

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.

DAVID SIMMS, an individual, SA
INNOVATIONS, LLC, d/b/a SAI TIMING
& TRACKING, a Michigan limited liability
company,

Defendants.

3:09-mc-6-RLY-WGH

**ORDER ON JOINT MOTION TO
QUASH SUBPOENAS DUCES TECUM**

This matter is before the Honorable William G. Hussmann, Jr., United States Magistrate Judge, on the Joint Motion to Quash Subpoenas Duces Tecum filed by ChronoTrack Systems, Inc. (“ChronoTrack”) and Tacit Solutions, Inc. (“Tacit Solutions”) on December 30, 2009. (Docket Nos. 28-29). Plaintiffs Ultimate Timing, L.L.C., and Arash Kia filed a Response on January 15, 2010. (Docket Nos. 31-32). A Reply was filed on January 22, 2010. (Docket Nos. 33-34).

Having reviewed the arguments of the parties and the relevant legal authorities, the Magistrate Judge concludes that the Joint Motion to Quash Subpoenas Duces Tecum must be granted.

Plaintiffs served subpoenas duces tecum on Old National Bank seeking certain bank records relating to both ChronoTrack and Tacit Solutions. For ChronoTrack, the subpoena seeks:

All financial records, including, but not limited to, statements, checks, deposit slips, and withdrawal slips relating to any account owned, in whole or in part, by ChronoTrack Systems, Inc., for the period January 1, 2008 through the present.

(Joint Motion to Quash Subpoenas Duces Tecum at Exhibit B). Additionally, for Tacit Solutions, the subpoena seeks the following:

All financial records, including, but not limited to, statements, checks, deposit slips, and withdrawal slips relating to any account owned, in whole or in part, by Tacit Solutions, Inc., for the period October 1, 2007 through the present.

(*Id.* at Exhibit C).

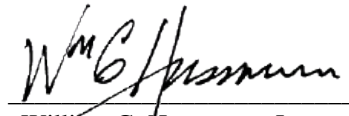
Rule 45 of the Federal Rules of Civil Procedure governs the issuance of subpoenas and provides that the court “must” quash a subpoena that is “unduly burdensome.” FED. R. CIV. P. 45(c)(3). These requests by Plaintiffs for “all financial records” are simply too broad and, therefore, are unduly burdensome. This is particularly the case where ChronoTrack and Ultimate Timing are arguably competitors and the complete disclosure of all bank records may disclose significant confidential financial conditions. The Joint Motion to Quash Subpoenas Duces Tecum (Docket No. 28) is **GRANTED**. If Plaintiffs are willing to more narrowly tailor the subpoenas duces tecum to include requests for only financial records that specifically name David Simms, SA Innovations, or

Simmco Data Systems, then the Magistrate Judge may be willing to revisit this matter.

You are hereby notified that the District Judge may reconsider any pretrial matter assigned to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(A) where it is shown that the order is clearly erroneous or contrary to law.

SO ORDERED.

Dated: January 29, 2010


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

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