

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF INDIANA
 EVANSVILLE DIVISION

ULTIMATE TIMING, L.L.C., a Washington)	
limited liability company, and ARASH KIA,)	
an individual,)	
)	
Plaintiffs,)	
)	
v.)	3:09-mc-6-RLY-WGH
)	
DAVID SIMMS, an individual, SA)	
INNOVATIONS, LLC, d/b/a SAI TIMING)	
& TRACKING, a Michigan limited liability)	
company,)	
)	
Defendants.)	

**ORDER ON PLAINTIFFS’ MOTION TO
 COMPEL AND FOR SANCTIONS**

This matter is before the Honorable William G. Hussmann, Jr., United States Magistrate Judge, on Plaintiffs’ Motion to Compel and for Sanctions filed September 28, 2009. (Docket Nos. 13-15). A Verified Memorandum in Opposition was filed by non-parties Tacit Solutions, Inc. (“Tacit”) and ChronoTrack Systems, Inc. (“ChronoTrack”) on October 13, 2009. (Docket No. 16). Plaintiffs’ Reply was filed on October 20, 2009. (Docket No. 18). The Magistrate Judge conducted a telephonic hearing at 2:00 p.m. (CST), on November 16, 2009, at which Plaintiffs were represented by counsel, Jason Alan Wright, and non-parties Tacit and ChronoTrack were represented by counsel, Andrew Scott Ward.

The Magistrate Judge, being duly advised, now **GRANTS, in part,** and **DENIES, in part,** the Plaintiffs’ Motion to Compel and for Sanctions, as follows:

1. Non-parties Tacit and ChronoTrack shall comply with the most recently issued Subpoenas in this case on or before November 30, 2009, unless Plaintiff Ultimate Timing, L.L.C. ("Ultimate Timing") agrees to stipulate to a different date. The response shall be limited to a search of Mr. Bob Finnigan and Mr. Dan Howell's computers for information related to communications to or from Mr. David Simms (any computer used by Mr. Simms). Those gentlemen shall search any computers used at work and any personal computers used during the time period specified in the most recently issued Subpoenas.

2. Mr. Finnigan and Mr. Howell shall keep true and accurate time records for the completion of the search. They will be required to provide the first two hours of the search without payment. However, for any time after two hours but before eight hours required for the search, Ultimate Timing shall pay an hourly fee in the amount of One Hundred Twenty-five Dollars (\$125.00) to each individual. Ultimate Timing will not be liable for any time spent in excess of eight hours for searching the computers, without further order of the court.

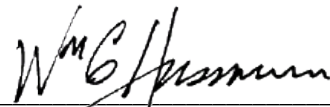
3. Counsel for Tacit and ChronoTrack shall be entitled to review the items for attorney-client privilege and to provide those documents by privilege log, if necessary. However, all other items responsive to the most recently issued Subpoenas shall initially be produced for attorneys' eyes only. In the event the parties do not otherwise agree that the items produced may be disclosed to appropriate individuals at Ultimate Timing, counsel for Tacit and ChronoTrack shall specify which documents are believed to contain significant proprietary data

which could be used detrimentally by a competitor in the relevant field. Those particular documents shall not be disclosed to the client until further order of the court and after an *in camera* review by the Magistrate Judge.

4. The court takes under advisement Ultimate Timing's request to search the computers of any other individuals employed by Tacit and ChronoTrack at this time. If Ultimate Timing receives information from Mr. Finnigan and/or Mr. Howell which leads it to believe that there is important documentation in the possession of other employees of Tacit and/or ChronoTrack, they may request reconsideration of this order at that time.

SO ORDERED.

Dated: November 20, 2009



William G. Hussmann, Jr.
United States Magistrate Judge
Southern District of Indiana

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