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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 AMERICAN FIREGLASS, a California
12 corporation,
13 Plaintiff,
14 v.
15 MODERUSTIC INC., a California
16 corporation,
17 Defendant.

Case No.: 15-CV-2866 JLS (BGS)

**ORDER OVERRULING
DEFENDANT’S OBJECTIONS TO
MAGISTRATE JUDGE’S
DISCOVERY ORDER**

(ECF No. 128)

18 Presently before the Court is Defendant Moderustic, Inc.’s Objections to Magistrate
19 Judge Bernard Skomal’s January 23, 2018 Order, which granted in part and denied in part
20 Defendant’s Motion to Compel Discovery. (“Objections,” ECF No. 124). Also before the
21 court is Plaintiff American Fireglass’ Response in Opposition to, (“Opp’n,” ECF No. 126),
22 and Defendant’s Reply in Support of, (“Reply,” ECF No. 133), the Objections. Having
23 considered the parties’ arguments and the law, the Court **OVERRULES** Defendant’s
24 Objections.

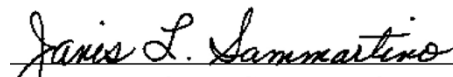
25 District courts “must consider timely objections” to a magistrate’s ruling and “set
26 aside any part of the order that is clearly erroneous or contrary to law.” Fed. R. Civ. P.
27 72(a); *see also Grimes v. City and Cnty. of S.F.*, 951 F.2d 236, 241 (9th Cir. 1991). A
28 ruling is clearly erroneous only if the reviewing court, on the entire record, reaches “a

1 definite and firm conviction that a mistake has been committed.” *United States v. U.S.*
2 *Gypsum Co.*, 333 U.S. 364, 395 (1948); *Carl Zeiss Vision Int’l GmbH v. Signet Armorlite,*
3 *Inc.*, No. 07-CV-894 DMS (DHB), 2010 U.S. Dist. LEXIS 12392 at *4 (S.D. Cal. Feb. 12,
4 2010). In contrast, the “contrary to law” standard permits independent review of purely
5 legal determinations by a magistrate judge. *See, e.g., Haines v. Liggetts Grp., Inc.*, 975
6 F.2d 81, 91 (3d Cir. 1992); *Med. Imaging Ctrs. of Am., Inc. v. Lichtenstein*, 917 F. Supp.
7 717, 719 (S.D. Cal. 1996).

8 Defendant raises four objections, none of which establish Magistrate Judge
9 Skomal’s rulings were either clearly erroneous or contrary to law. First, Judge Skomal’s
10 decision to order Plaintiff to supplement its discovery responses, but not reopen discovery
11 related to methods used by Plaintiff to produce the accused products, is supported by the
12 record and not clearly erroneous. Second, Defendant’s Motion to Compel Discovery, ECF
13 No. 86, supports Judge Skomal’s finding that Defendant failed to comply with Judge
14 Skomal’s chambers rules and his decision to deny a premise inspection on that basis is not
15 clearly erroneous or contrary to law. Third, Defendant’s Objections concerning discovery
16 related to damages is premature. Judge Skomal has yet to rule on the scope of discovery
17 related to damages, instead finding it more efficient to defer his ruling on the issue until
18 after this Court’s ruling on the parties’ cross Motions for Summary Judgment, *see* ECF No.
19 110; the Court finds no reason to rule on Objections to a ruling Judge Skomal has yet to
20 make. Fourth, and finally, Judge Skomal addressed all of the issues raised in Defendant’s
21 Motion to Compel, and this Court will not address issues not presented first to Judge
22 Skomal. Accordingly, the Court overrules Defendant’s Objections to the Magistrate
23 Judge’s Order.

24 **IT IS SO ORDERED.**

25 Dated: February 11, 2019

26 
27 Hon. Janis L. Sammartino
28 United States District Judge