

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HONEYWELL INTERNATIONAL INC.)	
and HONEYWELL INTELLECTUAL)	
PROPERTIES INC.,)	
)	
Plaintiffs,)	
)	C.A. 04-1337-JJF
v.)	(Consolidated)
)	
APPLE COMPUTER, INC., et al.,)	DM 18A
)	
Defendants.)	

**ORDER REGARDING PLAINTIFFS' HONEYWELL
INTERNATIONAL INC. AND HONEYWELL INTELLECTUAL
PROPERTY INC.'S MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 41(a)(2)**

The matter is presently before the Special Master on Plaintiffs Honeywell International Inc. and Honeywell Intellectual Properties Inc.'s (collectively, "Honeywell") Motion to Dismiss Honeywell's claims of infringement against defendant InnoLux Display Corp. ("InnoLux") without prejudice pursuant to Fed. R. Civ. P. 41(a)(2) (the "Motion") (D.I. 725). Honeywell correctly recognizes that Fed. R. Civ. P. 41(a)(2) protects against dismissals that would prejudice a defendant, and Honeywell argues that a dismissal without prejudice would not prejudice InnoLux. InnoLux objects to Honeywell's request by arguing that dismissal without prejudice would result in both legal and financial prejudice of InnoLux and requests that its pending Motion for Summary Judgment of Non-Infringement ("Motion for Summary Judgment") be decided or, alternatively, that it be dismissed with prejudice and with an award of both costs and attorneys' fees.

Based on a review of the record and the parties' submissions, the Special Master recommends that Honeywell's request for dismissal without prejudice be DENIED. The Special

Master also recommends that InnoLux's request that it be dismissed with prejudice and with an award of costs and fees be DENIED at this time.

The Special Master orders that Honeywell either (1) accept dismissal of InnoLux with prejudice or (2) withdraw the Motion and proceed to a resolution of InnoLux's pending Motion for Summary Judgment. Honeywell shall advise the Court in writing which of the foregoing alternatives it has chosen no later than close of business October 7, 2009. Failing to do so, the Special Master will enter an Order of dismissal with prejudice.

Background

On October 6, 2004, Honeywell simultaneously filed two separate complaints¹ alleging infringement of U.S. Patent No. 5,280,371 ("the '371 patent") against 37 different defendants, including Audiovox Electronics Corporation ("Audiovox"). Most of the defendants have been classified in two groups: manufacturers of LCD modules ("Manufacturer Defendants") and manufacturers who incorporate LCD modules into consumer end products ("Customer Defendants").² Between January 5 and May 6, 2005, several Customer Defendants, including Audiovox, moved to stay the litigation in order for Honeywell to first resolve its claims against the Manufacturer Defendants, based in part on the Customer Defendants' assertions that they had no information about the internal workings of the accused LCD modules. The Court granted the motions to stay on May 18, 2005, and restructured the case so that Honeywell would first proceed against the Manufacturer Defendants and then against the Customer Defendants. (D.I. 202.)

¹ C.A. Nos. 04-1337 and 04-1338 were subsequently consolidated in C.A. No. 04-1337. References to docket numbers are to C.A. No. 04-1338.

On November 7, 2005, Honeywell filed its Amended Complaint, adding additional defendants, including InnoLux. (D.I. 239). Honeywell did not serve its Amended Complaint on InnoLux until July 11, 2006. (D.I. 538 at 1). On August 25, 2006, InnoLux filed a Motion to Dismiss for lack of personal jurisdiction pursuant to Fed. R. Civ. P. 12(b)(2) (the “Rule 12(b)(2) Motion”). (D.I. 536). Briefing on the Rule 12(b)(2) Motion was completed on October 6, 2006. (D.I. 598). The Rule 12(b)(2) Motion was assigned to the judicial position formerly held by Judge Kent A. Jordan and left vacant when he was appointed to the U.S. Court of Appeals for the Third Circuit. No action was taken on the Rule 12(b)(2) Motion until April 18, 2008, when the presiding judge denied InnoLux’s Rule 12(b)(2) Motion with leave to renew and granted Honeywell limited jurisdictional discovery. (D.I. 999).

On February 13, 2009, after conducting jurisdictional discovery, InnoLux waived its right to renew its Rule 12(b)(2) Motion, thereby consenting to this Court’s jurisdiction.³ On March 3, 2009, InnoLux requested leave to file its Motion for Summary Judgment. (D.I. 609 in C.A. No. 04-1337). On March 12, 2009, Honeywell filed its objection, requesting that the Special Master deny InnoLux’s request and instead re-open fact discovery as to InnoLux. (D.I. 616 in C.A. No. 04-1337). On April 1, 2009, the Special Master denied Honeywell’s request to re-open fact discovery and granted InnoLux’s request for leave to file a Motion for Summary Judgment. (*See* Tr. at 7:7 to 8:12). On May 1, 2009, InnoLux filed its currently pending Motion for Summary Judgment. (D.I. 653 in C.A. No. 04-1337).

² The Special Master understands that some entities engage in both activities and are referred to as “hybrids.”

³ The Special Master is mindful that Honeywell challenged the sufficiency of discovery provided by InnoLux and that the Special Master granted Honeywell’s request for additional discovery (D.I. 481 in C.A. No. 04-1337), which request was mooted by InnoLux’s waiver of its right to renew its motion to dismiss.

Discussion

Pursuant to the Court's Scheduling Order No. 2, fact discovery in this matter concluded on January 31, 2008. (D.I. 838). It is Honeywell's position that "substantive fact discovery vis-à-vis InnoLux has not commenced, let alone closed." (D.I. 673 in C.A. No. 04-1337 at 1 n.2). This position also forms the basis of Honeywell's opposition to InnoLux's Motion for Summary Judgment. It is InnoLux's position that Honeywell never served fact discovery requests on InnoLux prior to the Court's January 31, 2008, discovery cut-off date. (D.I. 653 in C.A. No. 04-1337 at 3). Indeed, Honeywell has not challenged this contention other than to argue that prior to February 13, 2009, the Court's jurisdiction over InnoLux was unsettled.

While the Special Master acknowledges that InnoLux even failed to file its Fed. R. Civ. P. 26 initial disclosures, the fact remains that InnoLux's inaction did not preclude Honeywell from seeking to compel InnoLux to comply with its Fed. R. Civ. P. 26 obligations and seeking fact discovery. The Special Master rejects the argument advanced by Honeywell in briefing on InnoLux's pending Motion for Summary Judgment that InnoLux was somehow shielded from discovery by the filing of its Rule 12(b)(2) Motion. (*See, e.g.*, D.I. 673 at 5-6; D.I. 691 at 3-4). The Special Master agrees with InnoLux that Honeywell's argument is fundamentally flawed. In this regard, the Special Master concludes that the ruling by another United States District Court is both instructive and compelling, namely:

Insurance Corp. of Ireland does, of course, say that 'the validity of an order of a federal court depends upon that court's having jurisdiction over . . . the parties.' Nothing in that case, however, says that, pending resolution of an objection to personal jurisdiction over a party, the Court, as to that party, is limited to considering only the objection, and requiring discovery, if any, only on the personal jurisdiction issue. Under Fed. R. Civ. P. 12, the Court has discretion to order that Meyer's defense of lack of

personal jurisdiction be deferred until trial. 12(d). That being the case, it becomes obvious that, even though Meyer has a motion pending under 12(b), the Court has discretion to require substantive discovery until the personal jurisdiction issue is resolved in Meyer's favor. If the Court did not have such discretion, then the parties would be unable to prepare for the trial at which, under 12(d), the Court may, for the first time, consider the jurisdictional issue.

See In Re Horizon Cruises Litig., 1997 U.S. Dist. LEXIS 19571, at **6-7 (S.D.N.Y. Dec. 10, 1997).

The Special Master also finds it be noteworthy that Honeywell did not seek leave to re-open fact discovery following the issuance of the Special Master's Report and Recommendation on [Honeywell's] Motion To Rule That [InnoLux] Has Submitted To The Jurisdiction Of The Court (DM 2). After concluding that InnoLux had not waived its jurisdictional defenses, the Order provided as follows:

InnoLux, in all respects, remains a party to this matter, and therefore fully engaged in this matter unless otherwise ordered by the Court, including being subject to all of the deadlines in the Court's Scheduling Order and responsible along with all other parties for responding, in a timely manner, to pleadings and all discovery.

(D.I. 1067).

Moreover, even after InnoLux consented to the Court's jurisdiction on February 13, 2009, Honeywell waited more than three months, when it filed its counter-statement of material facts related to InnoLux's Motion for Summary Judgment, before asserting that "additional discovery of InnoLux was necessary." (D.I. 673; D.I. 674 in C.A. No. 04-1337).

On this record the Special Master concludes that Honeywell's inaction is the root cause of its failure to secure discovery in this case.

Analysis

Fed. R. Civ. P. 41(a)(2) states, in pertinent part, as follows: “Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper. . . . Unless the order states otherwise, a dismissal under this paragraph (2) is without prejudice.” Fed. R. Civ. P. 42(a)(2). “The purpose of Rule 41(a)(2) is to prevent dismissals that prejudice an opposing party and to permit the court to impose curative conditions it deems necessary.” *Reach & Assocs. v. Dencer*, 2004 U.S. Dist. LEXIS 1918, *3 (D. Del. Feb. 9, 2004) (Farnan, J.).

A. The Risk of Prejudice Favors InnoLux

This Court has set forth four factors for evaluating whether voluntary dismissal without prejudice would prejudice the dismissed defendant: (1) “any excessive and duplicative expenses of a second litigation”; (2) “the effort and expense incurred by a defendant in preparing for trial”; (3) “the extent to which the pending litigation has progressed”; and (4) “the claimant’s diligence in moving to dismiss.” *Id.* at **3-4.

Other District Courts have considered additional factors, such as: (i) the fact that a motion for summary judgment has been filed, *Thomas v. Amerada Hess Corp.*, 393 F. Supp. 58, 70 (M.D. Pa. 1975) (denying plaintiff’s request for dismissal without prejudice after summary motions have been filed, finding that defendant had expended great effort and expense); (ii) an insufficient explanation of the need to take a dismissal, *Id.*; and (iii) whether the Plaintiff is seeking a voluntary dismissal to avoid a near-certain adverse ruling, *Maxum Indemnity Ins. Co. v. Perkins*, 2008 U.S. App. LEXIS 22778, at *2 (9th Cir. Nov. 3, 2008).

The Special Master considers the foregoing factors as set forth above seriatim:

1. *The Risk Of Excessive And Duplicative Expense Favors Innolux*

The Special Master concludes that InnoLux has spent significant time, effort, and resources in defending this matter. Honeywell argues that InnoLux “has done little more than oppose this Court’s jurisdiction and oppose Honeywell’s efforts to obtain discovery.” (D.I. 731-2 in C.A. No. 04-1337 at 2.) However, the Special Master is not persuaded that InnoLux’s efforts have come at little expense.

Honeywell and InnoLux each filed briefs with respect to InnoLux’s Motion to Dismiss for lack of personal jurisdiction (D.I. 725, 726). Although the Special Master is mindful of its failures, InnoLux did participate in the limited jurisdictional discovery ordered by Judge Farnan. InnoLux also filed a claim construction brief in this matter on April 25, 2008 (D.I. 1000). On May 1, 2008, the Manufacturer Defendants included InnoLux on the list of defendants requesting to be copied on Customer Defendant communications, discovery, and related matters. InnoLux also filed an Answer to Honeywell’s Amended Complaint on May 5, 2008 (D.I. 1029). On June 2, 2008, InnoLux filed a Reply Claim Construction Brief (D.I. 1045). The record is also replete with correspondence from InnoLux, participation by InnoLux in telephonic hearings, and references to communications between counsel for Honeywell and counsel for InnoLux.⁴ In sum, the record reflects that InnoLux has done more than spend nominal time and expense in this matter.

⁴ See, e.g., in C.A. No. 04-1337, D.I. 348 (letter), D.I. 367 (letter), D.I. 384 (reply letter), D.I. 398 (response letter), D.I. 578 (letter to counsel for InnoLux from Special Master), D.I. 609 (letter), D.I. 615 (letter Order), D.I. 617 (letter Order), D.I. 645 (answering brief), D.I. 696 (letter); in C.A. No. 04-1338, D.I. 1042 (letter), D.I. 1057 (responses to interrogatories and requests for production), D.I. 1062 (letter from Honeywell referencing meet and confer), D.I.

On this record, the Special Master concludes that the risk of duplicative expense of a second litigation favors InnoLux.

2. *The Effort And Expense Incurred In Preparing For Trial Favors InnoLux*

Honeywell argues that InnoLux has not incurred any expense in preparing for trial because there is currently no schedule by which InnoLux needs to be trial ready. InnoLux responds by pointing to the long history of this case and the various disputes and motions that have been filed since InnoLux was named as a defendant. (D.I. 726 in C.A. No. 04-1337 at 2.) InnoLux further contends that it has been actively preparing for a November 9, 2009 trial. (*Id.* at 3). Honeywell questions InnoLux's trial preparation, stating that InnoLux has not met any of its obligations under the Federal Rules of Civil Procedure or the Court's Scheduling Order, including providing initial disclosures, supplementing discovery responses, participating in discussions concerning discovery disputes, filing expert reports, or scheduling expert depositions. (D.I. 727 in C.A. No. 04-1337 at 1.) Honeywell also complains that InnoLux never indicated to Honeywell that InnoLux was preparing for trial. (*Id.* at 2.)

While the Special Master is not convinced that InnoLux has engaged in substantial pre-trial preparation, given InnoLux's apparent substantive defense in the case (i.e., lack of evidence of infringement) described above, InnoLux has taken an active role with respect to motions and discovery disputes, including participating in the *Markman* proceedings. InnoLux's failure to participate in expert discovery, including providing its own expert reports, is consistent with its Motion for Summary Judgment and apparent trial strategy. This does not suggest to the Special

1178 (letter), D.I. 1195 (letter from Honeywell's counsel in response to telephone conference on September 16, 2008); October 31, 2006 status conference; April 2, 2008 status conference; and June 23, 2008 telephone conference.

Master that InnoLux does not intend to try the case in November pending resolution of its Motion for Summary Judgment.⁵

Accordingly, the Special Master concludes that this factor favors InnoLux.

3. *The Extent To Which The Pending Litigation Has Progressed Favors Innolux*

Honeywell filed its current application after briefing on InnoLux's Motion for Summary Judgment had concluded, prior to an anticipated decision on InnoLux's Motion for Summary Judgment and less than two months before the scheduled trial date. While a Fed. R. Civ. P. 41(a)(2) motion to dismiss without prejudice is not improper at this stage of litigation, the Special Master concludes that the facts of this case support a finding that the litigation has progressed to a point that would prejudice InnoLux by dismissal without prejudice. In this regard, the Special Master concludes the analysis in *Thomas v. Amerada Hess Corp.* is instructive:

Obviously, a second try would give plaintiffs additional time for pursuing discovery with the experience of the first behind them, but possible smoother sailing in another venture is insufficient reason for permitting them to start anew. To the extent that plaintiffs have failed to complete discovery to their satisfaction in this action, it is due to their own dilatoriness

Thomas, 393 F. Supp. at 70.

After being a party to this action for nearly four years and actively participating in the defense of this case (although the amount of activity is disputed), including filing motions, participating in the *Markman* proceedings, and following the other proceedings in this case vis-à-

⁵ It is not for the Special Master to either condemn or condone InnoLux's trial strategy. The fact remains by Order dated July 1, 2008, InnoLux was told that it remained a party to this case and

vis the other defendants, in the Special Master's view, dismissal without prejudice at this stage of the proceedings would directly interfere with InnoLux's right to have its Motion for Summary Judgment decided by the Court. *See Ratkovich v. Smith Kline, French Laboratories*, 951 F.2d 155, 158 (7th Cir. 1991) (internal quotations omitted) (a court will take into account several factors in determining whether a defendant has suffered legal prejudice in dismissing an action pursuant to Rule 41(a)(2), including "the fact that a motion for summary judgment has been filed by the defendant").

Accordingly, the Special Master concludes that this factor strongly favors InnoLux.

4. *A Consideration Of Honeywell's Diligence In Seeking Dismissal Favors InnoLux*

By oral order on March 12, 2009, this matter was set for trial on November 9, 2009, with respect to Manufacturer Defendants. To the extent that Honeywell has now determined, in the last two months before trial, that it is not prepared to proceed against all Manufacturer Defendants, the Special Master does not believe that InnoLux should be subjected to dismissal without prejudice as an accommodation to Honeywell.

Had Honeywell acted diligently in seeking discovery from InnoLux, or moving this Court for a new discovery deadline as to InnoLux, the record supporting the instant application would be vastly different. Honeywell's application should be seen for what it is – a last effort to preserve an opportunity to bring suit against InnoLux another day.

Accordingly, the Special Master concludes that this factor favors InnoLux.

that it was subject to the obligation of any and all parties. (D.I. 1067). It remained Honeywell's obligation to seek the Court's attention when it believed it was necessary.

5. *Honeywell’s Not-So-Veiled Attempt To Avoid An Adverse Report And Recommendation On Innolux’s Motion For Summary Judgment Favors Innolux*

A Fed. R. Civ. P. 41(a)(2) request for dismissal without prejudice should be denied where a plaintiff seeks to avoid an expected adverse result. *See Radian Tech. Corp. v. Electrovert USA Corp.*, 122 F.R.D. 201, 203 (N.D. Tex. Oct. 19, 1988). In such a case, the defendant is legally prejudiced because it is denied an earlier determination of the merits of the plaintiff’s claims. *See Saviour v. Revco Discount Drug Centers, Inc.*, 126 F.R.D. 569, 571 (D. Kan. 1989) (holding that “the mere fact that a defendant has filed a motion for summary judgment is sufficient to establish the requisite ‘legal prejudice’ for denying a voluntary dismissal”); *see also Minnesota Mining and Mfg. Co. v. Barr Labs, Inc.*, 289 F.3d 775, 779 (Fed. Cir. 2002); *Phillips USA, Inc. v. Allflex USA, Inc.*, 77 F.3d 354, 358 (“[w]e agree with the district court that a party should not be permitted to avoid an adverse decision on a dispositive motion by dismissing a claim without prejudice”); *McBride v. JGL Indus., Inc.*, 189 Fed. Appx. 876, 878 (11th Cir. 2006) (denying plaintiff’s motion for dismissal without prejudice where Court held that Plaintiff’s motion was solely motivated to avoid an adverse ruling on defendants’ summary judgment motions).

The timing and circumstances surrounding Honeywell’s Rule 41(a)(2) Motion strongly suggest to the Special Master that Honeywell is attempting to avoid an adverse result on InnoLux’s Motion for Summary Judgment. *See* Attachment “A”.

Accordingly, the Special Master concludes that this factor strongly favors InnoLux.

6. *Honeywell's Failure To Present A Sufficient Reason For Dismissal Without Prejudice Favors Innolux*

Boiled down to its essence, the sum and substance of the collective reasons advanced by Honeywell to support its Rule 41(a)(2) Motion is the lack of a factual record which may have been developed through discovery.

For reasons stated herein and consistent with the conclusions reached by the Special Master, the Special Master concludes that Honeywell's reasons fall short. *See Ratkovich*, 951 F.2d 155 at 159 (holding that lower court denied Rule 41(a)(2) motion to dismiss without prejudice because plaintiff's "reason for seeking a dismissal without prejudice (that he had been unable to adduce enough evidence for his putative expert to form an opinion) was meritless in light of his failure to pursue his own discovery during the two years of this litigation"). *See Fuqua v. Norfolk S. Railway Co.*, 2008 WL 1930030, at *1 (E.D. Tenn. April 30, 2008) (in deciding whether to grant a dismissal under Rule 41(a)(2), the Court considers defendants' insufficient explanation for the need to take a dismissal); *see also Barr Labs, Inc.*, 289 F.3d at 783 (affirming decision of district court that appellees would not be dismissed without prejudice where appellants had not shown a sufficient justification for dismissal without prejudice).

Accordingly, the Special concludes that this factor favors InnoLux.

B. *Honeywell May Withdraw Its Application or Consent to Dismissal With Prejudice*

While Fed. R. Civ. P. 41(a)(2) "at least implicitly grants a district court power to dismiss with prejudice," *Andes*, 788 F.2d at 1037, the Court should give a moving party requesting a dismissal without prejudice notice and an opportunity to proceed with the litigation before dismissing the case with prejudice. *Id*; *see also Upthegrove v. Tubbs*, 2009 U.S. Dist. LEXIS

54578 (W.D. Wis. June 29, 2009) (holding that the court may require that dismissal be with prejudice where defendants had filed a motion for summary judgment, but that plaintiff should have an opportunity to withdraw the motion for voluntary dismissal); *Muehl v. McBride*, 2009 U.S. Dist. LEXIS 41819 (W.D. Wis. May 14, 2009) (allowing plaintiff to voluntarily dismiss claim with prejudice or choose to continue with summary judgment proceedings before issuing dismissal with prejudice). Thus, where a plaintiff moves for dismissal without prejudice, the matter is left to the discretion of the court, and “[t]he court may grant dismissal without prejudice or may require that the dismissal be with prejudice.” *Spring City Corp. v. Am. Bldgs. Co.*, 1999 U.S. Dist. LEXIS 19302, at *4-5 (E.D. Pa. Dec. 8, 1999) (quoting Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2367 (1995)).

For the reasons stated herein and in light of the conclusions reached, the Special Master concludes that a dismissal *with* prejudice is warranted. Honeywell should either accept the dismissal with prejudice or the matter should proceed to a Report and Recommendation on the pending Motion for Summary Judgment.

C. Request for Attorneys’ Fees and Costs

InnoLux has requested that if there is to be a dismissal, it should be with prejudice and with the award of costs and attorneys’ fees. While the parties have not addressed any authority to the Special Master on InnoLux’s request for attorneys’ fees, the Special Master is mindful that:

[m]any courts have held that if the dismissal is with prejudice, the court lacks the power to require the payment of attorneys’ fees, unless the case is a kind in which attorneys’ fees otherwise might be ordered after termination on the merits. When deciding whether to award attorneys’ fees as a term or condition of a voluntary

dismissal of an action, the Tenth Circuit has affirmed that the distinction between dismissals with and without prejudice should be maintained. The Court stated that, absent 'exceptional circumstances,' a defendant may not receive attorneys' fees when a plaintiff dismisses an action with prejudice. Noting that the purpose of such awards is generally to reimburse the defendant for the litigation costs incurred in view of the risk that the same suit will be refiled and will impose duplicative expenses on the defendant, the Second Circuit contrasted the situation in which a lawsuit is voluntarily dismissed with prejudice under Rule 41(a)(2); in such a circumstance, the Second Circuit maintained that 'attorneys' fees have almost never been awarded.' The Second Circuit went on to suggest that when a suit is dismissed voluntarily with prejudice, an award of attorneys' fees is appropriate only when there is independent statutory authority for such an award. Other courts have also taken this approach.

Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2366 (internal citations omitted). *See also Nolen v. Henderson Nat'l Corp.*, 1993 U.S. App. LEXIS 18955, at *11 (10th Cir. Feb. 5, 1993) (a defendant may not recover attorneys' fees and costs in the context of a dismissal with prejudice absent exceptional circumstances).

InnoLux having failed to provide support for its position, the Special Master concludes if the matter is to be dismissed with prejudice, its requests for fees and costs should be denied.

Conclusion

For the reasons set forth above and the conclusions reached, the Special Master concludes that:

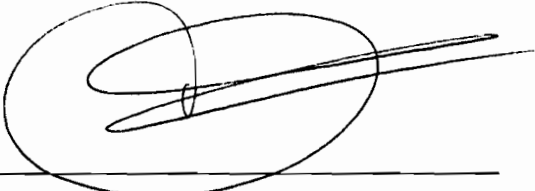
1. Honeywell's Motion to Dismiss its claims against InnoLux without prejudice is DENIED;
2. Not later than close of business October 7, 2009, Honeywell shall either (a) stipulate to a dismissal of InnoLux with prejudice or (b) withdraw its Motion to Dismiss without prejudice and proceed to a resolution of InnoLux's pending Motion for Summary Judgment;

3. Absent a response from Honeywell, Honeywell's Motion for Dismissal without prejudice shall be entered as a dismissal with prejudice; and

4. InnoLux's request for an award of attorneys' fees and costs, in the event of a dismissal with prejudice, is DENIED.

THE SPECIAL MASTER'S OPINION AND ORDER WILL BECOME A FINAL ORDER OF THE COURT UNLESS OBJECTION IS TAKEN IN ACCORDANCE WITH THE ANTICIPATED ORDER OF THE COURT WHICH SHORTENS THE TIME WITHIN WHICH AN APPLICATION MAY BE FILED PURSUANT TO FED. R. CIV. P. 53(f)(2).

SO ORDERED this 5th day of October 2009.



A handwritten signature in black ink, consisting of a large, stylized 'V' followed by a horizontal line and a vertical stroke, all contained within a large, irregular oval shape.

Vincent J. Poppiti (DSBA No. 100614)