

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

JANE DOE 1 and JANE DOE 2,
Plaintiffs,

No. C 16-02935 WHA

v.

XYTEX CORPORATION, a Georgia Corporation, XYTEX CRYO INTERNATIONAL, LTD., a Georgia Corporation, MARY HARTLEY, an individual, J. TODD SPRADLIN, an individual, and DOES 1–25, inclusive,
Defendants.

ORDER CONTINUING EVIDENTIARY HEARING

The parties have stipulated to continue the evidentiary hearing scheduled for September 28, due to plaintiff Jane Doe 2’s unavailability on that date due to her attendance at an out-of-state conference pre-paid by her employer. Additionally, Xytex asks to be allowed to file supplemental briefs following the hearing. Finally, Xytex asks to be allowed to use the Court’s computer system and Internet access in order to display its website during the examination of witnesses.

The evidentiary hearing is hereby **CONTINUED** to **MONDAY, OCTOBER 17 AT 1:30 P.M.** The parties may each file supplemental briefs **NOT TO EXCEED TEN PAGES** by **THURSDAY, OCTOBER 27 AT NOON**. They may likewise reply by **THURSDAY, NOVEMBER 3 AT NOON**.

The foregoing proceedings shall *not* revisit the issues already decided in the prior order on Xytex’s motion to transfer. That is, among other issues, neither the evidentiary hearing nor

1 the subsequent briefing shall be treated as opportunities to reargue whether Xytex's website
2 gave reasonable notice of the site usage agreement. That argument has already been rejected
3 (Dkt. No. 27 at 7). The only issue is whether plaintiffs had *actual notice* of the agreement when
4 they used Xytex's website in 2004, such that they can be charged with assent to its terms
5 (including the forum-selection clause).

6 Xytex should submit a proposed order identifying the specific equipment it wishes to
7 bring into the courtroom pursuant to General Order No. 58.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: September 19, 2016.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE