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2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 OAKLAND DIVISION
5

6 MARK LEE TAYLOR, et al.,

7 Plaintiffs,

8 vs.

9 HONEYWELL CORPORATION, et al.,

10 Defendants.

Case No: C 09-4947 SBA

Related to:
C 10-1920 SBA

**ORDER DENYING DEFENDANT'S
MOTION FOR LEAVE TO FILE
AMENDED NOTICE OF REMOVAL**

Docket 38

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12 On August 25, 2009, Plaintiffs Mark Taylor and his wife Pamela Taylor (collectively
13 "Plaintiffs") filed a personal injury action against Honeywell International, Inc. ("Honeywell")
14 in San Francisco County Superior Court. Honeywell removed the action on the basis of
15 diversity jurisdiction. Plaintiff subsequently filed a motion to amend their complaint to join
16 Jeppesen Sanderson, Inc. ("Sanderson") and Jeppesen Dataplan, Inc. ("Dataplan") as
17 defendants. On May 10, 2010, the Court granted Plaintiffs' motion and remanded the action
18 under 28 U.S.C. § 1447(e). After the case was remanded, Plaintiffs did not amend their state
19 court complaint to join either of these defendants.

20 In the meantime, while the above-captioned action was pending in this Court,
21 Plaintiffs filed a second lawsuit in San Francisco County Superior Court against DataPlan
22 and Sanderson. See Taylor v. Jeppesen Dataplan, Inc., San Francisco County Super. Ct.,
23 No. CGC-10-495884, filed January 8, 2010. Like the prior action, the second complaint
24 alleges causes of action for strict products liability, negligence and loss of consortium. On
25 May 4, 2010, defendants removed the action to this court on the basis of diversity
26 jurisdiction. Although Dataplan is not diverse from Plaintiffs, defendants alleged that
27 Dataplan was fraudulently joined, and therefore, its citizenship should be disregarded.
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1 Plaintiffs filed a motion to remand in the Jeppesen Dataplan action, which the Court
2 denied on September 27, 2010. In reaching its decision, the Court considered the
3 declarations submitted by defendants which established that Dataplan had no involvement
4 with the equipment underlying Plaintiffs' personal injury claims. The Court did not have
5 the benefit of such information when it adjudicated Plaintiffs' motion to amend and for
6 remand previously filed in this action.

7 On October 1, 2010, Honeywell filed the instant Motion for Leave to File Amended
8 Notice of Removal. Honeywell seeks permission to file another notice of removal on the
9 grounds that Plaintiffs never joined Dataplan or Sanderson after the case was remanded on
10 May 10, 2010, and in light of the Court's determination that Dataplan was fraudulently
11 joined in the Jeppeson Dataplan action. Honeywell fails to cite any legal authority to
12 establish that the Court has the power to grant leave to file an amended notice of removal in
13 a case that is no longer pending in federal court. Moreover, Honeywell's motion appears to
14 be a de facto request to reconsider the Court's May 10, 2010 Order remanding the action.
15 Under 28 U.S.C. § 1447(d), however, the Court's remand order is not subject to further
16 review. See Stevens v. Brink's Home Security, Inc., 378 F.3d 944, 949 (9th Cir. 2004).
17 Accordingly,

18 IT IS HEREBY ORDERED THAT Honeywell's Motion for Leave to File Amended
19 Notice of Removal (Dkt. 38) is DENIED. The Clerk also shall file a copy of this Order in
20 C 10-1920 SBA and terminate Docket 31 therein.

21 IT IS SO ORDERED.

22 Dated: October 13, 2010

23 
24 SAUNDRA BROWN ARMSTRONG
25 United States District Judge
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