E-Filed 3/23/10

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

C&C JEWELRY MFG., INC., Plaintiff, v. TRENT WEST, Defendant. And Related Counter Claims	Case No. 09-1303-JF (HRL) AMENDED ORDER REQUESTING FURTHER BRIEFING [re: document no. 52]

In anticipation of the claim construction hearing in the instant case, the Court hereby requests supplemental briefing with respect to whether a "to provide clause", such as that found in claim 1 of the '314 patent and claim 11 of the '972 patent, should be construed as a "whereby clause" under *Hoffer v. Microsoft Corp.*, 405 F.3d 1326, 1329 (Fed. Cir. 2005) (finding that "a whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited", except "when the 'whereby' clause states a condition that is material to patentability") (internal citation and quotation marks omitted). The parties' supplemental briefs shall not exceed five (5) pages in length. In light of this amended order, the

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supplemental briefs shall be filed on or before March 26, 2010.

IT IS SO ORDERED.

DATED: 3/23/ 2010

JEREMY FOGEL
United States District Judge