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28E-FILED on 01/26/09

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

NEIL B. GOLDBERG,

Plaintiff,

v.

JAMES CAMERON, GALE ANN HURD, et  
al.

Defendants.

No. C-05-03534 RMW

ORDER REGARDING MOTION FOR  
ORDER APPROVING DISCOVERY**[Re Docket No. 89]**

Plaintiff Neil Goldberg moves for an order approving discovery to defend against Defendants' pending summary judgment motions. On December 18, 2008 the court continued the motions for summary judgment to Thursday, March 19, 2009 (later corrected to Friday, March 20, 2009) to allow Goldberg to respond. In that order, the court stated that if the parties could not agree on discovery, "plaintiff must file a request with the court setting forth the discovery necessary to respond to the motion for summary judgment." Plaintiffs motions for summary judgment focused exclusively on claims against Hurd and Cameron for their direct acts of infringement after August 21, 2002.

Plaintiff now moves for an order permitting discovery of pre-2002 events in support of a claim of contributory infringement against defendants. That discovery appears unnecessary to respond to the pending summary judgment motions, and is therefore denied. Plaintiff may take

1 discovery limited to that necessary to establish whether defendants committed any acts of direct  
2 infringement after August 31, 2002.

3 Plaintiff may move to amend his complaint to include a claim for contributory infringement  
4 if he wishes to assert that theory. If such motion is granted, the court will then rule, if necessary, on  
5 discovery claims that arise. The parties are reminded that all discovery issues are referred to the  
6 assigned magistrate.

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9 DATED: 01/26/09

  
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RONALD M. WHYTE  
United States District Judge

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