

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CANVS CORPORATION,

Plaintiff,

v.

Case No: 2:14-cv-99-FtM-38MRM

NIVISYS, LLC,

Defendant.

ORDER¹

This matter comes before the Court on Defendant Nivisys, LLC's ("Nivisys") Motion to Exclude Testimony ([Doc. #62](#)) filed on August 27, 2015. Plaintiff Canvs Corporation ("Canvs") filed a Response ([Doc. #63](#)) on September 9, 2015. The matter is ripe for review.

Discussion

The first issue before the Court is whether the Court will allow anyone other than counsel to explain the underlying technology at the upcoming non-adversarial technology tutorial conference. Nivisys argues Canvs is planning to present its expert, James Gillespie, at the tutorial conference to explain the technology at issue, even though the Court's Case Management Scheduling Order ("CMSO") ([Doc. #30](#)) specifies that only counsel for the parties shall do so. ([Doc. #62 at 3](#)). Canvs responds that it interpreted the CMSO as allowing the presentation of knowledgeable witnesses to describe the underlying technology and

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answer any questions the Court might have. (Doc. #63 at 1). But if this is not the case, Canvs will not call any witnesses at the tutorial conference. (Doc. #63 at 1).

The Court clarifies that only counsel for the Parties shall explain the technology at issue at the non-adversarial technology tutorial conference. The Court will not allow any witnesses at that time.


The second issue before the Court is whether Canvs plans on calling a witness not listed in the Joint Claim Construction Statement (Doc. #36). But this issue is moot, as Canvs clarified it will only seek the testimony of its expert, Gillespie, at the claim construction hearing. And Gillespie was properly disclosed as a witness in the Joint Claim Construction Statement. (Doc. #36-3).

Accordingly, it is now **ORDERED**:

Defendant Nivisys, LLC's ("Nivisys") Motion to Exclude Testimony (Doc. #62) is **GRANTED in part and DENIED in part**.

1. The Motion is **GRANTED** to the extent only counsel for the Parties shall explain the technology at issue at the non-adversarial technology tutorial conference.
2. The remainder of the Motion, seeking exclusion of any undisclosed witnesses, is **DENIED as Moot**, as Plaintiff Canvs Corporation does not plan to call any witnesses other than those already disclosed.

DONE and ORDERED in Fort Myers, Florida, this 16th day of September, 2015.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record