

United States District Court  
For the Northern District of California

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**\*E-FILED 06-10-2010\***

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

BEIJING TONG REN TANG (USA) CORP.,

No. C09-00882 RMW (HRL)

Plaintiff,

v.

**ORDER RE DEFENDANTS' MOTION  
TO COMPEL DISCOVERY**

TRT CORPORATION, GUANGMING SUN  
aka GEORGE SUN, MEI XU, PENGTAO  
ZHANG aka JOHN ZHANG,

[Re: Docket No. 117]

Defendants.

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TRT CORPORATION, GUANGMING SUN,  
MEI XU, and PENGTAO ZHANG,

Counterclaimants,

v.

BEIJING TONG REN TANG (USA) CORP.  
and CHUANLI ZHOU,

Counterdefendants.

\_\_\_\_\_/

Defendants move to compel deposition and document discovery propounded in a lawsuit pending between the parties in state court (Docket No. 117). Defendants were ordered to show cause why this court should address discovery disputes that have arisen in connection with discovery served in that action. Having reviewed defendants' response to the order to show

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

Dated: June 10, 2010

  
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HOWARD B. LOTT  
UNITED STATES MAGISTRATE JUDGE

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