

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**MDY INDUSTRIES LLC AND
MICHAEL DONNELLY,**

Plaintiffs-Appellants

v.

**BLIZZARD
ENTERTAINMENT, INC. AND
VIVENDI GAMES, INC.,**

Defendants-Appellees.

No. 09-15932
No. 09-16044

Amicus Software & Information
Industry Association's Motion
For Two-Week Extension to Submit Amicus
Brief

The Software & Information Industry Association (“SIIA”) is the principal trade association of the U.S. software industry. The association and its members have substantial interest in this case, and years of real-world experience dealing with some of the important issues it raises, including the practice of licensing software and how such licenses interact with the provisions of the Copyright Act. Accordingly, the SIIA desires and intends to submit an amicus brief in this case.

The SIIA’s counsel (the undersigned), however, has been and will be out of the office on business travel for the better part of October and first part of November. SIIA is located in Washington, DC, and many of its members are located in California. Counsel’s business travel has included, and will further include, meetings with SIIA’s various software company members on both coasts regarding significant information to be used in the brief in this case. SIIA has exercised, and will continue

to exercise, diligence in collecting this information and obtaining the input and views of its members in preparing this brief.

The SIIA, as a non-profit association, consists of a very limited staff. It is drafting its own brief. Under the circumstances, the SIIA does not foresee being able to complete and file its brief by the present November 6, 2009 deadline. SIIA believes that a two week extension is needed to complete and file its amicus brief (in support of Appellee).

SIIA has notified the parties of its intent to seek a two-week extension. Blizzard does not oppose, nor do the other two known amici (MPAA and BSA) apparently considering filing a brief. MDY, however, objected to an extension longer than one week. MDY apparently would prefer not to push back its reply brief deadline more than a week, for scheduling reasons. Blizzard, however, had also offered to extend MDY's reply. SIIA respectfully submits that for the reasons set forth herein and in the attached declaration of Scott Bain, it needs a two week extension. SIIA therefore respectfully requests that the Court grant its motion for a two-week extension.¹

¹ SIIA is aware of this Court's telephonic procedure for obtaining a single extension of up to two weeks under Circuit Rule 31-2.2(a). However, SIIA understands this procedure to apply to named parties in the appeal. Thus, SIIA files the present written motion.

Respectfully submitted,

SIIA

By: _____/s Scott Bain_____

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Dated: October 28, 2009

Counsel for SIIA

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2009, I electronically filed the foregoing

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with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Scott Bain

Counsel for SIIA