

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
LEWIS T. BABCOCK, JUDGE**

Civil Case No. 06-cv-00619-LTB

PHILIP W. WYERS, a Colorado resident, and,
WYERS PRODUCTS GROUP, INC., a Colorado corporation,

Plaintiffs,

v.

MASTER LOCK COMPANY, a Delaware corporation,

Defendant.

ORDER

For the reasons stated on the record at the motions hearing in this matter held on February 24, 2009:

1. Defendant's Motion *in Limine* to Preclude the Issue of Willfulness as a Matter of Law [**Docket # 215**] is DENIED AS MOOT;

2. Defendant's Motion *in Limine* to Bar Evidence Related to Wyers' Alleged Lost Profits [**Docket # 214**] is GRANTED unconditionally;

3. Defendant's Motion *in Limine* to Exclude Evidence Regarding Past Potential Business Arrangements Between the Parties [**Docket # 213**] is GRANTED in part and DENIED in part as follows:

a. To the extent the motion seeks to exclude evidence pertaining to willful infringement or lost profits, the motion is GRANTED unconditionally;

b. To the extent the motion seeks to exclude evidence pertaining to the obviousness or non-obviousness of Plaintiffs' patents—or secondary indicia thereof—the motion is conditionally DENIED;

4. To the extent Plaintiffs orally moved for a continuance of the trial date, such motion is DENIED;

5. At the hearing, Plaintiff brought to the Court's attention a prior order in an earlier case dismissing Master Lock's claims of invalidity of U.S. Patent No. 6,055,832 with prejudice. Plaintiff argues the dismissal with prejudice should serve as *res judicata* on the issue of validity here. Defendant argues the prior order is not necessarily dispositive in this case. The parties shall have up to and including Thursday, February 26, 2009, to file simultaneous briefs on this issue. No written response shall be allowed.

Dated: February 24, 2009.

BY THE COURT:

s/Lewis T. Babcock
Lewis T. Babcock, Judge