UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

ERICKSON PRODUCTIONS, INC. and JIM ERICKSON,

Plaintiffs,

v.

KRAIG R. KAST,

Defendant.

Case No. 5:13-cv-05472 HRL

ORDER RE PLAINTIFFS' AND DEFNDANT'S MOTIONS FOR SUMMARY JUDGMENT AND RELATED MOTIONS

[Re: Dkt. 51, 54, 58, 62, 66]

The parties have each filed motions for summary judgment that are procedurally improper. The court set October 7, 2014 as the last day to hear any dispositive motions. (Dkt. 44). Accordingly, the last day to file dispositive motions was September 2, 2014. Although plaintiffs' motion timely was filed, they initially noticed their motion for an October 14, 2014 hearing. They subsequently "re-noticed" their motion for an October 7 hearing, but on less than 35 days notice. Civ. L.R. 7-2(a). As for defendant, his motion was filed nearly one week too late. Finding no good cause, the court denies his motion for an order shortening time. Plaintiffs' request for its fees incurred in connection with that motion is denied.

The court nevertheless has read the parties' respective papers.[1] With respect to plaintiffs'

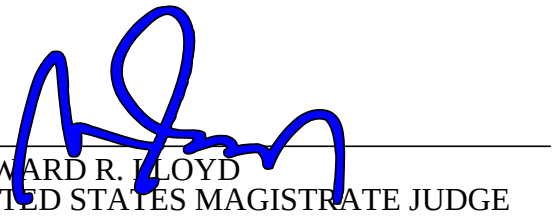
[1] Defendant's objections to the Hughes declaration are overruled, and plaintiffs' motion for leave to file the substituted and signed Hughes declaration is granted. Defendant's objection to the purported Only Websites "call log" appended to the McCulloch declaration is sustained. Fed. R. Evid. 901. Defendant's objections to the other exhibits appended to the McCulloch declaration are

infringement claims, the court sees no need for oral argument, Civ. L.R. 7-1(b), and concludes that there are genuine issues of material fact that preclude summary judgment. Plaintiffs' motion as pertains to those claims is denied, and so is defendant's.

The court will, however, hear oral argument as to plaintiffs' motion for summary judgment re Kast's fair use defense. The October 7 hearing remains on calendar solely for that purpose. Plaintiffs' counsel's motion for leave to appear at the hearing via CourtCall is granted.

SO ORDERED.

Dated: October 3, 2014



HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

United States District Court
Northern District of California

overruled. Documents produced by a party in discovery may be deemed authentic when offered by the party-opponent. Orr v. Bank of America, 285 F.3d 764, 777 n.20 (9th Cir. 2002) (citing Maljack Prods., Inc. v. GoodTimes Home Video Corp., 81 F.3d 881, 889 n.12 (9th Cir. 1996)).

5:13-cv-05472-HRL Notice has been electronically mailed to:

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