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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

INTERWOVEN, INC.,

No. C 10-04645 RS

Plaintiff,

v.

VERTICAL COMPUTER SYSTEMS, INC.,

**ORDER DENYING DEFENDANT'S  
MOTION FOR RELIEF FROM  
DECEMBER 20, 2013 DISCOVERY  
ORDER OF MAGISTRATE JUDGE  
SPERO**

Defendants.

Pursuant to Local Rule 72-2, Federal Rule of Civil Procedure 72(a) and 28 U.S.C. § 636(b)(1)(A), Vertical moves for relief from Magistrate Judge Spero's December 20, 2013 Discovery Order, in which he denied Defendant's request to re-open discovery to take the deposition of non-party Frank Livaudais.

In the parties' Third Amended Supplemental Joint Case Management Statement, Vertical requested to reopen discovery to take the deposition of non-party Frank Livaudais. (Dkt. 208.) Interwoven opposed this request. During the Case Management Conference held on October 17, 2014, the court instructed the parties to work together to tie up any loose ends from fact discovery, including the requested deposition, and the parties agreed to work together to do so. It appears those efforts were unsuccessful. After receiving a joint letter from the parties regarding this issue and holding a hearing thereon, Judge Spero denied Vertical's request to depose Livaudais.

A district court may modify or set aside any non-dispositive ruling that is "clearly erroneous or contrary to law." 28 U.S.C. § 636 (b)(1)(A); Fed. R. Civ. P. 72(a). A district court

No. C 10-04645 RS  
ORDER

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reviews a magistrate judge’s factual determinations “for clear error,” while the magistrate’s legal conclusions are reviewed de novo to determine whether they are contrary to law. *Guidiville Rancheria of Cal. v. United States*, 2013 U.S. Dist. LEXIS 175365, at \*\*4–5 (N.D. Cal. Dec. 13, 2013). Vertical has not shown that Judge Spero’s order, issued with additional briefing and oral argument not presented to this court in the course of the case management conference, is either “clearly erroneous or contrary to law.” The request for relief is therefore denied.

IT IS SO ORDERED.

Dated: January 3, 2014



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RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE