

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

American Medical Systems, Inc.,
and Laserscope,

Plaintiffs,

v.

Civil No. 08-4798 (JNE/FLN)
ORDER

Laser Peripherals, LLC,

Defendant.

By letter dated March 23, 2010, Laser Peripherals, LLC (LP), asks the Court to order American Medical Systems, Inc., and Laserscope (collectively, AMS) to produce a “full set of all materials” that AMS has filed with the United States Patent and Trademark Office (USPTO) during the ongoing reexamination of U.S. Patent No. 5,428,699. LP asserts that these materials are relevant to its non-infringement and invalidity arguments, as well as its allegations of inequitable conduct. LP seeks an extension of time from March 27, 2010, to March 29, 2010, to file memoranda in response to AMS’s motions on those issues.

AMS responds that the documents LP seeks are irrelevant to the issues of validity and infringement and that LP’s inequitable conduct defense, to the extent it is based on conduct occurring during the reexamination, is untimely and unfounded. Nevertheless, AMS states that it has produced or was in the process of producing the documents requested by LP when LP filed its letter request. AMS opposes LP’s request for an extension of time to March 29 and asks, in the alternative, that any extension apply to AMS’s reply briefs as well as LP’s response briefs.

In light of AMS's agreement to produce the documents from the reexamination, LP's request for an order requiring production of those documents is denied as moot.¹ LP's request for a two-day extension of time to file its responsive memoranda on the issues of infringement, validity, and inequitable conduct is granted. The Court also grants AMS a two-day extension to file its reply memoranda. Accordingly, LP shall file its response memoranda on or before Monday, March 29, 2010. AMS shall file its reply memoranda on or before Saturday, April 3, 2010.

IT IS SO ORDERED.

Dated: March 24, 2010

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge

¹ AMS mistakenly filed a response and an affidavit with the USPTO containing "tracked changes." AMS has since filed with the USPTO a petition to expunge those documents as containing attorney work product and "clean" copies of the documents. It is unclear whether LP seeks production of the "tracked changes" documents. Given that AMS states that it has already produced the clean copies to LP, the Court declines to order production of the "tracked changes" documents.