

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.:

THE ULTIMATE SOFTWARE
GROUP, INC.,
a Florida corporation,

Plaintiff,

v.

BRYAN S. CAMP,
an individual,

Defendant.

PLAINTIFF'S MOTION FOR EXPEDITED DISCOVERY

Plaintiff, The Ultimate Software Group, Inc. ("USG"), pursuant to Fed. R. Civ. P. 26(d), moves the Court for entry of an order authorizing USG to conduct limited expedited discovery in connection with its Motion for Temporary Restraining Order Without Notice and Preliminary Injunction (the "Motion"), which is being contemporaneously filed with this Motion.

INTRODUCTION

The Motion seeks to enjoin Defendant Bryan S. Camp ("Camp") from continuing to misappropriate and utilize USG's trade secret, confidential and proprietary information that Camp improperly acquired prior to his termination of employment from USG. As alleged in the Motion and the Complaint, USG recently discovered that Camp downloaded a minimum of eighteen spreadsheets containing USG's trade secret, confidential, and proprietary information. Camp then copied the data to an external storage device, and subsequently accepted employment

with one of USG's direct competitors. Although USG is aware of Camp's misappropriation of these eighteen files, USG does not know the full extent of information taken by Camp or whether Camp has disclosed this information to his employer or any other third party. Expedited discovery is therefore needed to prepare for a hearing on USG's motion for preliminary injunction, as the full extent of irreparable harm caused by Camp is not yet known.

ARGUMENT

The Court has broad discretion to order expedited discovery. See Fed. R. Civ. P. 26(d)(1) (permitting court to allow discovery before the time specified under the rules); Fed. R. Civ. P. 30(a)(2) (permitting the taking of depositions before the time specified in Rule 26(d) with leave of court); Fed. R. Civ. P. 33(b)(2) and 34(b)(2) (authorizing the Court to shorten the time within which a party must respond to interrogatories and requests for production of documents). Moreover, expedited discovery "is particularly appropriate when a plaintiff seeks injunctive relief because of the expedited nature of injunctive proceedings." Ellsworth Assoc., Inc. v. United States, 917 F. Supp. 841, 844 (D.D.C. 1996); see also EXL Labs., LLC v. Egolf, No. 10-6282, 2010 WL 5000835 (E.D. Pa. Dec. 7, 2010) ("Expedited discovery is particularly appropriate where a plaintiff seeks injunctive relief."); Hausser Taylor LLC v. RSM McGladrey, Inc., No. 1:07-CV-2832, 2007 WL 2778659, at *3 (N.D. Ohio Sept. 21, 2007) (permitting expedited discovery to "allow Plaintiff the opportunity to present evidence warranting a preliminary injunction"); Medical Tech., Inc. v. Somers, 37 F. Supp. 2d 673, 679 (D.N.J. 1999) (same). Further development of the record before the preliminary injunction hearing will better enable the Court to judge the parties' interests and respective chances for success on the merits.

Here, USG will seek written discovery and depositions from Camp and third-parties (specifically, Camp's current employer, a direct competitor of USG), as well as an inspection of

Camp's computers for forensic imaging and analysis. This discovery will allow USG to learn the full extent of Camp's wrongdoing and whether it is ongoing. It will enable USG to determine the extent and manner in which Camp has improperly used and disclosed USG's trade secret, confidential, and proprietary information. It also will facilitate USG's preparation for the anticipated hearing on its motion for preliminary injunction and will assist the Court in its consideration of that motion.

CONCLUSION

For the foregoing reasons, USG respectfully requests that the Court grant its Motion for Expedited Discovery, allowing USG to conduct limited expedited discovery prior to the hearing on USG's motion for preliminary injunction.

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