

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 97-10313  
Summary Calendar

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PERTECH COMPANY, JERRY L. PERRY, PERITECH, INC., DEBRON INC.,  
Plaintiffs-Appellants,

VERSUS

VIDEOJET SYSTEM INTERNATIONAL, INC.,  
Defendant-Appellee.

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Appeal from the United States District Court  
For the Northern District of Texas  
(4:96-CV-538-Y)

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December 11, 1997

Before KING, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:\*

The Appellants raise three issues in this appeal. Appellants first contend that despite the fact that they had two and one-half years during which to conduct discovery, the district court abused its discretion in declining to reopen discovery. The district court had the discretion to decide that the Appellants had ample opportunity to make discovery, and it did not abuse its discretion in declining to extend discovery under the circumstances presented in this case.

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\*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

The Appellants next contend that the district court abused its discretion in excluding a number of their witnesses. The Appellants submitted the names of 19 additional witnesses only six weeks before trial. The Appellants had previously failed to include the names of these witnesses in response to the Appellee's earlier interrogatories, and no valid reason was offered for this failure. The district court did not abuse its discretion in excluding these witnesses.

Finally, three of the Appellants argue that the district court abused its discretion in declining to enter a default judgment against Videojet. The Appellants' counterclaim was ambiguous with respect to whether it was brought by one or by all four of the Appellants. As a result of that ambiguity, Videojet answered the counterclaim only with respect to one of the Appellants. The district court considered the Appellee's failure to answer the counterclaim as to three of the Appellants as justified, and declined to enter a default judgment in favor of those three Appellants. This is not an abuse of the district court's considerable discretion.

There is no merit to any of the Appellants' arguments, and therefore we affirm the judgment of the district court.

AFFIRMED.