



Arnold B. Calmann
(973) 645-4828
abc@saiber.com

September 10, 2021

BY CM/ECF

The Honorable Douglas E. Arpert, U.S.M.J.
United States District Court
Clarkson S. Fisher Federal Building
& U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: *Oanda Corporation v. Gain Capital Holdings, Inc., et al.*
Civil Action No. 20-05784-ZNQ-DEA

Dear Magistrate Judge Arpert:

We along with our co-counsel Wilson Sonsini Goodrich & Rosati P.C., represent defendant GAIN Capital Holdings, Inc. and GAIN Capital Group, LLC (“GAIN”) in the above matter. We write in response to the letter submitted to the Court yesterday by Plaintiff OANDA Corporation (“OANDA”) (ECF No. 91).

GAIN was surprised to receive Plaintiff’s letter that sought to raise alleged discovery issues that are premature and not yet ripe for the Court’s consideration. Indeed, the parties have met and conferred on Plaintiff’s document requests, and Defendants agreed to produce certain documents responsive to those requests. While Plaintiff has demanded that Defendants produce documents by September 10, that date has *not yet passed*, making OANDA’s letter to the Court premature. OANDA is further aware that Defendants will serve its invalidity and non-infringement contentions on September 17, along with a production of documents relating thereto, as stated in the Court’s amended scheduling order, as well as a further production of documents. (ECF 90).

To the extent that OANDA is complaining about GAIN’s alleged lack of responsiveness to its latest emails, Plaintiff could have raised their concerns during the call between counsel on September 2nd. OANDA also could have used the telephone to call GAIN’s counsel on any of the days that followed to determine whether the issues were ripe for the Court. Having failed to do so, Plaintiff has now run to the Court prematurely. As planned, GAIN will produce documents on September 17 and will continue to meet and confer with Plaintiff to attempt to resolve specific

Honorable Douglas E. Arpert, U.S.M.J.

September 10, 2021

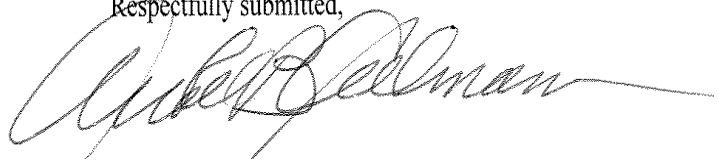
Page 2

outstanding disputes.¹

GAIN respectfully asks that the Court reject Plaintiff's application as premature and not ripe. We expect to move forward, continuing to fulfill our obligations to meet and confer regarding any differences between the parties regarding discovery with the expectation that OANDA will do the same without the need for premature Court applications.

We thank the Court for its consideration and look forward to hearing from Your Honor at the Court's earliest convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Arnold B. Calmann", with a long horizontal flourish extending to the right.

Arnold B. Calmann

cc: Counsel of record (by CM/ECF)

¹ In light of the premature nature of OANDA's rush for relief, we have not provided a detailed response to each of the allegations in OANDA's letter to Your Honor, but would be happy to do so if the Court believes it would be helpful.