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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THE BURLINGTON INSURANCE  
COMPANY,

Plaintiff,

v.

FITNESS ANYWHERE, LLC, et al.,

Defendants.

Case No. 15-cv-00983-VC

**ORDER NOTIFYING THE  
DEFENDANT UNDER RULE 56(F) AND  
REQUESTING SUPPLEMENTAL  
BRIEFING**

Re: Dkt. Nos. 56, 61

In the papers that WOSS Enterprises has filed in opposition to the Burlington Insurance Company's motion for partial summary judgment, and in support of WOSS Enterprises' own motion for summary judgment against Berkley Assurance Company, WOSS Enterprises has not provided evidence or argument that would support a conclusion that the plaintiff in the underlying case used the allegedly infringing phrases as a slogan. WOSS Enterprises is invited to file a supplemental brief on this issue, not to exceed 10 pages, by no later than Monday, December 7, 2015. In addition, WOSS Enterprises is hereby notified that the Court is not merely inclined to grant summary judgment to the Burlington Insurance Company on the current record, but also to enter summary judgment sua sponte in favor of Berkley Assurance Company. WOSS Enterprises is invited to articulate any argument, in the supplemental brief, why the Court should not do that. *See Fed. R. Civ. P. 56(f); Albino v. Baca*, 747 F.3d 1162, 1176 (9th Cir. 2014).

**IT IS SO ORDERED.**

Dated: December 4, 2015




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VINCE CHHABRIA  
United States District Judge

United States District Court  
Northern District of California