

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NOVELPOSTER,
Plaintiff,

v.

JAVITCH CANFIELD GROUP, et al.,
Defendants.

Case No. [13-cv-05186-WHO](#)

**ORDER GRANTING DISCOVERY,
CONTINUING MOTION TO DISMISS
AND CASE MANAGEMENT
CONFERENCE, AND REQUIRING
MEDIATION**

Re: Dkt. Nos. 33, 34, 35

On February 10, 2014, the Court held a telephone conference concerning plaintiff NovelPoster's ex parte application for a temporary restraining order and preliminary injunction requiring that various documents in the defendants' possession be produced immediately. Defendants opposed the motion, arguing that they already provided sufficient information to NovelPoster and that the requisites for a temporary restraining order or preliminary injunction were not present.

The Court raised several concerns during the telephone conference, first among them being that the litigation costs for both parties would quickly outstrip the underlying value of the case. Defendants have filed motions to dismiss, which are fully briefed. The parties have not met and conferred in person in an effort to resolve the dispute. While it is the parties' right to litigate this matter if they choose, it is the Court's duty to attempt to manage this case to secure a just, speedy, and inexpensive determination of it if possible. In an effort to achieve that outcome, the Court **ORDERS** as follows:

1. Within seven days of the date of this Order, the defendants shall provide NovelPoster with all emails and other written communications, including any contracts or other agreements, between them and any third-party customers (past, actual, or potential)

1 related to NovelPoster from June 6, 2013, to January 10, 2014. Within seven days of
2 the date of this Order, the defendants shall also provide NovelPoster with an
3 accounting of all orders and contracts involving NovelPoster during that time period.

4 2. The parties, with principals present, shall mediate this matter as soon as practicable,
5 ideally before March 10, 2014. This matter is referred to the Court's ADR Unit for
6 selection of a mediator.

7 3. The Case Management Conference scheduled for February 19, 2014, shall be
8 rescheduled to March 18, 2014, at 2 p.m. in Courtroom 2. In the event the mediation
9 has not occurred, the parties may jointly request a further continuance of the
10 Conference. Otherwise, a joint Case Management Statement shall be filed no later than
11 March 13, 2014.

12 4. The hearing on defendants' motions to dismiss, scheduled for February 19, 2014, is
13 vacated. If mediation is unsuccessful, the parties may re-notice the motions for hearing
14 at least two weeks before the proposed hearing date.

15 In light of this Order, to the extent that NovelPoster's ex parte application seeks more
16 documents than this Order allows, the application is DENIED.

17 Plaintiff informed the Court after the telephone conference that the defendants in this
18 matter are the same defendants named in a case recently filed in the Southern District of Ohio: *The*
19 *Gillette Company v. Javitch Canfield Group*, on a complaint for patent infringement. Apparently,
20 counsel for the plaintiff here and counsel for The Gillette Company agree that they should try for a
21 global settlement of both cases, since there are overlapping legal issues as to the existence of the
22 Javitch Canfield Group and overlapping discovery issues with respect to cross-marketing of
23 NovelPoster products with the products at issue in The Gillette Company's complaint.

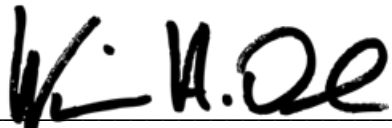
24 It is not obvious why trying to settle a patent infringement matter with a different plaintiff
25 would not complicate rather than simplify the mediation. The "common" issues identified do not
26 appear necessary for resolution of the case in this district. The cases are not related, and the Court
27 will not interfere with a case in another district which has such a scant connection to this matter.
28 If the parties in this case all agree that The Gillette Company should be included in the mediation,

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they should file a joint letter with a more persuasive justification for doing so. Plaintiff's request is DENIED at this time.

IT IS SO ORDERED.

Dated: February 10, 2014



WILLIAM H. ORRICK
United States District Judge