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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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THORNE RESEARCH, INC. and  
SOFTGEL FORMULATORS, INC.,

Plaintiffs,

v.

XYMOGEN, INC.,

Defendant.

MEMORANDUM DECISION AND  
ORDER OVERRULING OBJECTIONS TO  
MAGISTRATE JUDGE'S ORDER

Case No. 2:13-CV-784 TS

District Judge Ted Stewart

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This matter is before the Court on Plaintiffs' Partial Objection to Magistrate Judge Warner's Memorandum Decision and Order Dated March 22, 2016 and Defendant's Objections to Magistrate Judge Warner's Order Denying XYMOGEN'S Motion for Leave to Amend or Supplement Invalidity Contentions.

Under 28 U.S.C. § 636(b)(1)(A) and Rule 72(a) of the Federal Rules of Civil Procedure, the Court reviews a Magistrate Judge's orders on nondispositive matters under a clearly erroneous or contrary to law standard.<sup>1</sup> "The clearly erroneous standard . . . requires that the reviewing court affirm unless it 'on the entire evidence is left with the definite and firm conviction that a mistake has been committed.'"<sup>2</sup>

The Court has carefully reviewed the Magistrate Judge's Order, the parties' objections thereto, the underlying briefing, and the relevant case law. The Court also conducted an *in camera* review of the document designated XYMOGEN\_238-242. Having done so, the Court

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<sup>1</sup> 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a).

<sup>2</sup> *Ocelot Oil Corp. v. Sparrow Indus.*, 847 F.2d 1458, 1464 (10th Cir. 1988) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

cannot conclude that the Magistrate Judge's decision was clearly erroneous or contrary to law. It is therefore

ORDERED that the parties' objections (Docket Nos. 142 and 143) are OVERRULED. It is further

ORDERED that motions for summary judgment on infringement and patent invalidity shall be filed by June 6, 2016.

DATED this 9th day of May, 2016.

BY THE COURT:



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Ted Stewart  
United States District Judge