

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

LeMond Cycling, Inc.,

Case No. 08-CV-01010 (RHK/JSM)

Plaintiff,

v.

Trek Bicycle Corporation,

Defendant.

RULE 26(f) REPORT

The pretrial conference in this matter is scheduled for August 20, 2008, at 10:00 a.m. before the United States Magistrate Judge Janie S. Mayeron in Room 710, 180 East Fifth Street, Seventh Floor, St. Paul, Minnesota.

1. Parties to the Dispute

a. Rule 26(f) Meeting: The counsel for the parties identified below participated telephonically in the meeting required by Federal Rule of Civil Procedure 26(f) on July 29, 2008, and prepared this report.

b. Parties and Counsel: LeMond Cycling, Inc. ("LeMond Cycling") is a Minnesota corporation with offices at 3000 Willow Drive, Medina, MN 55340. Greg LeMond is the namesake and principal for LeMond Cycling. LeMond Cycling sublicenses various trademarks associated with Greg LeMond's name. LeMond Cycling was represented at the Rule 26(f) meeting by Christopher W. Madel and Denise S. Rahne, Robins, Kaplan, Miller & Ciresi L.L.P., 2800 LaSalle Plaza, 800 LaSalle Avenue, Minneapolis, MN, 55402 (phone: 612-349-8500).

Trek Bicycle Corporation (“Trek”) is a Wisconsin corporation with offices at 801 West Madison Street, Waterloo, Wisconsin 53594. Trek was represented at the Rule 26(f) meeting by Ralph A. Weber, Gass, Weber, Mullins, 309 North Water Street, Milwaukee, WI 53202 (phone: 414-223-3300).

c. Insurance Carriers: LeMond Cycling does not have an insurance carrier that may be liable for the defense or payment of any damage award. Trek’s insurer Lexington Insurance has stated it will defend Trek pursuant to a reservation of rights. Federal Insurance Company also may be liable, but has declined to provide coverage at this time. Trek is identifying carriers from earlier policy periods who also may be liable to provide coverage.

d. Pretrial Conference Agenda: Besides the proposed schedule as set forth in this report, the parties have no additional agenda items for the upcoming pretrial conference.

2. Description of Case

a. Statement of Jurisdiction: This Court has jurisdiction pursuant to 28 U.S.C. § 1332 due to diversity of citizenship between LeMond Cycling and Trek.

b. Summary of Claims: In 1995 the parties entered into a “Sublicense Agreement” (“Agreement”), which was amended in 1999 (“the 1999 Amendment”), that allowed Trek to use trademarks associated with Mr. LeMond’s name.

LeMond Cycling makes the following contentions: First, in the context of a dispute between the parties over Mr. Greg LeMond’s right to speak openly about problems with doping in professional cycling, LeMond Cycling asserts that such statements do not constitute a breach of the Agreement or the 1999 Amendment and therefore seeks a declaration to that legal effect. Second, LeMond Cycling asserts that Trek has failed to satisfy its contractual obligations to exert best efforts as contractually required and seeks relief related to that failure. This relief includes a

declaration that Trek has breached the best efforts clause in the Agreement, an injunction maintaining the parties' relationship under the Agreement and the 1999 Amendment, and damages.

Trek makes the following contentions: Trek's claims arise from Mr. LeMond's breach of duties he assumed and personally guaranteed when he licensed his name to Trek for substantial compensation. Through conduct that has caused consumers and bicycle dealers to lose respect for him and/or Trek, and through improper distribution of LeMond bicycles, Mr. LeMond has damaged the LeMond brand, the Trek brand and other Trek business interests. Trek has satisfied all of its contractual obligations to LeMond Cycling, whereas LeMond and LeMond Cycling's conduct has resulted in multiple material breaches entitling Trek to terminate the Sublicense Agreement, and giving rise to compensatory damages. Trek has also asserted a number of legal defenses defeating LeMond Cycling's claims.

c. Damages: Plaintiff LeMond Cycling intends to more fully develop its damage claim in discovery. At this time, LeMond Cycling expects its damages claim to surpass \$3,000,000 for international lost sales and \$1,000,000 for domestic lost sales, both exclusive of interest, costs, and fees.

Trek likewise will be developing its damages claim in discovery. At this time, Trek expects its damages claim for lost profits and other harm to exceed \$6,000,000, exclusive of interest, costs and attorneys fees as provided in the contract.

3. Pleadings

a. Status of Pleadings: This is a consolidation of actions filed in Minnesota and Wisconsin, with separate complaints and answers filed by each side. The complaint and all responsive pleadings have been filed.

At this time, Plaintiff LeMond Cycling does not intend to amend its pleadings. Trek will be amending its complaint to add claims for damages and to add Mr. LeMond as a party.

b. Deadline for Amending/Adding Parties: Trek will file its Amended Complaint adding Mr. LeMond and asserting damages claims on or before September 5, 2008. A hearing will be scheduled thereafter, if Trek's proposed amendment is opposed by LeMond Cycling.

c. Jury trial: Both parties made a timely jury demand.

4. Discovery Plan

The parties agree and recommend that the Court limit the use and numbers of discovery procedures as follows:

a. Rule 26(a)(1) disclosures: August 29, 2008.

b. Alternative dispute resolution: The parties believe that alternative dispute resolution will not be beneficial until after substantial discovery. The parties' preferred method of alternative dispute resolution is mediation.

c. Order of discovery: The parties do not believe that discovery need be focused or phased in any way.

d. Electronically stored information: The parties wish to produce documents in traditional paper format. Should the need for electronically stored information arise for either party, the parties have agreed that upon a request associated with such a need, they will hold a meet and confer regarding that request. Should the parties be unable to agree regarding the handling of the request, the requesting party will bring a motion to compel.

e. Privilege and work product: With the exception of a protective order, which is addressed below, and existing laws and protections, the parties do not require any special procedures for handling claims of privilege and attorney work product.

f. Confidential information: The parties believe that a protective order will be necessary and propose to jointly draft one for the Court's approval.

g. Identification of expert witnesses: May 27, 2009.

h. Changes to limits on discovery imposed by the Federal Rules of Civil Procedure:
None.

i. Number of interrogatories: 25.

j. Number of depositions (excluding depositions of expert witnesses) each party shall be permitted to take: 20.

k. Number of expert depositions each party shall be permitted to take: 4.

5. Close of Fact and Expert Discovery and Non-Dispositive Motions

a. Close of fact discovery: June 8, 2009.

b. Close of expert discovery: August 14, 2009.

c. Deadline for non-dispositive motions to be served, filed, and heard by the Court:
September 4, 2009.

6. Dispositive Motions and Trial

a. Deadline for dispositive motions to be served, filed, and heard by the Court:
October 30, 2009.

b. Date by which case will be ready for trial: February 1, 2010.

c. The number of expert witnesses each party expects to call at trial: Plaintiff
LeMond Cycling: 3. Defendant Trek: 4.

d. Estimated time for trial: 10-14 days.

Dated: August 11, 2008.

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

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