

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00727-PAB-CBS

SHENZHEN EL LIGHTING TECHNOLOGY CO., LTD. a Shenzhen Company and
YONGJIANG YIN, an individual,

Plaintiffs,

v.

SURE-FIRE ELECTRICAL CORPORATION, a Taiwanese Company,
BEST BUY STORES, L.P., a Virginia Limited Partnership, and
BESTBUY.COM, L.L.C., a Virginia Limited Liability Company,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on the parties' Stipulated Motion for Dismissal With Prejudice [Docket No. 64]. The parties request that the Court enter an order dismissing this action with prejudice as to defendants Best Buy Stores, L.P. and BestBuy.com, L.L.C. The stipulated motion complies with Federal Rule of Civil Procedure 41(a)(1)(A)(ii), which provides that the "plaintiff may dismiss an action *without a court order* by filing: . . . a stipulation of dismissal signed by all parties who have appeared." (emphasis added). Despite Rule 41(a)(1)'s reference to the dismissal of an "action," the weight of authority permits a dismissal of all claims pursuant to Rule 41(a)(1)(A) against fewer than all defendants. See *Montoya v. FedEx Ground Package System, Inc.*, 614 F.3d 145, 148 (5th Cir. 2010); *Blaize-Sampeur v. McDowell*, 2007 WL 1958909, at *2 (E.D.N.Y. June 29, 2007) (noting that, although the Second Circuit had previously stated otherwise, it had "since adopted the approach of the majority of courts in other circuits – that is, that Rule 41(a) does not require dismissal of the action in its entirety" and permits dismissal of all claims as to a single defendant). Furthermore, "[u]nless the notice or stipulation states otherwise, the dismissal is without prejudice." Fed. R. Civ. P. 41(a)(1)(B) (emphasis added). Here, however, the parties have agreed to the dismissal of this action against the Best Buy defendants with prejudice. Therefore, the case was dismissed with prejudice as to Best Buy Stores, L.P. and BestBuy.com, L.L.C as of the entry of the parties' Stipulated Motion for Dismissal With Prejudice. No order of dismissal is necessary.

DATED February 4, 2015.