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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

OPTINREALBIG.COM, LLC,

No. 04-1687 SBA

Plaintiff,

ORDER

v.

IRONPORT SYSTEMS, INC. and
SPAMCOP.NET, INC., et al.,

Defendants.

In preparation for the July 13, 2004 hearing the parties are directed to be prepared to address the following issues:

- Distinguish Liu v. Moore, 69 Cal.App.4th 745, 750 (1999) from Prospect Health Source Medical Group, Inc. v. Dallazadeh, 2004 WL 909443 (Cal.App.2d, April 29, 2004);
- Distinguish the facts of this case from Liu and Prospect Health;
- Whether a SLAPP motion is, can, or should be considered a responsive pleading;
- Whether the Legislature's intent in enacting the SLAPP statute is frustrated by allowing complaints to be amended during the pendency of a SLAPP motion; does this result in a plaintiff circumventing the SLAPP statute;
- When, if ever, does a pending SLAPP motion effectively stay a proceeding;
- Whether the filing of a First Amended Complaint after a hearing on a fully briefed preliminary injunction motion (or any motion) circumvents the Legislature's intent for the SLAPP Statute;
- Whether the SLAPP statute applies to complaints only, or whether it can also apply to motions for temporary restraining orders or motions for preliminary injunctions;

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- How the Court's June 25, 2004 Order finding that Defendants were immune pursuant to the Communications Decency Act affects Plaintiff's First Amended Complaint or Defendant's SLAPP motion.

If the parties intend to rely on cases not previously cited in their motion papers, then the parties shall submit chambers copies of these cases to the Court no later than July 13, 2004 at 9:30 a.m. The Court will not consider any cases submitted after that deadline. Along with copies of the cases, the parties may provide a brief summary of their respective cases. Whether the summaries address just one case or all of the respective cases, they shall be no greater in length than five (5) pages and shall not present any arguments.

IT IS SO ORDERED.

Dated: July 9, 2004

s/Sandra Brown Armstrong
SAUNDRA BROWN ARMSTRONG
United States District Judge