

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

MARKET MASTERS-LEGAL,	)	
A RESONANCE COMPANY, INC.,	)	
Plaintiff	)	
	)	
v.	)	C.A. 10-cv-40119-MAP
	)	
PARKER WAICHMAN ALONSO, LLP.,	)	
Defendant	)	

MEMORANDUM AND ORDER REGARDING  
MOTIONS IN LIMINE  
(Dkt. Nos. 98, 101 & 105)

February 16, 2012

PONSOR, U.S.D.J.

Trial in this matter is scheduled to commence on Tuesday, February 21, 2012. The court has recently ruled on a number of motions in limine. Three motions remain for ruling, of which two will require further argument.

A. Defendant's Motion In Limine Regarding Alleged Infringement of Discrete Elements (Dkt. No. 98).

This motion is hereby ALLOWED, in part. Plaintiff may seek an award of damages solely on its claim for copyright violation as to its 15-second and 30-second versions of its "Big Case" commercial. Both as a matter of law, and based on its failure to provide discovery, Plaintiff may pursue no independent claim for damages as to short phrases, non-verbal

elements, and the like.<sup>1</sup>

Plaintiff will not be permitted to seek multiple damage awards for multiple displays of a single infringing product. The issue of willfulness will be for the jury.

B. Defendant's Motion In Limine Regarding Standing (Dkt. No. 101) and Plaintiff's Motion In Limine to Preclude Defenses (Dkt. No. 105).

The filing of these two motions in limine has sharpened the court's focus on whether Plaintiff possesses sufficient rights in the allegedly copyrighted material to allow it to pursue this action. The legal chain connecting Plaintiff to the two "Big Case" commercials appears tenuous. Based on this, the court has directed the clerk to set up a hearing on this issue at 10:00 a.m. on February 17, 2012. Plaintiff should come to this hearing with the documentary material sufficient, if accepted by the jury, to provide standing to Plaintiff to pursue this copyright action.

It is So Ordered.

/s/ Michael A. Ponsor  
MICHAEL A. PONSOR  
United States District Judge

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<sup>1</sup> Defendant in its written submissions has suggested that Plaintiff has voluntarily abandoned any claim of copyright infringement as to the 15-second commercial. This may be clarified at oral argument.