

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PEPPER, N.A.,
Plaintiff,
v.
EXPANDI, INC., and others,
Defendants.

Case No. 15-cv-04066 NC

**ORDER REQUIRING PLAINTIFF
TO SPECIFY EACH CATEGORY OF
DAMAGES (DEFENDANTS'
MOTION IN LIMINE NO. 4)**

Trial is not an ambush. Federal Rule of Civil Procedure 26 imposes an affirmative duty to disclose witnesses, supporting documents, a computation of damages, and insurance agreements. As to damages, a plaintiff must disclose “a computation of each category of damages” and make available “documents or other evidentiary material . . . on which each computation is based.” Fed. R. Civ. P. 26(a)(1)(A)(iii).

In their pretrial motion in limine number 4, defendants seek to preclude plaintiff from presenting evidence of speculative damages. Dkt. No. 67. In response, plaintiff states the motion is “disastrously” and “completely unclear” and that plaintiff will present evidence of “significant damages with reasonable certainty.” Dkt. No. 73 at 2.

Plaintiff’s superficial disclosure of its damages computations falls far short of what is required. By May 11 at noon, plaintiff must file a chart that specifies its computation of each category of damages. The chart must include: (1) specific monetary amounts in each category; (2) under which cause(s) of action the damages are awardable; (3) the trial

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exhibits, stipulations, or witness testimony upon which each computation is based; and
(4) a computation of the total damages that plaintiff seeks at trial.

Plaintiff is warned that the Court may exclude any request for, and evidence of, damages that have not been properly and timely disclosed.

The Court will rule separately on the other motions in limine at the pretrial conference.

IT IS SO ORDERED.

Dated: May 9, 2016


NATHANAEL M. COUSINS
United States Magistrate Judge