

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ILLINOIS COMPUTER RESEARCH, LLC., <i>Plaintiff and Counterclaim Defendant,</i>)	
)	
v.)	
)	
FISH & RICHARDSON P.C., <i>Defendant, Counterclaimant and Third-Party Plaintiff,</i>)	Case No. 07 C 5081
)	Judge Rebecca R. Pallmeyer
v.)	Mag. Judge Maria Valdez
)	
SCOTT C. HARRIS, <i>Third-Party Defendant and Counterclaimant,</i>)	
)	
v.)	
)	
FISH & RICHARDSON P.C., Defendant, Counterclaimant, Third-Party Plaintiff and Counterclaim Defendant.)	
)	

SCOTT HARRIS’S AND ICR’S MOTION TO PROCEED WITH DISCOVERY

Scott Harris and Illinois Computer Research, LLC (“IRC”) now move to proceed with discovery that the Court previously stayed for the following reasons:

1. It has now become clear that the parties cannot settle this case. Regardless of what happens with the pending motions, discovery will be needed on a number of topics, including at least: (1) Fish’s knowledge and authorization of Mr. Harris’s inventorship activities; (2) Fish’s communications with third parties about Mr. Harris; (3) Fish’s investigation of Mr. Harris; (4) Fish’s knowledge and treatment of so-called “side businesses” of its attorneys; and (5) Fish’s purported damages, including purported requests for indemnification.

2. Further delay will continue to prejudice Scott Harris and others, since Fish's ownership claims continue to cause irreparable harm. Just last week, in another case in this District, Motorola filed the following affirmative defense claiming Fish owns the Harris patents since:

25. On information and belief, Harris's prosecution, assignment and/or licensing of the asserted patents violated terms of the Contract that Harris entered into with Fish and/or breached Harris's fiduciary duties to Fish clients and/or to Fish. On information and belief, under the terms of the Contract and/or as a result of Harris's actions while employed by Fish, ***Fish is an owner or co-owner of the asserted patents.***

(Exhibit A at ¶¶ 25; emphasis added).

3. Independently, other parties have reduced their settlement offers or demanded indemnities from Mr. Harris's assignees, including a full refund of any settlement payments if Fish owns the Harris patents.

4. Further delay also is creating prejudice to Mr. Harris's counsel. For example, a formerly anonymous blogger ("The Patent Troll Tracker"), now identified as a close associate of Fish, has launched numerous attacks on the Niro firm and Mr. Harris, which have culminated in the posting of a death threat against Mr. Niro and separate calls for vigilante action against him, his partners and their families:

Vigilantism is not only necessary, it is justified. ***We need to seek out the personal information of this lawyer, his entire firm, and the President and board of directors of the companies that employ them. Publish their names, home addresses, any phone numbers that can be found, their license plate numbers, the names of their family members, the schools their children attend. Everything. This is War,*** ladies and gentlemen. Of a more dire and extreme sort than any in history. Only by securing true strategic objectives can the enemy be worn down. We must destroy not just his willingness, but his ability to fight. Destroy the ability of those who drive the conflict to live their lives in the most basic way and victory is assured.

We, the greater whole of society, are everywhere. We surround them. We

can destroy them. All that is required is the will.

Joseph N. Hosteny, Intellectual Property Today, March 8, 2008, "The Cowardice of Anonymous Bloggers" (quoting an anonymous posting on Slashdot.org; emphasis added).

5. Discovery will reveal the close connection between the formerly anonymous blogger and Fish:

You spent a lot of time beating up on Scott Harris, the former Fish & Richardson partner, who possibly lost his job as a result of your tirades. Now that you have told everyone about your connection with Cisco, why don't you tell them about your connection with Fish & Richardson's litigation partner Kathy Lutton? Didn't she represent Cisco in a case in Delaware? Hasn't she sat on various panels with you? Isn't she the partner that forced Scott Harris out of Fish & Richardson?

Now is the time to tell the whole story--the truth and nothing but the truth!

Very truly yours,

jayslax555

February 24, 2008

<https://www.blogger.com/comment.g?blogID=4629413688975444690&posted=31063206>

For all of these reasons, Scott Harris and ICR request that they be allowed to proceed with discovery immediately.

/s/ Paul K. Vickrey

Raymond P. Niro

Paul K. Vickrey

David J. Sheikh

Richard B. Megley, Jr.

Karen L. Blouin

Niro, Scavone, Haller & Niro

181 West Madison, Suite 4600

Chicago, Illinois 60602-4515

(312) 236-0733

Fax: (312) 236-3137

Attorneys for Illinois Computer Research, LLC
and Scott C. Harris

CERTIFICATION OF SERVICE

The undersigned hereby certifies that a copy of the foregoing SCOTT HARRIS'S AND ICR'S MOTION TO PROCEED WITH DISCOVERY was electronically filed with the Clerk of Court using CM/ECF system, which will send notification by electronic mail to the following:

David J. Bradford
Eric A. Sacks
Daniel J. Weiss
Terrence J. Truax
Jenner & Block LLP
330 N. Wabash Avenue
Chicago, IL 60611
(312) 222-9350

Counsel for Fish & Richardson, P.C.

on February 28, 2008.

/s/ Paul K. Vickrey