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

TRANSPERFECT GLOBAL, INC., et al.,

 Plaintiffs,

 v.

MOTIONPOINT CORP.,

 Defendant.

Case No.: C-10-02590 CW (JCS)

**ORDER GRANTING IN PART AND
DENYING IN PART
MOTIONPOINT’S MOTION TO
STRIKE; DENYING
TRANSPERFECT’S MOTION TO
STRIKE
[DOCKET NO. 235]**

Defendant MotionPoint Corporation (“MotionPoint”) moved to strike portions of Dr. Paul Clark’s expert report on the purported invalidity of the asserted patents. Plaintiffs TransPerfect Global, Inc., TransPerfect Translations, International, Inc., and Translations.com, Inc., (“TransPerfect”) moved to strike MotionPoint’s addition of three witnesses to its Initial Disclosures. The parties appeared and argued their motions at a hearing held on December 7, 2012 at 9:30 am. Good cause appearing and for the reasons stated on the record at the hearing, it is hereby Ordered as follows:

MotionPoint’s motion to strike Dr. Clark’s references to (1) “WizTom Software build 3.20.1246 (‘WizTom Software’),” (2) “WizArt WizTom 3.0 Documentation (‘WizTom User Guide’),” (3) “WizTom Internet Archive documentation (‘WizTom IA’),” (4) “WizTom for the Web Version 3 Installation Guide (‘WizTom Install’),” and (5) “WizTom Power Builder” is DENIED. TransPerfect adequately disclosed the WizTom system in their Invalidaty Contentions. These particular supporting documents were only discovered, and the WizTom Software operated successfully, by TransPerfect shortly before they disclosed them in their June 11, 2012 expert report on invalidity. TransPerfect was diligent in locating these documents and promptly provided all of the

1 documents to MotionPoint. Given the extensive disclosure of the WizTom System, MotionPoint will
2 not be prejudiced by the use of these supporting documents.

3 MotionPoint's motion to strike Dr. Clark's references to "WebBudget Demonstration
4 Software: WebBudget 3 (3.0.1.1) ('WB Demo')" is DENIED. TransPerfect discovered and operated
5 the WB Demo shortly before they disclosed it in their June 11, 2012 expert report on invalidity.
6 TransPerfect was diligent and there is good cause to allow them to use the cited document.
7 MotionPoint has not shown prejudice from this additional reference.

8 MotionPoint's motion to strike Dr. Clark's references to "Idiom WorldServer in 20 Questions"
9 ("20 Questions") is GRANTED. The document was not adequately disclosed in TransPerfect's
10 invalidity contentions and TransPerfect was not diligent in their discovery and addition of this
11 reference.

12 MotionPoint stipulated at the hearing that it is withdrawing its motion to strike Dr. Clark's
13 references to "TheOne Frequently Asked Questions" and "Live from Japan – an e-commerce site gets
14 a make-over from Asia."

15 TransPerfect stipulated at the hearing that is was withdrawing its references to (1) "U.S. Patent
16 No. 6,122,666 ('Beurket')," (2) "PCT Publ. No. WO 00/05660 ('Pringle')," and (3) "U.S. Patent No.
17 6,662,233 ('Skarpness')." Accordingly, these three references are stricken from Dr. Clark's report

18 TransPerfect's motion to strike MotionPoint's addition of Jacob B. Morris, Matthew J.
19 Kimball, and Jeffrey D. Weness to its Initial Disclosures is DENIED. TransPerfect may depose these
20 witnesses and subpoena documents from the witnesses and from their previous employers. Those
21 subpoenas shall issue and the depositions shall occur forthwith.

22 IT IS SO ORDERED.

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24 Dated: December 12, 2012

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JOSEPH C. SPERO
United States Magistrate Judge