

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 09-cv-00636-REB-KLM

VIDEO PROFESSOR, INC., a Colorado corporation,

Plaintiff,

v.

AMAZON.COM, INC., a Delaware corporation,

Defendant.

JOINT MOTION FOR LEAVE TO AMEND FINAL PRETRIAL ORDER

Plaintiff Video Professor, Inc. ("VPI"), by and through its counsel, and Defendant Amazon.com, Inc. ("Amazon"), by and through its counsel, hereby jointly move for leave to amend the Final Pretrial Order [Doc. No. 61] to include a cross-endorsement by VPI of a "will call" witness previously endorsed by Amazon, as well as a stipulation regarding the manner of examination of certain witnesses, and state:

1. The trial of this matter is to commence on April 26, 2010.
2. Magistrate Judge Mix entered a Final Pretrial Order on April 16, 2010 [Doc. No. 61].
3. In the Final Pretrial Order, Amazon designated an Amazon employee, Eric Herrmann, as a "will call" witness, who, until the entry of the Final Pretrial Order, was an unavailable witness (domiciled in Snohomish, Washington).
4. The parties hereby stipulate that VPI may amend Section 6(A)(1) of the Final Pretrial Order in the manner provided in **Exhibit A** hereto.

5. The parties further stipulate that if a party calls a listed witness which the other party has also listed as a witness, the other party may conduct its direct examination of the calling party's witness during its cross-examination of such witness. In that event, the examination of the witness by the other party (the nature of which is disclosed in the Final Pretrial Order [Doc. No. 61] as amended) shall not be limited to the scope of direct of the calling party.

6. The purpose of this stipulation is to streamline the examination process.

7. The instant Motion is filed in order to facilitate the efficient trial of this matter, as well as for the convenience of the witnesses and the Court.

8. A proposed order is filed contemporaneously herewith.

WHEREFORE, based upon the foregoing, the parties jointly request that the Court enter an order amending the Final Pretrial Order to incorporate attached Exhibit A.

Respectfully submitted this 20th day of April, 2010.

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