UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BUNGIE, INC.,

Plaintiff,

v.

AIMJUNKIES.COM, et al.,

Defendants.

C21-0811 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge.

(1) Plaintiff's motion to strike the expert testimony of Brad LaPorte, docket no. 199, is DENIED in part, GRANTED in part, and DEFERRED in part, as follows:

(a) The motion is DENIED, in part, as to Plaintiff's arguments that LaPorte's testimony should be excluded because he lacks methodology or analysis concerning his tendered testimony. Plaintiff's objections go to the weight and not the admissibility of LaPorte's testimony and can be adequately tested during cross-examination.

(b) The motion is GRANTED, in part, because, as stated in the Court's prior Minute Order, docket no. 180, LaPorte's opinion shall be limited to Defendants' previous expert's (Scott Kraemer's) June 12, 2023, Expert Report and June 23, 2023, deposition testimony. The motion is further GRANTED, in part, and LaPorte will be precluded from offering rebuttal testimony to Plaintiff's expert Steven Guris. Defendants never disclosed that any expert would rebut or address Guris's testimony or report. *See* Mann Decl. at ¶¶ 5–6 (docket no. 137 at 2); *see also* LaPorte Expert Report (docket no. 200-2) (scope of engagement and summary of opinions).

(c) The Court DEFERS to the Pretrial Conference the issue of whether LaPorte has any relevant testimony to present in connection with May's remaining counterclaim given LaPorte's deposition testimony. *See* LaPorte Dep. Tr. (docket no. 200-3). LaPorte was not asked to provide any opinions and his report does not mention any technological measures May claims to have employed, or whether or how Plaintiff purportedly circumvented those measures. *See* LaPorte Expert Report (docket no. 200-2).

(2) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 15th day of November, 2023.

Ravi Subramanian
Clerk

s/Laurie Cuaresma
Deputy Clerk