IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

QUALITY FIRST ROOFING, INC., a Nebraska corporation,	)))	
Plaintiff,	))	8:13CV321
v.	))	
CEDAR VALLEY EXTERIORS, INC., a Minnesota corporation,	)))	MEMORANDUM AND ORDER
Defendant.	)))	

Generically speaking (pun intended), this is a case about two trademarks held by Cedar Valley. Cedar Valley's federal trademarks are identified by Serial Nos. 77142831 and 77143590.

Among other things, Quality First seeks a declaration of invalidity. Cedar Valley in turn asserts that the marks are valid, and it seeks relief against Quality First for violation of the marks. Interestingly, this complex case solely involves use of the color orange.

Quality First has filed a motion for summary judgment. That motion will be denied because there are material facts in dispute. That said, I compliment counsel on both sides for their excellent briefs. Even I understood the issues.

Quality First also wants me to exclude Cedar Valley's expert witness, a CPA, under the *Daubert* case. That motion will be denied as well subject to rulings on objections when the witness testifies.

IT IS ORDERED that:

1.	The Motion for Summary Judgment (filing no. 72) is denied.

2.	The *Daubert* Motion to Exclude Proposed Testimony of Cedar Valley's expert witness Melissa Snelson (filing no. 78) is denied.

3.	The motions to restrict (filing no. 74, filing no. 79 and filing no. 83) are granted.

4.	Once filed, my chambers will provide Magistrate Judge Zwart with a copy of this Memorandum and Order by e-mail.[1]

DATED this 29th day of April, 2015.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge

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[1]I remind counsel, and I am sure Judge Zwart will as well, that I expect counsel to confer and submit *agreed* jury instructions and an *agreed* verdict form. If counsel don't agree, and I have the sense that they did not seriously try to agree, I will be unpleasant. I will not tolerate dueling jury instructions or a verdict form where there is no good reason.