

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

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| Roger Cleveland Golf Company, Inc., |) | Civil Action No. 2:09-2119-MBS |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | <u>CONSENT MOTION FOR ENTRY OF</u> |
| |) | <u>AMENDED SCHEDULING ORDER</u> |
| Christopher Prince, Sheldon Shelley, Prince |) | |
| Distribution, LLC, and Bright Builders, |) | |
| Inc. |) | |
| |) | |
| Defendants. |) | |

Pursuant to Local Civil Rule 6.01, the Plaintiff, Roger Cleveland Golf Company, Inc., with the consent of the Defendants Bright Builders, Inc., Christopher Prince and Prince Distribution, LLC,¹ moves for the entry of an amended scheduling order in light of a pending dispositive motion for summary judgment to be heard by this Court on December 9, 2010. In support of this Motion, the parties 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 Christopher Prince and Prince Distribution, LLC (collectively "Defendants") timely filed their Answer.

2. On February 18, 2010, the deposition of Defendant Christopher Prince was taken, where, for the first time, Bright Builders, Inc.'s ("Bright Builders") role in the creation and support of the business model and websites through which Plaintiff's trademarks were infringed

¹ Defendant Sheldon Shelley has failed to appear in this action and, as such, is in default.

was revealed. Plaintiff and its counsel were wholly unaware of Bright Builders and its integral role in the infringement complained of in the Complaint prior to this time.

3. On March 22, 2010, the parties filed a Consent Motion for Leave to Amend the Complaint to add Bright Builders as a party to the suit. The Motion was granted and on May 11, 2010, counsel for Bright Builders, Paul Doolittle, filed an Answer on its behalf.

4. Concurrently, with this Court's Order allowing leave to amend the Complaint, on March 23, 2010, the Court entered a new scheduling order, which the parties have been diligently operating under.

5. On September 30, 2010, Bright Builders filed a motion for summary judgment. A hearing on the motion for summary judgment has been scheduled for December 9, 2010.

6. Pursuant to the current scheduling order the following pre-trial deadlines are coming due before a hearing on Bright Builders' motion for summary judgment: Pre-trial briefs are to be served on December 1, 2010; and motions in limine must be filed by December 6, 2010.

7. In the interest of efficiency, the parties would respectfully request an extension of the current scheduling order to allow time for this Court to rule on this dispositive motion. Further, Mr. Doolittle has informed the parties that he has a wrongful death mesothelioma trial in Michigan starting January 7, 2011 for which it does not look like there is any possibility of settlement.

WHEREFORE, the parties pray the Court that the scheduling order be amended pursuant to the attached proposed Fourth Amended Scheduling Order.

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