

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JEFFERY DEAN BLACK,
Plaintiff,
v.
IRVING MATERIALS, INC.,
Defendant.

Case No. 17-CV-06734-LHK
**ORDER DENYING JEFFERY DEAN
BLACK'S MOTION FOR ADDITIONAL
FINDINGS**
Re: Dkt. No. 205

Plaintiff and Counterdefendant Jeffery Dean Black (“Black”) filed the instant lawsuit against Defendant and Counterclaimant Irving Materials, Inc. (“Irving”). Before the Court is Black’s motion for additional findings. ECF No. 205. For the reasons discussed below, the Court DENIES Black’s motion for additional findings.

I. BACKGROUND

In the instant case, Black asserted a claim for declaratory relief that Black lacked bad faith and thus did not violate the Anti-Cybersquatting Consumer Protection Act (“ACPA”) pursuant to 15 U.S.C. § 1114(2)(D)(v). ECF No. 199 at 15–16. Black also initially asserted a claim for reverse domain name hijacking in violation of 15 U.S.C. § 1114(2)(D)(iv). ECF No. 11 at 10. The Court granted Irving’s motion for summary judgment with respect to this second claim. ECF

1 No. 83 at 5.

2 Irving asserted two counterclaims: (1) a counterclaim that Black committed cybersquatting
3 under the ACPA, 15 U.S.C. § 1125(d); and (2) a counterclaim for declaratory relief under 28
4 U.S.C. § 2201 that Black violated the ACPA. *Id.* at 16–17. In response to Irving’s counterclaims,
5 Black asserted several affirmative defenses, including a Safe Harbor defense under the ACPA and
6 a laches defense. ECF No. 28.

7 Beginning on June 10, 2019, the Court held a three-day jury trial on Black’s claims and
8 Irving’s counterclaims. ECF No. 199 at 19. Following the trial, the jury returned a verdict in the
9 jury’s advisory capacity that Black had proven by a preponderance of the evidence Black’s claim
10 for declaratory relief that Black did not violate the ACPA. *Id.* at 22. The jury also returned a
11 verdict that Irving had not proven Irving’s ACPA counterclaim by a preponderance of the
12 evidence, which was automatically dispositive of Irving’s counterclaim for declaratory relief. *Id.*
13 In light of this verdict, “the jury did not need to and did not reach questions regarding Black’s Safe
14 Harbor or laches defenses.” *Id.* at 23.

15 The Court issued findings of fact and conclusions of law in the instant case on August 10,
16 2019. *Id.* In particular, the Court held that “the jury’s verdict that found that Irving did not prove
17 its ACPA cybersquatting counterclaim by a preponderance of the evidence was supported by
18 substantial evidence.” *Id.* at 36. As a consequence of that finding, the Court also found that
19 “Irving did not prove by a preponderance of the evidence its counterclaim for declaratory relief
20 that Black violated the ACPA.” *Id.* Finally, the Court found that “Black proved by a
21 preponderance of the evidence Black’s declaratory relief claim that Black lacked bad faith intent
22 and thus did not violate the ACPA.” *Id.* In light of these findings, the Court enjoined Irving from
23 its efforts to force Black to transfer the imi.com domain name to Irving, *id.*, and directed that
24 judgment be entered in favor of Black, ECF No. 200. The Court did not issue any findings or
25 conclusions with respect to Black’s Safe Harbor defense under the ACPA or Black’s laches
26 defense.

27 Black filed the instant motion for additional findings on September 9, 2019. ECF No. 205

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1 (“Mot.”). With the instant motion for additional findings, Black now requests that the Court make
2 the additional findings that “Mr. Black proved by a preponderance of substantial evidence that
3 Irving’s cybersquatting claim is barred both by laches and by Mr. Black’s ACPA ‘good faith’ safe
4 harbor defense.” *Id.* at 12. On September 23, 2019, Irving opposed the motion, ECF No. 207
5 (“Opp’n”), and on September 30, 2019, Black filed a reply, ECF No. 208 (“Reply”).

6 **II. LEGAL STANDARD**

7 Pursuant to Federal Rule of Civil Procedure 52(b), “[o]n a party’s motion filed no later
8 than 28 days after the entry of judgment, the court may amend its findings—or make additional
9 findings—and may amend the judgment accordingly.” Fed. R. Civ. P. 52(b). “Motions under
10 Rule 52(b) are primarily designed to correct findings of fact which are central to the ultimate
11 decision; the Rule is not intended to serve as a vehicle for a rehearing.” *ATS Prods. Inc. v.*
12 *Ghiorso*, No. 10-4880, 2012 WL 1067547, at *1 (N.D. Cal. Mar. 28, 2012) (emphasis added). In
13 other words, “Rule 52(b) motions are granted in order to correct manifest errors of law or fact or
14 to address newly discovered evidence or controlling case law.” *Id.*; see also *700 Valencia St. LLC*
15 *v. Farina Focaccia & Cucina Italiana, LLC*, No. 15-cv-04931-JCS, 2017 WL 4680069 (N.D. Cal.
16 Oct. 18, 2017) (“Motions under Rule 52(b) are granted in order to correct manifest errors of law or
17 fact or to address newly discovered evidence.”). “Furthermore, a motion to amend a court’s
18 factual and legal findings is properly denied where the proposed additional facts would not affect
19 the outcome of the case or are immaterial to the court’s conclusions.” *ATS Prods. Inc.*, 2012 WL
20 1067547, at *1 (citing *Weyerhaeuser Co. v. Atropos Island*, 777 F.2d 1344, 1352 (9th Cir. 1985)).
21 “Rulings on motions to amend findings are committed to the sound discretion of the district court
22 and will not be disturbed absent an abuse of that discretion.” 9C *Charles Alan Wright & Arthur R.*
23 *Miller*, Federal Practice and Procedure § 2582 (3d. ed. 2018).

24 **III. DISCUSSION**

25 As discussed in the foregoing, Black requests that the Court make the additional findings
26 that Black proved by a preponderance of evidence that Black’s Safe Harbor defense under the
27 ACPA and that Black’s laches defense barred Irving’s ACPA cybersquatting counterclaim. Black

1 files the Rule 52(b) motion “solely for purposes of assisting Ninth Circuit review in the event
2 Irving appeals the jury verdict and/or the Court’s Judgment.” Mot. at 12. Black’s motion suffers
3 from at least two independently fatal defects.

4 First, Black utterly fails to identify any “manifest errors of law or fact,” nor does Black
5 raise the existence of “newly discovered evidence or controlling case law,” that would justify
6 amendment of the Court’s findings. *ATS Prods. Inc.*, 2012 WL 1067547, at *1; see also *Gutierrez*
7 *v. Johnson & Johnson*, 743 F. Supp. 2d 418, 422 (D.N.J. 2010) (“Plaintiffs do not contend that the
8 Court committed plain error of law or fact, and do not offer any newly discovered evidence. . . .
9 The Court declines to grant plaintiffs’ motion under Rule 52(b).”). Black requests, instead, that
10 the Court make further legal conclusions solely on the basis of the evidence that was presented at
11 trial and that formed the basis of the Court’s findings of fact. Mot. at 3–4. Indeed, the two
12 affirmative defenses that Black invokes “were available and raised at trial, and this reason alone is
13 sufficient to deny [Black’s] Motion.” *Sentinel Offender Servs., LLC v. G4S Secure Sols. (USA)*
14 *Inc.*, No. 8:14-cv-298-JLS-JPRx, 2017 WL 3485781, at *2 (C.D. Cal. Mar. 22, 2017).

15 Moreover, the applicability of the two affirmative defenses Black invokes is immaterial to
16 the outcome of the instant case, and this reason alone is also sufficient to deny Black’s motion.
17 See *Zuniga-Hurtado v. Holder*, No. CV-12-01927-PHX-GMS, 2013 WL 3833212, at *1 (D. Ariz.
18 July 24, 2013) (“[A] motion to amend is properly denied where the proposed ground would not
19 affect the outcome of the case or is immaterial to the court’s conclusions.”). Irving failed to prove
20 its counterclaims by a preponderance of evidence, so any affirmative defenses that Black may
21 have to those counterclaims are irrelevant here. ECF No. 199 at 36. Rule 52(b) simply does not
22 provide Black with a vehicle to solicit dicta from the Court favorable to Black’s position.

23 Second, as noted, Black files the instant motion “solely for purposes of assisting Ninth
24 Circuit review in the event Irving appeals the jury verdict and/or the Court’s Judgment.” Mot. at
25 12. However, in opposition, Irving categorically states that “[t]here will be no appeal here.”
26 Opp’n at 4. The Court is disappointed that the parties were unable to resolve the instant motion
27 between themselves. See ECF No. 208-1. Nonetheless, the Court takes Irving at its word as an

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officer of the court. See Fed. R. Civ. P. 11(b). Because Irving has indicated that Irving will not appeal, even Black’s stated, inadequate justification for the instant motion is undermined.

In light of the foregoing, the Court DENIES Black’s motion for additional findings.

IV. CONCLUSION

For the foregoing reasons, the Court DENIES Black’s motion for additional findings.

IT IS SO ORDERED.

Dated: January 9, 2020



LUCY H. KOH
United States District Judge