

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

T-PEG, INC and)
TIMBERPEG EAST, INC.,)
Plaintiffs,)
)
vs.) No. 03-CV-462-M
)
VERMONT TIMBER WORKS, INC.,)
and DOUGLAS FRIANT,)
Defendants.)

DEFENDANTS' RENEWED MOTION (PER THE COURT'S INVITATION)
TO REOPEN DISCOVERY ON STANDING AND COPYRIGHT OWNERSHIP
ISSUES, AND FOR EXPEDITED DISCOVERY RESPONSES

Defendants respectfully renew their motion (Doc. 165) that the Court reopen
discovery on standing and copyright ownership issues, including but not limited to

- The corporate status of plaintiffs and their affiliates.
- Inter- and intra-company agreements between and among plaintiffs and their affiliates.
- Employees, officers and agents of plaintiffs and their affiliates and their duties, authority and responsibilities.

In support of this motion, defendants state:

1. This discovery is appropriate, and without it defendants will have been
deprived of their due process rights to take meaningful discovery under the rules, because
the case has completely changed after the close of discovery and defendants have *never*
been afforded the opportunity to take discovery on these issues, which are central to the
case.¹

¹ The Court noted that "the record raises more question than it answers, and they are questions that matter." Document 147 at 10.

2. Defendants made this motion previously (Doc. 165, attached), and the Court denied the motion “without prejudice to revisiting after mediation is completed.”

Endorsed Order dated 06/25/09. The mediation has now been completed.

3. In addition, with trial being set for September 15, 2009, expedited discovery is appropriate. Defendants request that the Court order responses to written discovery on this limited subject within seven days, and order that deponents be produced within seven days thereafter (unless the parties agree otherwise).

LR 7.1 Certifications

Per Local Rule 7.1 counsel certifies that he sought assent from opposing counsel and that plaintiff does not assent.

Per Local Rule 7.1 counsel states that no separate memorandum in support is being submitted as the motion is straightforward and does not require complex briefing.

WHEREFORE, defendants respectfully move that

- A. The Court reopen discovery on standing and copyright ownership issues.
- B. The Court expedite discovery by requiring responses to written discovery on this limited subject within seven days, and requiring that deponents be produced within seven days thereafter (unless the parties agree otherwise).

Date: July 27, 2009

VERMONT TIMBER WORKS, INC.
and DOUGLAS FRIANT,
Defendants,

/s/ W. E. Whittington
W.E. Whittington

W. E. Whittington (Bar No. 6916)
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Attachment:

Ex. 1 – Defendants’ Motion To Reopen Discovery On Standing
And Copyright Ownership Issues (Document 165)

04/27/09

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2009, I served the foregoing pleading on the following counsel of record, by causing it to be filed electronically via the CM/ECF filing system or mailed by first-class United States Mail, postage pre-paid, or in such other manner as may be indicated:

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/s/ W. E. Whittington
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