

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Roger Cleveland Golf Company, Inc.,	)	Civil Action No. 2:09-2119-MBS
	)	
Plaintiff,	)	
	)	
vs.	)	<b><u>Motion to Compel Responses to</u></b>
	)	<b><u>Plaintiff's First Set of Interrogatories</u></b>
Christopher Prince, Sheldon Shelley and	)	<b><u>and Requests for Production</u></b>
Prince Distribution, LLC.	)	
	)	
Defendants.	)	

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Pursuant to Federal Rule of Civil Procedure 37 and Local Civil Rule 37.01 (DSC), the Plaintiff, Roger Cleveland Golf Company, Inc., ("Plaintiff") hereby moves for an order compelling the Defendants Christopher Prince and Prince Distribution, LLC, ("Defendants") to answer Plaintiff's First Set of Interrogatories and First Requests for Production of Documents, on the grounds that over thirty days have elapsed following service of these discovery requests without the receipt of responses from the Defendants. In support of this Motion, the Plaintiff would respectfully show the following:

1. On August 12, 2009, Plaintiff initiated this action for trademark infringement and unfair competition relating to the sale of counterfeit Cleveland Golf brand golf clubs over the internet, specifically through websites owned by the Defendants. On September 17, 2009, Defendants timely filed their Answer.

2. On January 22, 2010, Plaintiff served counsel for Defendants with its First Set of Interrogatories, First Requests for Production of Documents and First Requests for Admission via mail. Copies of Plaintiff's First Set of Interrogatories and First Requests for Production of Documents are attached hereto as Exhibits A and B, respectively. The certificate of service for these requests showing service via mail on January 22, 2010 is attached hereto as Exhibit C.

3. On March 12, 2010, and in response to an inquiry from Plaintiff's counsel as to when Defendants' discovery responses, which were now overdue, would be provided, counsel for Defendants indicated via letter that responses would be provided on March 15. A copy of Defendants' counsel's March 12, 2010 letter is attached hereto as Exhibit D.

4. On March 17, 2010, counsel for Plaintiff again contacted counsel for Defendants and inquired via email if there was a possibility that discovery responses would be received by March 18, the date the twenty-one day deadline under Local Civil Rule 37.01(A) (DSC) would expire. Plaintiff's counsel explained that, because March 18 was within thirty days of the deadline to complete discovery, any extension of the deadline beyond that date was prohibited by Local Civil Rule 37.01(A) (DSC). A paralegal for Defendants' counsel responded that responses would be provided by the afternoon of March 18, and Plaintiff's counsel informed her, as well as counsel for Defendants, that should a copy of the responses be received by that time, a motion to compel would not be necessary. A copy of this March 17, 2010 email exchange is attached hereto as Exhibit E.

5. On March 18, 2010, the paralegal for Defendants' counsel informed counsel for Plaintiff via email that discovery responses would not be sent out that day. Plaintiff's counsel responded that a motion to compel would therefore have to be filed. A copy of this March 18, 2010 email exchange is attached hereto as Exhibit F.

6. By this Motion and pursuant to Rules 37(a)(3)(B)(iii) and (iv) of the Federal Rules of Civil Procedure, Plaintiff is merely seeking to compel discovery responses which are overdue. Having been served with Plaintiff's First Set of Interrogatories, First Requests for Production of Documents and First Requests for Admission via mail on January 22, 2010, Defendants' responses were due as of February 25, 2010. Though counsel for Plaintiff attempted

to secure Defendants' responses to its First Set of Interrogatories and First Requests for Production of Documents prior to the expiration of the twenty-one day deadline under Local Civil Rule 37.01(A) (DSC), such responses have yet to be received.

7. Having failed to answer or otherwise respond to Plaintiff's First Requests for Admission, Defendants have admitted the matters contained therein under to Rule 36(A)(3) of the Federal Rules of Civil Procedure, making a motion to compel responses thereto unnecessary.

8. Counsel for Plaintiff certifies pursuant to Local Civil Rule 7.02 (DSC) that she has attempted to resolve this matter without filing a motion but has been unable to do so.

WHEREFORE, the Plaintiff prays the Court that the Defendants be ordered to provide answers to Plaintiff's First Set of Interrogatories and First Requests for Production of Documents within five (5) days of the date of the Order.

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Charleston, South Carolina  
March 18, 2010