

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAZZLE SOFTWARE II, LLC, *et al.*,

Plaintiffs,

Case No. 16-cv-12191
Hon. Matthew F. Leitman

v.

JOHN KINNEY, *et al.*,

Defendants.

**ORDER (1) DENYING PLAINTIFFS' APPLICATION FOR SEIZURE OF
DEFENDANTS' COMPUTER STORAGE DEVICES AND COMPUTERS
(ECF #2), AND (2) GRANTING IN PART AND DENYING IN PART
DEFENDANTS' MOTION FOR EXPEDITED DISCOVERY (ECF #16)**

On June 14, 2016, plaintiffs Dazzle Software II, LLC and L and L Gold Associates, Inc., d/b/a American Jewelry and Loan (collectively, "Plaintiffs"), filed this action against defendants John Kinney and Central Ohio Scrap Metal Co., d/b/a Lev's Pawn Shop (collectively, "Defendants"). (*See* Compl., ECF #1.) That same day, Plaintiffs filed an application to seize Defendants' computer storage devices and computers pursuant to the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1836 *et seq.* (the "Application"). (*See* ECF #2.) On July 7, 2016, Defendants filed a motion for expedited discovery (the "Motion"). (*See* ECF #16.) On June 15, 2016, the Court held a hearing on the Application and the Motion.

For the reasons stated on the record, **IT IS HEREBY ORDERED** that the Application (ECF #2) is **DENIED**.

IT IS FURTHER ORDERED that the Motion (ECF #16) is **GRANTED IN PART** and **DENIED IN PART** as follows: The parties shall be permitted to complete the discovery identified below on an expedited basis (*i.e.*, without further order of the Court and prior to the holding of the scheduling conference and/or entry of scheduling order), but such expedited discovery shall not commence until Defendants have filed their Answer to the Complaint. The permitted expedited discovery shall consist of the following:

1. Plaintiffs shall be permitted to take the depositions of (a) John Kinney, and (b) expert(s) retained by Defendants to complete forensic analyses of the computer storage devices and computers at issue in the Application.
2. Defendants shall be permitted to take the depositions of (a) Seth Gold, and (b) Mark St. Peter.
3. Plaintiffs shall conduct the deposition of John Kinney first (*i.e.*, before the depositions are taken of Seth Gold, Mark St. Peter, and any expert(s) retained by Defendants).
4. The parties may serve requests for documents that are pertinent to the analyses performed by, and the conclusions reached by, Mark St. Peter and the expert(s) retained by Defendants.

The Motion is **DENIED** in all other respects. All other discovery shall proceed within the time-frame set forth in the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the parties shall work together to draft and submit to the Court for entry a proposed stipulated order that prohibits (1) the destruction of certain physical items (including, but not limited to, computers and/or flash drives) and/or documents, and (2) the disclosure and/or dissemination of certain items, documents, and information.

/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: July 18, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 18, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113