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

MCCURRY STUDIOS LLC,

Plaintiff,

No. MC 13-80246 WHA

v.

WEB2WEB MARKETING, INC.,

Defendant.

**NOTICE RE
MARCH 13 HEARING**

For the March 13 hearing on plaintiff McCurry Studios LLC's motion to compel, the Court requests that both sides be prepared to address the following questions:


1. Was a copy of plaintiff's motion to compel served on defendant by means *other than* mail to defendant's address in Walnut Creek?
2. Since this action is proceeding on a default judgment, defendant has made no appearance either before the Delaware district court or this Court; it therefore appears that defendant not been subjected to the personal jurisdiction of this Court. As such, to take the deposition of defendant's president and CEO, Pankaj Gupta, it seems that a subpoena under Federal Rule of Civil Procedure 45 — as opposed to requests made under Rule 30(b)(6) and 34 — is the proper course here, as the latter two rules regulate discovery vis-a-vis *parties* who have already appeared. Perhaps the Court is mistaken about this, but in any event, both sides are invited to be prepared to address this issue of personal jurisdiction at our hearing.

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3. Moreover, if defendant or Gupta agreed to appear for plaintiff's depositions (but then failed to so appear), would that constitute making an appearance in this action such that the Court would have personal jurisdiction to enforce plaintiff's discovery requests?

Defendant is again reminded that it can only appear before the undersigned judge at the March 13 hearing if it retains legal representation through a member of the bar of this Court. *See* Civ. L. R. 3-9. As before, plaintiff's counsel will serve a copy of this notice on defendant, using e-mail or first-class mail.

Dated: March 10, 2014.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE