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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Advanced Microtherm, Inc., et al.,

NO. C 04-02266 JW

Plaintiffs,

v.

**ORDER OVERRULING DEFENDANT'S
OBJECTIONS TO MAGISTRATE
JUDGE'S DISCOVERY AND
SCHEDULING ORDERS**

Norman Wright Mechanical Equip. Corp.,
et al.,

Defendants.

Presently before the Court are Defendant Norman Wright's Objection to Magistrate Judge Trumbull's Order After Discovery Conference (Docket Item No. 902) and Objection to Order Scheduling Further Status and Discovery Conference (Docket Item No. 905).

A district court may modify a magistrate judge's ruling on a non-dispositive matter, such as an order to compel discovery, if the order is "clearly erroneous" or "contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Bahn v. NME Hospitals, Inc., 929 F.2d 1404, 1414 (9th Cir. 1991). Pursuant to Civil Local Rule 72-2, the court may not grant a motion objecting to a Magistrate Judge's order without first giving the opposing party an opportunity to brief the matter.¹ See Civ. L.R. 72-2.

In this case, Defendant objects to the scope of discovery permitted by Judge Trumbull in the parties' January 27, 2009 status conference. Upon review of both its Order tasking the former


¹ Plaintiffs have filed Oppositions to Defendant's Objections. (See Docket Item Nos. 911-12.)

1 Special Master with managing expanded discovery beyond the Five Projects and its subsequent
2 Order replacing the Special Master with Judge Trumbull, the Court finds that it never formally
3 limited the scope of expanded discovery in this case. (See Docket Item Nos. 782, 831.) Rather, the
4 Court left it to Judge Trumbull to define the contours of discovery in the lead up to trial. This is
5 exactly what Judge Trumbull did in her February 6, 2009 Order After Discovery Conference.
6 (Docket Item No. 886.) Since this discovery decision was a non-dispositive matter, and the Court
7 finds that Judge Trumbull was not clearly erroneous, the Court OVERRULES Defendant's
8 Objection to the Order After Discovery Conference.

9 Defendant also objects to the expedited discovery schedule established by Judge Trumbull in
10 her February 6, 2009 Order Scheduling Further Status and Discovery Conference. (Docket Item No.
11 887.) At this time, the Court is not inclined to alter Judge Trumbull's schedule. If, as of July 1,
12 2009, Defendant finds that it will be unable to meet its discovery obligations by Judge Trumbull's
13 August 24, 2009 deadline, Defendant may apply to the Court for a modification of the discovery
14 schedule. Until that time, however, Defendant shall proceed on the assumption that discovery must
15 be completed by August 24, 2009. Accordingly, the Court OVERRULES Defendant's Objection to
16 the Order Scheduling Further Status and Discovery Conference.

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Dated: March 12, 2009



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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20 **Dated: March 12, 2009**

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy

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