

IN THE UNITED STATE DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

LUXPRO CORPORATION, a Taiwanese  
Corporation

Plaintiff

vs.

CASE NO. 4:08CV04092-HFB

APPLE, INC. f/k/a Apple Computer, Inc.,

Defendant

UNOPPOSED MOTION FOR EXTENSION OF TIME AND OTHER RELIEF

Comes now the defendant, Apple, Inc. f/k/a Apple Computer, Inc., and for this, its unopposed motion for extension of time and other relief, states:

1. That the plaintiff filed its original complaint on October 14, 2008, and its first amended complaint on October 20, 2008.
2. That the defendant filed a motion to dismiss the first amended complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure on December 19, 2008.
3. That on September 28, 2009, the Court issued a memorandum opinion granting in part and denying in part the defendant's motion to dismiss.
4. That the Court's ruling gave the plaintiff fourteen (14) days to file any amendments to its first amended complaint regarding the commercial disparagement claim.
5. That the plaintiff has now filed a motion seeking additional time to file its second amended complaint. In that motion, plaintiff seeks an extension up to and

including November 2, 2009, to file the second amended complaint. Defendant does not oppose the motion.

6. That since the Court's ruling denied in part the defendant's motion to dismiss, under Rule 6 and 12(a)(4)(A) of the FRCP, the defendant's answer to plaintiff's first amended complaint is now due on or before October 12, 2009.

7. That given plaintiff's announced intention to file a second amended complaint, the defendants respectfully requests an order of this Court declaring that the defendant not be required to answer the first amended complaint, but rather file its responsive pleading following the filing of the plaintiff's second amended complaint.

8. That this request is not for the purpose of delay, but so that justice may be done.

9. That counsel for the defendant has conferred with counsel for the plaintiff and the plaintiff does not oppose this request.

WHEREFORE, PREMISES CONSIDERED, defendant respectfully requests an order of this Court declaring that the defendant not be required to answer the first amended complaint, but rather file its responsive pleading following the filing of the plaintiff's second amended complaint, and for such further relief to which it may be entitled.

Respectfully submitted,

/s/ James M. Pratt, Jr.

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Attorneys for Defendant, Apple, Inc.

CERTIFICATE OF CONFERENCE

Counsel for defendant has conferred with counsel for plaintiff in order to determine whether the relief requested in this motion of opposed. Counsel for the defendant has been advised that plaintiff does not oppose the relief requested.

/s/ James M. Pratt, Jr.

James M. Pratt, Jr.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system, this 8<sup>th</sup> day of October, 2009.

/s/James M. Pratt, Jr.

James M. Pratt, Jr.