11

12

13

14

15

16

17

18

19

20

21

22.

23

24

25

26

## 1 UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF CALIFORNIA 3 SAN JOSE DIVISION 4 ART OF LIVING FOUNDATION, 5 Plaintiff. 6 v. 7 DOES 1-10, 8 Defendants. 9 Clerk: Martha Parker Brown 10 Reporter: Irene Rodriguez

Case No.: 10-CV-05022-LHK

MINUTE AND CASE MANAGEMENT ORDER: ORDER STRIKING PLAINTIFF'S FOURTH AMENDED TRADE SECRET DISCLOSURES

Plaintiff's Attorneys: Karl Kronenberger, Jeffrey Rosenfeld

Defendants' Attorney: Joshua Koltun

Length of Time: 57 minutes

A case management conference was held on May 9, 2012. A further case management conference is set for Thursday, August 9, 2012, at 1:30 p.m., immediately following the hearing on any dispositive motions filed.

For the reasons stated on the record, the Court DENIED Plaintiff's Motion for Leave to File a Second Amended Complaint. See ECF No. 159. Should Plaintiff wish to pursue its case against Eng-an Chou, it must file a new action.

For the reasons stated on the record, the Court DENIED without prejudice Plaintiff's Motion to Require Disclosure of Defendant Skywalker's Identity, see ECF No. 150, and DENIED without prejudice Plaintiff's Motion to Compel Defendant Skywalker to Respond to First Set of Interrogatories and Requests for Production, ECF No. 148.

In the Court's May 1 Order Granting Defendants' Motion for Summary Judgment on the Copyright Claim, and Granting in Part and Denying in Part Defendants' Second Special Motion to Strike the Trade Secrets Claim, the Court granted Plaintiff's request, raised in its opposition to Defendants' Second Special Motion to Strike, to withdraw its previous Amended Trade Secret Disclosure ("ATSD") and to re-designate its trade secrets. See May 1, 2012 Order at 35. In accordance with the Court's May 1 Order, Plaintiff served on Defendants a new set of trade secret disclosures on May 8, 2012. However, at the case management conference, Defendants informed the Court that the ATSD submitted in support of Defendants' Second Special Motion to Strike had already been superseded by a 2d ATSD served by Plaintiff on Defendants just prior to the January 12, 2012 hearing, which had in turn been superseded by a 3d ATSD served by Plaintiff on Defendants sometime after the January 12, 2012 hearing. Thus, the amended trade secret

Case No.: 11-cv-05022-LHK

CASE MANAGEMENT AND MINUTE ORDER; ORDER STRIKING PLAINTIFF'S 4TH AMENDED TRADE SECRET DISCLOSURE

27 28

<sup>&</sup>lt;sup>1</sup> This denial renders moot Defendants' administrative motion to file under seal documents in opposition to Plaintiff's Motion for Leave to Amend. See ECF No. 163. Accordingly, Defendants' administrative motion is DENIED as moot.

## Case5:10-cv-05022-LHK Document165 Filed05/09/12 Page2 of 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**United States District Court** 

1

disclosure served on May 8, 2012, is in fact Plaintiff's 4th ATSD. Plaintiff represented to the Court that its 3d ATSD and 4th ATSD designate the same material as trade secrets, but the 4th ATSD provides greater explanation how the alleged trade secret material is distinguishable from general public knowledge. In light of the new information disclosed at the case management conference, the Court hereby clarifies that the May 1 Order authorizes and applies to the 3d ATSD that Plaintiff previously already served on Defendants without the Court's knowledge. Plaintiff's 3d ATSD "constitute[s] its binding representation of the full corpus of its alleged trade secrets." *Sit-Up Ltd. v. IAC/InterActive Corp.*, No. 05 Civ. 9292 (DLC), 2008 WL 463884, at \*8 (S.D.N.Y. Feb. 20, 2008); May 1, 2012 Order at 35. Plaintiff's 4th ATSD is stricken. By June 7, 2012, Plaintiff shall file under seal a copy of its 3d ATSD for the Court's review, and Defendants shall file a status report indicating how they wish to proceed (e.g., appeal and motion to stay, or motion for reconsideration of the Court's May 1, 2012 Order denying Defendants' second special motion to strike the trade secrets claim).

The case schedule set forth in the January 12, 2012 Case Management Order remains as set, except that the estimated trial length is now 8 days.

EVENT Fact Discovery Cut-off	DEADLINE OR DATE April 19, 2012
Designation of Experts	May 10, 2012
Designation of Rebuttal Experts	May 31, 2012
Expert Discovery Cut-off	June 14, 2012
Last Day to File Dispositive Motions	July 5, 2012
Last to Hear Dispositive Motions	Thursday, August 9, 2012 (Thursday at 1:30 p.m.)
Pretrial Conference:	October 3, 2012 (Wednesday at 2:00 p.m.)
Jury Trial (8 day estimate)	October 22, 2012 (Monday at 9:00 a.m.)
IT IS SO ORDERED.	
Dated: May 9, 2012	Jucy H. Koh

2

United State District Judge

Case No.: 11-cv-05022-LHK

CASE MANAGEMENT AND MINUTE ORDER; ORDER STRIKING PLAINTIFF'S 4TH AMENDED TRADE SECRET DISCLOSURE