

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
SENIOR JUDGE WALKER D. MILLER

Civil Action No. 03-cv-1927-WDM-MJW

ENCAPSULATION TECHNOLOGY, LLC, a California limited liability company,

Plaintiff,

v.

INSTACOTE, INC., an Ohio Corporation;
THOMAS NACHTMAN, an individual;
CHARLES SMITH, an individual;
PMTECH, INC., a Colorado Corporation;
RICHARD S. HOGUE, an individual;
ALPHA GROUP & ASSOCIATES, L.L.C., a Colorado limited liability company; and
ROCK NEVEAU, an individual,

Defendants.

ORDER REOPENING CASE

Miller, J.

This matter is before me on Defendant PMTech, Inc.'s Motion to Reopen Case (Docket No. 200), which Plaintiff Encapsulation Technology, LLC opposes. Plaintiff's complaint in this matter asserts claims primarily based on the purported validity of a patent. On April 6, 2007, I ordered that this case be administratively closed while the validity of the patent was litigated in other proceedings. The United States Patent and Trademark Office rejected the patent; Plaintiff then pursued its administrative and judicial appeals up to the Federal Circuit without success. Plaintiff advises that it will not seek further appeal and so it appears that the decision of invalidity of the patent is final. Accordingly, PMTech requests that this case be reopened so that its Motion for Summary Judgment (Docket No. 199) may be ruled on and final judgment can enter.

Plaintiff opposes the motion on the grounds that reopening the case would be a waste of the Court's and the parties' resources, apparently claiming that there is no need to enter a final judgment because attorneys' fees would be minimal. This argument is unavailing. Plaintiff filed this lawsuit and placed the Defendants in legal jeopardy. Defendants are entitled to a judgment resolving the issues in this case with finality.

Accordingly, it is ordered:

1. Defendant PMTech, Inc.'s Motion to Reopen Case (Docket No. 200) is granted.
2. Defendant PMTech, Inc.'s Motion for Summary Judgment (Docket No. 199) is accepted for filing as of the date of this order. Responsive briefs may be filed in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court.

DATED at Denver, Colorado, on April 1, 2010.

BY THE COURT:



s/ Walker D. Miller

United States Senior District Judge