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

AVIVA SPORTS, INC., a Minnesota corporation,

No. C 10-80249 MISC WHA

Plaintiff,

v.

**ORDER SETTING BRIEFING SCHEDULE AND HEARING ON MOTION TO QUASH AND FOR MONETARY SANCTIONS**

FINDERHUT DIRECT MARKETING, INC., a Delaware corporation, MENARD, INC., a Wisconsin corporation, KMART CORPORATION, a Michigan corporation, WAL-MART STORES, INC., a Delaware corporation dba Wal-Mart and Sam's Club, and MANLEY TOYS, LTD., a Hong Kong corporation dba Manley Toys and ToyQuest,

Defendants.

\_\_\_\_\_  
AND RELATED CROSS-ACTIONS.  
\_\_\_\_\_

The undersigned judge has received the motion to quash and for monetary sanctions filed by non-parties Brian Dubinsky and Aquawood, LLC, and joined by non-party Wham-O, Inc. and defendant Manley Toys, Ltd., against plaintiff Aviva Sports, Inc. (Dkt. Nos. 1–8). The motion targets a non-party subpoena served by Aviva Sports on Wham-O on September 9, 2010, which requests that Wham-O produce various documents received during the course of discovery in three unrelated lawsuits in which Wham-O was a plaintiff. The instant motion argues that the

**United States District Court**  
For the Northern District of California

1 subpoena is burdensome and requires disclosure of protected commercial information by non-  
2 parties to the underlying dispute. The parties to the instant motion have supposedly already met  
3 and conferred in an attempt to resolve this matter. Additionally, the instant motion and all  
4 supporting declarations and exhibits have been served on all parties to the underlying action,  
5 which is currently pending in the United States District Court for the District of Minnesota (Case  
6 No. 09-CV-01091 JNE/JSM).


7 The following schedule will govern. Aviva Sports shall file an opposition brief to the  
8 instant motion no later than **NOON ON THURSDAY, OCTOBER 21**. Any reply must be filed  
9 **BY NOON ON MONDAY, OCTOBER 25**. Counsel for Avila Sports, Mr. Dubinsky, Aquawood,  
10 Wham-O, Manley Toys, and any other party who may join in the motion must then meet and  
11 confer *in person* **FROM 8:00 A.M. UNTIL 11:00 A.M. ON THURSDAY, OCTOBER 28**, in the jury  
12 room of Courtroom 9 on the 19th floor of the federal courthouse located at 450 Golden Gate Ave.  
13 in San Francisco. Counsel shall check-in with chambers upon arrival to gain access to the jury  
14 room. At 11:00 a.m., the undersigned judge will hold a hearing on the motion. Only counsel  
15 present at the meet and confer will be allowed to argue at the hearing.

16 Counsel shall ensure that the parties to the underlying dispute and the instant motion are  
17 promptly served with a copy of this order. Pending the resolution of this motion, Wham-O's  
18 obligation to produce the disputed documents is stayed.

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**IT IS SO ORDERED.**

Dated: October 13, 2010.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE