

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

VARSITY BRANDS, INC., et al.,

Plaintiffs/Counter-Defendants,

v.

Case No. 10-02508

STAR ATHLETICA, LLC,

Defendant/Counter-Claimant.

**ORDER DENYING PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE
SUR-REPLIES, DEFENDANT'S MOTION TO MODIFY BRIEFING SCHEDULE, AND
DEFENDANT'S MOTION TO AMEND/CORRECT**

On January 15, 2013, the court issued an order setting a summary judgment briefing schedule and establishing page limits, with all briefing due by April 26, 2013. (Pg. ID 2113–14.) Following a joint request by the parties, the court amended its dispositive briefing deadline to allow approximately one additional month for the parties to prepare their briefs, with the final brief due on May 24, 2013. (Pg. ID 2118–19.)

Almost three months after the deadline, Defendant filed a motion requesting leave to file a supplemental memorandum in support of its motion for summary judgment, arguing that a belated disclosure by Plaintiffs alerted it to a new legal argument. (Pg. ID 4152–58.) On August 21, 2013, Defendant's counsel filed a motion to amend his declaration submitted with Defendant's motion for supplemental briefing, stating that he mistakenly represented to the court that he did not receive certain exhibits until after briefing was closed, when in fact he had received these exhibits on March 30, 2012. Plaintiffs oppose Defendant's motion to allow supplemental briefing, and ask for attorneys' fees for the inconvenience of having to respond. Separately,

Plaintiffs have also filed an unopposed motion for leave to file sur-replies in support of their opposition to Defendant's objections to certain expert testimony, arguing that Defendant raised new arguments in its replies. (Pg. ID 4129.)

These motions are denied. Briefing for this matter has been closed since May 24, 2013 and the court has the materials it requires to consider the case. The court apologizes that the matter has been pending for so long, and anticipates issuing a ruling on the motions by January 31, 2014. Accordingly,

IT IS ORDERED that Plaintiffs' "Unopposed Motion for Leave to File Sur-Replies In Support of Oppositions to Star's Objections" [Dkt. # 194] is DENIED.

IT IS FURTHER ORDERED that Defendant's "Motion to Amend Briefing Schedule to File Supplemental Memorandum as to Varsity's 3d and 4th Claims of Copyright Infringement" [Dkt. # 195] is DENIED.

IT IS FURTHER ORDERED that Defendant's "Motion to Amend/Correct" [Dkt. # 196] is DENIED as moot.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 19, 2013

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 19, 2013, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522