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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HIGH TEK USA, INC.,
Plaintiff,
v.
HEAT AND CONTROL, INC.,
Defendant.

Case No. 12-cv-00805-WHO

SUMMARY OPINION GRANTING IN PART AND DENYING IN PART DEFENDANT’S MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT; ORDER OF REFERENCE TO A MAGISTRATE JUDGE FOR SETTLEMENT

Re: Dkt. No. 81

Defendant Heat & Control Inc. has moved for summary judgment of all of plaintiff High Tek USA Inc.’s claims, or in the alternative, for partial summary judgment on each separate claim for relief. High Tek asserts six causes of action: i) violation of Section 1 of the Sherman Act, 15 U.S.C. § 1; ii) violation of Section 2 of the Sherman Act, 15 U.S.C. § 2; iii) violation of the Robinson-Patman Act,¹ 15 U.S.C. § 13; iv) intentional interference with contractual relations; v) intentional interference with prospective economic advantage, and; vi) violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq. The parties appeared before the Court for oral argument on March 5, 2014. A full opinion will follow. I issue the following

¹ High Tek also alleges a cause of action for violation of Section 2 of the Clayton Act for price discrimination (seventh cause of action). However, Section 2 of the Clayton Act is the Robinson-Patman Act, so High Tek’s third and seventh causes of action are duplicative. *See, e.g., Colabella v. Am. Inst. of Certified Pub. Accountants*, 2011 WL 4532132 (E.D.N.Y. Sept. 28, 2011) (“Plaintiffs bring a claim under Section 2 of the Clayton Act, 15 U.S.C. § 13 (as amended by the Robinson–Patman Act of 1936 and hereafter referred to as the “Robinson–Patman Act”); *Zenith Radio Corp. v. Matsushita Elec. Indus. Co., Ltd.*, 494 F. Supp. 1190, 1214 (E.D. Pa. 1980) (“Section 1 of the Robinson-Patman Act, 49 Stat. 1526 (1936), made extensive amendments in section 2 of the Clayton Act; the amended section is often referred to simply as “the Robinson-Patman Act,” since the original version of section 2 of the Clayton Act is no longer operative.”).

1 summary rulings in order to allow the parties to prepare for trial.

2 Having considered the briefs submitted by the parties and arguments of counsel, I GRANT
3 Heat and Control's motion for partial summary judgment on the cause of actions for violations of
4 Section 1 of the Sherman Act, 15 U.S.C. § 1 (first cause of action); Section 2 of the Sherman Act,
5 15 U.S.C. § 2 (second cause of action); and intentional interference with prospective economic
6 advantage (fifth cause of action). Those causes of action are DISMISSED from this action.

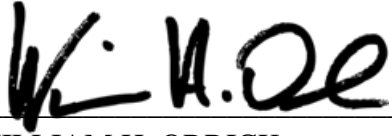
7 I DENY Heat and Control's motion for partial summary judgment of the causes of action
8 for violations of the Robinson-Patman Act, 15 U.S.C. § 13 (third cause of action); intentional
9 interference with contractual relations (fourth cause of action); and violation of the California
10 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq* (sixth cause of action).

11 As ordered at the March 5, 2014 hearing, the pretrial Conference is rescheduled to May 19,
12 2014 at 2:00 p.m. Trial remains scheduled to commence on June 16, 2014.

13 This case is referred for random assignment to a Magistrate Judge for a settlement
14 conference to occur no later than May 1, 2014. The parties will be advised of the date, time and
15 place of appearance by notice from the assigned magistrate judge. The parties are directed to
16 contact the courtroom deputy of the undersigned judge if they are not advised of the assigned
17 magistrate judge within fourteen days.

18 **IT IS SO ORDERED.**

19 Dated: March 14, 2014

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22 WILLIAM H. ORRICK
23 United States District Judge
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