

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Transunion Intelligence LLC and  
Trans Union LLC,

Civil No. 11-1075 (PJS/FLN)

Plaintiffs,

v.

**ORDER**

Search America Inc.,

Defendant.

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Christopher R. Morris, Tim Leonard and Michael Locklar for Plaintiffs.  
R. Scott Feldmann and Mark A. Jacobson for Defendant.

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**THIS MATTER** came before the undersigned United States Magistrate Judge on October 22, 2012 on Plaintiffs' motion for leave to amend complaint. ECF No. 130.

Plaintiffs seek to amend their complaint to include an induced infringement claim based on the holding of *Akamai Techs., Inc. v. Limelight Networks, Inc.*, 2012 U.S. App. LEXIS 18532 (Fed. Cir., August 31, 2012). *Akamai* changed the elements necessary to prove induced infringement. Prior to *Akamai*, induced infringement claims required proof that the induced party was under the direction or control of the accused infringer. *Id.* at 11-12. And, a single entity had to be found liable for direct infringement before a finding of induced infringement could be made. *Id.* These requirements are no longer necessary. Under *Akamai*, it is enough that the inducer "cause[s], urge[s], encourage[s], or aid[s]" the infringing conduct and the induced conduct is carried out by one or more parties. *Id.* at 17.

The parties in this case were aware of the pendency and potential relevancy of *Akamai*. See ECF. No. 108. Because discovery is not due until October 2013, allowing Plaintiffs' amendment does not require a continuance. Finally, Defendant's futility arguments are not persuasive. Plaintiffs

properly plead induced infringement under the *Akamai* standard and Defendant's argument based on *TransAmerica* is premature as the term "inputting" has yet to be construed. *See* ECF No. 122 and 108: 22-25.

Based upon all of the files, records and proceedings herein, **IT IS HEREBY ORDERED** that Plaintiffs' motion for leave to amend complaint (ECF No. 130) is **GRANTED**.

DATED: November 6, 2012

*s/ Franklin L. Noel*  
FRANKLIN L. NOEL  
United States Magistrate Judge