

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

FLGOLF, INC., a Florida Corporation

Plaintiff,

v.

Case No: 5:13-cv-59-Oc-10PRL

VOLVIK USA, INC. and VOLVIK, INC.

Defendants/Third Party Plaintiffs

KATHARINE SPRINGSTEAD

Third Party Defendants

ORDER

Pursuant to prior notice, the Court held a Status Conference in this case on January 13, 2014. During the conference, the Court heard argument on Plaintiff's Motion to Defer Ruling on Defendant's Motion for Partial Summary Judgment, or Alternatively, to Extend Time to Respond Until Plaintiff has Conducted Discovery (Doc. 31).

Defendants Volvik USA, Inc., and Volvik, Inc. have filed a motion for partial summary judgment on the issues of trademark ownership and infringement. (Doc. 25). The sole issue addressed by Defendants' motion is ownership of the CRYSTAL trademark in connection with golf balls. (Doc. 25). This case is currently in the discovery phase, and the current discovery deadline is June 1, 2014. (Doc. 22).

Counsel for Plaintiff argues that, in order to have an adequate opportunity to conduct discovery so that Plaintiff will be in a position to respond to the motion for summary judgment, Plaintiff needs to take the depositions of two of Defendants' corporate officers. According to the Declaration of Michael D. Crosbie offered pursuant to Rule 56(d) of the Federal Rules of Civil

Procedure, counsel for Plaintiff states that the depositions are necessary to explore issues such as Volvik's use of the term "Crystal," whether golf balls were sold in other markets using the term "Crystal," Volvik's decision to cease manufacturing golf balls with translucent covers bearing the term "Crystal," Volvik's absence from the United States' market, and statements by Volvik in 2012 regarding "entering" the United States golf ball market." (Affidavit of Michael D. Crosbie, Ex. D to Doc. 31). Plaintiff also will seek discovery regarding the creation of the golf balls, whether they were created at Plaintiff's specific direction, and whether Plaintiff controlled the non-functional design and colors of the golf balls and packaging. (Ex. D to Doc. 31).

The depositions of Defendant's corporate representatives are currently scheduled for January 30 and 31, 2014, in order to coincide with the witnesses' pre-planned travel to Florida for an industry tradeshow. Consequently, Plaintiff requests that its response to Defendants' Motion for Partial Summary Judgment be due no earlier than the end of February. On the grounds of avoiding delay and costs of litigation, Defendant opposes the requested extension, and requests that the Court uphold the current response deadline of January 22, 2104.

The Court agrees that Plaintiff should have an opportunity to conduct adequate discovery into the issues discussed above, which are pertinent to Defendants' Motion for Summary Judgment, as well as the claims and defenses in the case. Accordingly, upon due consideration, Plaintiff's Motion to Defer Defendants' Motion for Partial Summary Judgment or, Alternatively, to Extend Time to Respond Until Plaintiff has Conducted Discovery (Doc. 31) is **GRANTED IN PART** and **DENIED IN PART**. Plaintiff shall have until February 28, 2014 within which to file a response to Defendants' Motion for Partial Summary Judgment.

DONE and **ORDERED** in Ocala, Florida on January 13, 2014.



PHILIP R. LAMMENS
United States Magistrate Judge

Copies furnished to:

Counsel of Record
Unrepresented Parties