

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT  
Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 12-3200

Caption [use short title]

Motion for: Extension of time to file appellant's reply brief The Authors Guild, et al. v. Google Inc.

Set forth below precise, complete statement of relief sought:

Defendant-appellant respectfully requests a 7-day extension of time, to March 1, 2013, to file a reply brief.

**MOVING PARTY:** Defendant-Appellant Google Inc.

Plaintiff  Defendant  
 Appellant/Petitioner  Appellee/Respondent

**MOVING ATTORNEY:** Seth P. Waxman

[name of attorney, with firm, address, phone number and e-mail]  
Wilmer Cutler Pickering Hale & Dorr LLP  
1875 Pennsylvania Ave. NW, Washington DC 20006  
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**OPPOSING PARTY:** Betty Miles, Joseph Goulden, Jim Boutor

Boni & Zack LLC  
15 St. Asaphs Road, Bala Cynwyd, PA 19004  
(610) 822-0200  
mboni@bonizack.com

Court-Judge/Agency appealed from: The Hon. Denny Chin, United States District Court for the Southern District of New York (by designation)

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

Yes  No (explain): \_\_\_\_\_

**FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:**

Has request for relief been made below?  Yes  No

Has this relief been previously sought in this Court?  Yes  No

Requested return date and explanation of emergency: \_\_\_\_\_

Opposing counsel's position on motion:

Unopposed  Opposed  Don't Know

Does opposing counsel intend to file a response:

Yes  No  Don't Know

Is oral argument on motion requested?  Yes  No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?  Yes  No If yes, enter date: \_\_\_\_\_

Signature of Moving Attorney:

 Date: 2/1/13

Has service been effected?  Yes  No [Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is GRANTED DENIED.

FOR THE COURT:

CATHERINE O'HAGAN WOLFE, Clerk of Court

Date: \_\_\_\_\_ By: \_\_\_\_\_

**No. 12-3200**

**IN THE UNITED STATE COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

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THE AUTHORS GUILD, INC., et al.,

Plaintiffs-Appellees,

v.

GOOGLE, INC.,

Defendant-Appellant.

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On Appeal from an Order Granting Certification of a Class Action, Entered on May 31, 2012, by the United States District Court for the Southern District of New York, No. 1:05-cv-08136 Before the Honorable Denny Chin

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**AFFIRMATION IN SUPPORT OF UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE APPELLANT'S REPLY BRIEF**

Seth P. Waxman hereby affirms as follows:

1. I am a partner in the firm of Wilmer Cutler Pickering Hale and Dorr LLP. I submit this Affirmation in support of the motion of Defendant-Appellant Google Inc. (“Google”) for a 7-day extension of time, to March 1, 2013, to file a reply brief in the above-captioned matter.

2. In this matter, Google is appealing from the May 31, 2012 decision of the district court granting Plaintiffs-Appellees’ motion for class certification. On June 14, 2012 Google petitioned for permission to appeal the district court’s

certification decision. This Court granted Google's petition on August 14, 2012, and stayed proceedings in the district court pending the outcome of this appeal on September 17, 2012. Google filed its brief on November 9, 2012. Plaintiffs-Appellees filed their brief on February 8, 2013. If no extension is granted, Google's reply brief would be due to be filed by February 22, 2013.

3. Google has not previously requested an extension of time to file a reply brief.

4. Plaintiffs-Appellees do not oppose the requested extension of time.

5. Google respectfully submits that good cause exists for the modest extension of time requested for the following reasons:

a. Currently, undersigned counsel of record is preparing for oral argument before the Supreme Court of the United States in *Bowman v. Monsanto Co.*, No. 11-796 on February 19, 2013, and is preparing a reply brief to be filed by Petitioner in the Supreme Court in *Trevino v. Thaler*, No. 11-10189 on February 13, 2013.

b. Two sets of parties have indicated they plan to file amicus briefs in support of Plaintiffs-Appellees. Those briefs are due to be filed February 15, 2013, giving Google only one week to respond in its reply brief to arguments raised by amici.

I declare that the foregoing is true and correct, in accordance with 28 U.S.C.  
§ 1746.

Dated: February 11, 2013

Respectfully submitted,

/S/

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## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on February 11, 2013. All participants in the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Seth P. Waxman  
SETH P. WAXMAN