

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

NASROLLAH GASHTILI, an individual;
INTEGRATED DYNAMIC SOLUTIONS,
INC., a California corporation;

Plaintiffs,

v.

JB CARTER PROPERTIES II, LLC, a
Nevada limited liability company; BARTUS
CARTER, an individual; FASTRAN, LLC, a
Nevada limited liability company,

Defendants.

Case No. 2:12-cv-00815-MMD-PAL

ORDER

(Plf.'s Motion for Atty Fees and Costs –
dkt. no. 44)

I. SUMMARY

Before the Court is Plaintiff Nasrollah Gashtili and Integrated Dynamic Solutions, Inc.'s (collectively "IDS") Motion for Attorneys' Fees and Memorandum of Costs (dkt. no. 44). The Court has also considered Defendants' opposition and IDS' reply. For the reasons discussed below, the motion is denied without prejudice.

II. DISCUSSION

This case arises out of alleged copyright infringement. The background facts of this case are recounted in significant detail in the Court's prior Order. (Dkt. no. 42.) The facts relevant to the instant motion are recounted below.

On April 23, 2013, the Court granted judgment in favor of IDS and against Defendants, dismissing Defendants' counterclaims and Complaint with prejudice. IDS brought the instant motion seeking costs and attorneys' fees under the Copyright Act.

1 IDS submitted detailed billing statements *in camera* to support its fees application.
2 Defendants opposed the motion arguing, in part, that the fee application fails to comply
3 with Local Rule 54-16(e) because Defendants had not received a reasonable itemization
4 and description of the work performed. IDS replied arguing the Court should allow an *in*
5 *camera* review because “the parties are currently engaged in contentions (sic) state
6 court litigation” and “it is especially necessary to avoid sharing privileged information and
7 case strategy with opposing counsel through disclosure of detailed invoices.” IDS cites
8 *Clarke v. Am. Comm. Nat. Bank*, 974 F.2d 127, 129 (9th Cir. 1992), for the proposition
9 that the Court may prohibit disclosure of the invoices because of attorney-client privilege.
10 IDS supplied a “table of total hours billed and total amounts billed broken down for every
11 [law firm] attorney and staff member working on the IDS federal copyright matter.”

12 “A district court may conduct an *in camera* inspection of alleged confidential
13 communications to determine whether the attorney-client privilege applies.” *Clarke*, 974
14 F.2d at 129. However, blanket assertions of the privilege are “extremely disfavored,” and
15 ordinarily the party asserting the privilege must “particularize its assertion of the
16 privilege” with respect to each specific document. *See id.* A district court may require
17 “individual explanations justifying the assertion of privilege.” *Id.*

18 Here, IDS offers a blanket assertion of attorney-client privilege and offers a
19 conclusory statement that the privilege applies only in passing. IDS does not
20 particularize or explain why anything in the billing statements reveals specific research or
21 litigation strategy which would be entitled to protection from disclosure. Therefore, IDS
22 has not carried its burden to show why the billing statements are privileged or why the
23 Court should not require IDS to produce the same to Defendants to allow Defendants to
24 oppose the motion. Accordingly, the motion is denied without prejudice. IDS must either
25 carry its burden to show the billing statements are privileged and protected from
26 disclosure or produce the same to opposing counsel for its opposition, if any.

27 ///


28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III. CONCLUSION

It is therefore ordered that Plaintiffs' Motion for Attorneys' Fees and Memorandum of Costs (dkt. no. 44) is denied without prejudice.

DATED THIS 30th day of October 2013.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE