

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;
THE ALPHA GROUP & ASSOCIATES, L.L.C., a Colorado limited liability company; and
ROCK NEVEAU, an individual,

Defendants.

ORDER OF DISMISSAL

Miller, J.

This matter was reopened at the request of Defendant PMTech, Inc., on April 1, 2010. Docket No. 203. Plaintiff's complaint in this matter asserts claims primarily based on the purported validity of a patent. Because the United States Patent and Trademark Office invalidated the patent, a decision upheld on appeal, the parties agree that the patent infringement and related claims must fail. After the case was reopened, PMTech and Defendant The Alpha Group & Associates, LLC, moved for summary judgment. Because it was unclear whether the other defendants intended to continue the litigation or seek dismissal or judgment on the still-pending claims, I issued an order to show cause why the remaining claims should not be dismissed with prejudice.

Plaintiff and Defendants Instacote, Inc., Thomas Nachtman, Charles Smith, Richard

Hogue, and Rock Neveau have all responded to the order to show cause and request entry of an order dismissing all claims, counter-claims, and cross-claims with prejudice.

Accordingly, it is ordered:

1. The order to show cause is discharged.
2. All remaining claims, counter-claims, and cross-claims in this matter are dismissed with prejudice.
3. Defendants may have their costs.

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

BY THE COURT:

A handwritten signature in black ink, appearing to read "Walker D. Miller".

s/ Walker D. Miller
United States Senior District Judge