

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

POM OF PENNSYLVANIA, LLC, t/d/b/a)	
PACE-O-MATIC, and SAVVY DOG)	
SYSTEMS, LLC,)	
)	
Plaintiffs,)	Civil Action 2:18-722
)	
vs.)	
)	
PENNSYLVANIA SKILL GAMES, LLC,)	
)	
Defendant.)	

PENNSYLVANIA SKILL GAMES, LLC,)
)
Plaintiff,)
)
vs.)
)
PACE-O-MATIC, INC. and MIELE)
MANUFACTURING, INC.,)
)
Defendants.)

ORDER

Pennsylvania Skill Games, LLC (“PSG”) has filed an Emergency Motion to Compel Production (ECF No. 105) in which it seeks the production of “any agreements and drafts or embodiments thereof between or among Pace-O-Matic, POM of Pennsylvania and/or Savvy Dog Systems on the one hand, and Miele Manufacturing, on the other hand, including cover communications thereof, emails and text messages relating thereto.” PSG also requests that until these documents are produced, the deposition of Gregory Cline, which is currently scheduled for February 18, 2021, be postponed.

In a previous ruling, the Court ordered that PSG may take the deposition of Mr. Cline in his individual capacity. That order was premised upon PSG's representation that it required the deposition in order to question Mr. Cline about what he stated to Louis Miele about a price increase relevant to certain claims of PSG and why he made the statements that he did. As stated in the Court's Order, the subject matter of Mr. Cline's deposition is limited to PSG's representations about its purpose, that is, what Mr. Cline said to Mr. Miele and why he said it. PSG did not indicate that it required any additional documents prior to proceeding with Mr. Cline's deposition or seek the production of any documents when it noticed his deposition.

In the current motion, PSG indicates that during the October 8, 2020 deposition of Daniel Warren, a corporate designee, he testified about the existence of one or more drafts of an agreement between Pace-O-Matic and Miele Manufacturing. PSG states that any such documents were requested in multiple document requests and should have been produced. It did not seek a court order compelling the production of these documents until February 16, 2021.

Given these circumstances, PSG's motion to postpone the deposition of Mr. Cline will be denied. Discovery closed on February 1, 2021. The Court permitted Mr. Cline's deposition to be taken after discovery closed but directed that it be completed no later than February 19, 2021. Dispositive motions are due on February 22, 2021. PSG does not explain why it did not seek these draft document(s) upon learning of their possible existence in October 2020 or, at the latest, when Mr. Cline's deposition was initially sought or noticed.

Resolution of PSG's motion to compel production of these documents will be deferred until POM of Pennsylvania, Savvy Dog Systems and/or Miele Manufacturing have an opportunity to respond to PSG's motion.

Therefore, it is hereby ORDERED that PSG's Motion to Compel Production is DENIED in part. Mr. Cline's deposition shall go forward as scheduled. PSG's request to compel production of the documents at issue is deferred pending the response of POM of Pennsylvania, Savvy Dog Systems and/or Miele Manufacturing to PSG's motion. Their response shall be filed no later than February 19, 2021.

SO ORDERED this 17th day of February 2021.


PATRICIA L. DODGE
United States Magistrate Judge