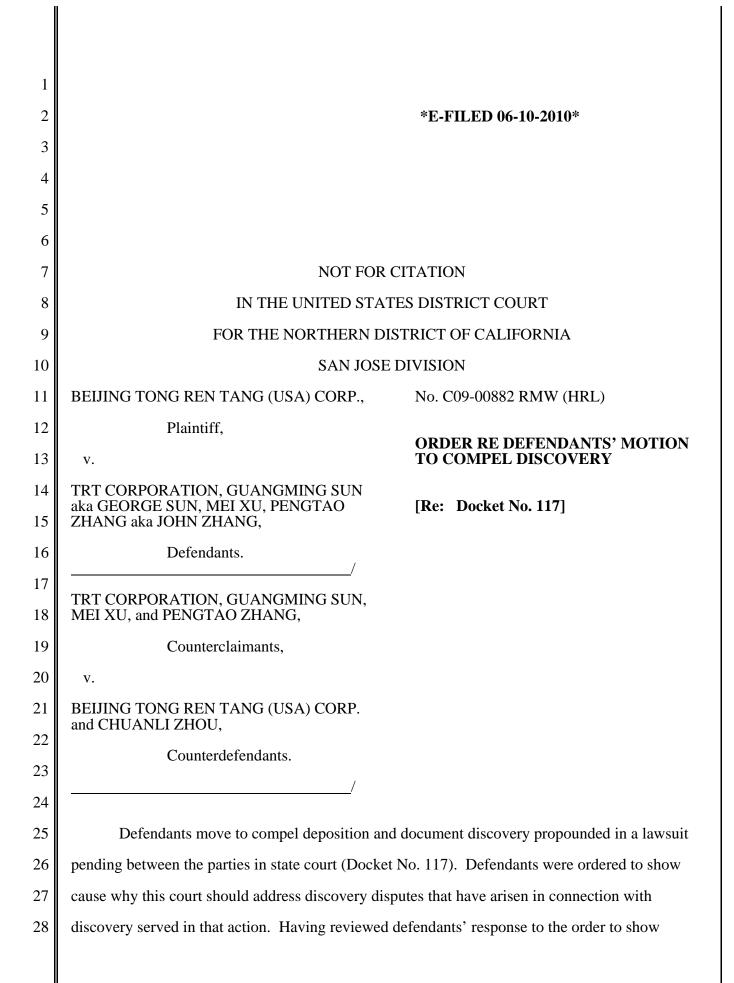
United States District Court

For the Northern District of California



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United States District Court For the Northern District of California cause, this court concludes that defendants should move the state court to enforce discovery
 propounded in that matter.
 Defendants contend that this court properly may resolve any disputes in connection with
 that discovery because Judge Whyte admonished the parties to avoid duplicative discovery as
 between that state court lawsuit and the instant federal case. (See Docket No. 90, Dec. 18, 2009)

between that state court lawsuit and the instant federal case. (See Docket No. 90, Dec. 18, 2009 6 Order Denying Motion to Stay Proceedings). In essence, defendants argue that this court 7 should address their state court discovery requests because those requests could have been 8 propounded here. The fact remains, however, that they were not. Judge Whyte certainly 9 encouraged the parties to coordinate the discovery in both actions, such that discovery obtained 10 in one case may be used in the other. (See id. at 4-5). But, as previously noted, this court does 11 not read that order to mean that discovery disputes arising in the course of the state court 12 proceedings properly should be brought before this court for resolution. The requests in dispute 13 may be subject to state procedural rules which may well differ from those applied in this court. 14 Moreover, at least some of the discovery at issue in defendants' motion apparently have been 15 resolved by a separate discovery motion brought before the state court. (See Docket No. 165). 16 Defendants assert that the state court case has not yet been set for trial, whereas trial in the 17 instant action is some two months away. However, they have presented no reason why the 18 matter could not be brought before the state court in time for defendants to use whatever 19 discovery they obtain there in the instant action.

Accordingly, defendants' motion to compel (Docket No. 117) will be terminated.
Defendants are directed to bring that motion before the state court for resolution.

SO ORDERED.

23 Dated: June 10, 2010

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HOWARD FILLOIN UNITED STATES MAGISTRATE JUDGE

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United States District Court For the Northern District of California

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