZABETH D. LAPORTE
United States Magistrate Judge