

Defendant Michael P. BOYLE Pro Se
88932 Sagebrush Lane
Bend OR. 97701
541-326-6995

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

GLAS-WELD SYSTEMS, INC.
Plaintiff,

v.

MICHAEL P. BOYLE, and
CHRISTOPHER M. BOYLE,
Pro se Defendants

Civil Action No.: 6:12-cv-2273-AA

MICHAEL BOYLE'S Motion to
Compel Inspection

LR 7-1(a) CERTIFICATION

Defendant Michael P. Boyle ("Boyle") certify that I have conferred with GLAS-WELD SYSTEMS, INC. Plaintiff on the issues which are the subject of this motion. The parties have been unable to reach agreement.

Motion to Compel Inspection

Defendant Michael P. Boyle Dba Surface Dynamix respectfully requests this court issue and order compelling the plaintiffs to allow the Defendants the ability to inspect the alleged infringing products that are in the possession of the plaintiffs at a reasonable time and location. Defendant Michael P. Boyle has made multiple attempts in good faith to resolve this issue without the intervention of the Court, but have been unsuccessful.

Memorandum in Support

The plaintiff in this action alleges patent infringement by the defendant through the production and sale of products by Surface Dynamix. The plaintiff has procured samples of these products through their own sham sales as well as samples provided by the defendant Michael P. Boyle. The plaintiff has since gone on to dismantle these products in a way which has rendered them inoperable. Then these inoperable products have been use as test pieces for the alleged infringement. Attempts to arrange inspection by Defendant Michael P. Boyle have been met with a wide array of dodging techniques. The most recent of which is the attempt by the plaintiffs (an

Oregon based Company) to arrange inspection of the products in Miami, Florida. (Exhibit A)

Every affidavit provided by the plaintiff regarding alleged infringement relies upon these now inoperable sample. As such Defendant Michael P. Boyle has requested to inspect these product to verify their condition and usability, as well as determine the amount of dismantlement which has taken place at the hands of the plaintiff in order to make their infringement allegations. Without this inspection the defendants are unable to provide a complete and compelling defense and are wholly unable to refute the allegations made by the plaintiff on any factual grounds.

Fed. R. Civ. P. 34(a)(2) allows a court to permit a party to enter property in possession or control of the other party “for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any other designated object or operation thereon, within the scope of Rule 26(b).” In turn, Rule 26(b) provides for discovery of evidence that is “relevant to the claim or defense of any party” or reasonably calculated to lead to the discovery of relevant evidence. “Relevance for discovery purposes is extremely broad.” *Access 4 All, Inc. v. W & D Davis Investment Co., LTD.*, 2007 U.S. Dist. LE XI S 12221, *4 (S.D. Ohio 2007).

This inspection only seeks to verify the legitimacy of the plaintiffs statements about the sample products, and does not place any burden upon the plaintiff. Defendants Michael P. Boyle is amenable to inspection at the office of the plaintiffs attorney Paul Berg in Portland Oregon, any courthouse in Oregon or other location the Court deems reasonable. Should the court deny Defendants request for inspection the court should further disallow all affidavits provided to this Court by the plaintiff which rely upon the un-inspected dismantled products.

Conclusion

Defendant Michael P. Boyle (Pro se) wishes that this Court issue an order compelling the plaintiff to allow Defendant Michael P. Boyle to inspect the sample products at a reasonable place and time. The Plaintiff has local counsel in Bend Oregon , Cosgrove Law.

Michael P. Boyle
Surface Dynamix
64619 W Hwy 20 Unit B
Bend, Oregon 97701
Defendant Pro Se
DATED: July 24, 2013

