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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MAG Aerospace Industries, Inc.,

Plaintiff,

vs.

B/E Aerospace, Inc.,

Defendant.

AND RELATED COUNTERCLAIMS

Case No. 2:13-cv-06089-SJO-FFM

DEFENDANT B/E'S APPLICATION TO CORRECT RECORD RE ECF NOS. 125 & 129

Judge: Hon. Frederick F. Mumm
Courtroom: E, 9th Floor

Complaint Filed: August 20, 2013

Defendant B/E respectfully files this short application to correct the record with respect to two specific findings in the Court's recent orders granting two *ex parte* applications filed by Plaintiff MAG.

First, in ECF No. 129, the Court found that B/E's counsel made a "gratuitous statement on the record" at the recent Monteiro deposition to the effect that the Court has "the whole day" to deal with discovery disputes. *Id*. at 2 (referring to Monteiro Depo. Tr. at 95:4-23). The comment was certainly inartfully phrased, but was not meant to be disrespectful to the Court or its time. The attorneys were discussing how to present the parties' dispute to the Court, and MAG's counsel indicated that he would rather bring the dispute to the Court's attention "with full briefing and record." The "whole day" comment in response from Defendant's counsel was simply intended to mean that if the parties' dispute was presented to the Court, the Court would have access to "the whole day" of transcript, as opposed to merely the single colloquy about which Plaintiff's counsel was complaining at the time. Counsel apologizes to the Court that his statement was poorly phrased, and came across as meaning something very different than what was intended.

Second, in ECF No. 125, the Court found that B/E had violated the Court's instruction that the parties simultaneously submit their respective briefs on a separate discovery issue by no later than midnight on August 20, 2014. *Id.* at n.1. Because B/E's papers contained MAG's confidential information and therefore needed to be filed under seal, B/E could not file complete copies of its papers via the Court's ECF system. However, B/E did fully comply with the Court's instructions concerning the simultaneous exchange of briefs by emailing complete copies of its papers both to MAG and to the Court by midnight on August 20, 2014.

In particular, B/E emailed complete copies of its papers to counsel for MAG at 11:55 p.m. on August 20, 2014, and to the Court's chambers email address, ffm_chambers@cacd.uscourts.gov, at 11:57 p.m. on August 20, 2014. *See* Exhs. A & B attached hereto. B/E's 11:57 p.m. email to chambers was rejected due to the

size of the attachments. *See* Exh. C. Counsel for B/E then made several additional unsuccessful attempts to email the documents to chambers, before successfully emailing copies to chambers at 1:07 a.m. on August 21, 2014. *See* Exhs. D-I. B/E also arranged for delivery of hard copies of its papers to chambers on the morning of August 21, 2014. B/E made no changes to its papers after sending copies to MAG's counsel before the midnight deadline.

Dated: August 25, 2014

Respectfully submitted,

IRELL & MANELLA LLP

By: */s/ Andrei Iancu*

Andrei Iancu
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B/E Aerospace, Inc.

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that on August 25, 2014, I caused a copy of the foregoing application to be served upon the following counsel of record:

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