

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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BONDPRO CORPORATION,

Plaintiff,

v.

SEMENS WESTINGHOUSE  
POWER CORPORATION,

Defendant.

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FINAL PRETRIAL  
CONFERENCE ORDER

04-C-0026-C

A final pretrial conference was held in this case on February 3, 2005, before United States District Judge Barbara B. Crabb. Plaintiff appeared by Joel D. Skinner, Jr., Michael Schechter and Gerald Laurie. Defendant appeared by David Schultz, LeeAnn Bell and Theresa Kimker.

Counsel agreed to the voir dire questions as distributed to them at the final pretrial conference. Counsel estimate that the trial will last no more than eight days. Eight jurors will be chosen from a qualified panel of fourteen. Each side will exercise three peremptory challenges.

Jury selection will begin on Tuesday, February 22, 2005, at 9:00 a.m. unless Judge Shabaz's case does not settle. If it does not, jury selection in that case will precede the selection in this case. Counsel should check with the clerk of court at the end of the day Friday, February 18, 2005, to learn whether Judge Shabaz's trial has settled.

Counsel are aware that trial days will run from 9:00 a.m. to 5:30 p.m. Lay witnesses will be sequestered during trial. Counsel are encouraged to use the visual presenter to save time and to give the jury access to all of the exhibits that have been admitted into evidence.

Counsel for plaintiff is to advise Mr. Schultz no later than noon on February 18, 2005, of the witnesses he will be calling on February 22, 2005, and the order in which he will call them. He has the same duty at the end of each trial day so long as he is presenting plaintiff's case in chief. Mr. Schultz is obligated to give Mr. Laurie the same advice during defendant's case.

Counsel reviewed the proposed special verdicts and instructions. They reserved full discussion to the instruction conference to be held at the close of evidence in the liability phase. Plaintiff's motions for attorney participation in voir dire and for vacation of the bifurcation order are DENIED.

I made the following rulings on the parties' motions in limine.

1. Plaintiff's motion to exclude evidence of all general or component disclosures is DENIED.

2. Plaintiff's motion to exclude the expert testimony of Scott Beckwith is DENIED.

3. Plaintiff's motion to exclude the testimony of other witnesses who have based their opinions on Scott Beckwith's opinions is DENIED.

4. Plaintiff's motion to exclude evidence of the content of the MD&A website is DENIED.

5. Plaintiff's motion to exclude the testimony of Terrence Brennan, Christopher Regan and John Musone is DENIED as moot because defendant will not be calling any of these individuals as witnesses.

6. Plaintiff's motion to bar evidence of settlement negotiations is GRANTED but defendant is free to introduce evidence of matters that may have been considered as part of the negotiations provided that they are otherwise admissible.

7. Plaintiff's motion to exclude evidence of Scott Wang's divorce and buy out is GRANTED except as to evidence that relates to plaintiff's value.

8. Plaintiff's motion to exclude evidence that was not disclosed timely is GRANTED. This ruling does not apply to evidence in the form of United States patents.

9. Defendant's motion to bar plaintiff from playing video depositions of employees of defendant is DENIED.

10. Defendant's motion to exclude the testimony of Dennis Kleinheinz is DENIED. Defendant's objections to the testimony may be explored through cross-examination during the damages phase of the trial.

11. Defendant's motion to exclude evidence of other alleged incidents of trade secret misappropriations is GRANTED.

12. Defendant's motion to exclude evidence of Mark Miller's invention disclosure form is DENIED.

13. Defendant's motion to exclude evidence that defendant allegedly tried to bribe its former employee, Anthony Marshall by offering to rehire him is GRANTED.

14. Defendant's motion to bar admission of plaintiff's photocopy of plaintiff's invention disclosure form is GRANTED.

15. Defendant's motion to bar Grady Frenchik from testifying to his opinion that defendant's patent application reads on plaintiff's invention is DENIED.

16. Defendant's motion to exclude evidence of Mark Miller's alleged depression, gambling or acts of insubordination is GRANTED.

17. Defendant's motion to exclude evidence of willful or malicious conduct during the liability phase is GRANTED with respect to evidence of willful conduct and DENIED with respect to evidence of malicious conduct.

18. At the final pretrial conference, I reserved a ruling on defendant's motion to bar evidence of tape recorded conversations. Having had additional time to consider it, I will deny the motion. I am persuaded that the wording of the Wisconsin statute demonstrates the procedural nature of the statute. Although the statute is aimed at behavior taking place outside the courtroom, the only sanction for violation of the statute is a prohibition on the use of the tape in a courtroom setting.

19. Defendant has moved to bar plaintiff from introducing material disposition reports. The motion is GRANTED. Those reports are relevant only to plaintiff's good faith and fair dealing, which is no longer a part of this case.

Defendant's counsel advised the court and plaintiff's counsel that defendant has disclosed all of the information in its possession relating to the cost of manufacturing slot cells. Defendant is barred from adducing any evidence relating to attorney-client matters unless it has turned over to plaintiff's counsel all documents relevant to the evidence it wants to adduce.

Entered this 9th day of February, 2005.

BY THE COURT:

BARBARA B. CRABB  
District Judge

