1 2 3 4 UNITED STATES DISTRICT COURT 5 EASTERN DISTRICT OF CALIFORNIA 6 7 SEED SERVICES, INC., a California 1:10-cv-2185 AWI GSA 8 Corporation, Plaintiff, 9 v. 10 WINDSOR GRAIN, INC., a Minnesota 11 corporation, WILLIAM L. COOK, an individual, and DOES 1 through 35, 12 inclusive, ORDER GRANTING MOTION TO FILE 13 SUPPLEMENTAL COMPLAINT Defendants. 14 15 WILLIAM COOK, an individual, and WINDSOR GRAIN, INC., a Minnesota (Document 47) 16 corporation, 17 Counterclaimants 18 v. 19 SEED SERVICES, INC., a California Corporation, 20 Counterdefendant. 21 22 On December 5, 2011, Plaintiff, Seed Services Inc., ("Plaintiff") filed a Motion for Leave 23 to File a First Amended Complaint. ("FAC"). Defendants, Windsor Grain, Inc., and William 24 Cook ("Defendants"), filed a non-opposition to the motion on December 30, 2011. (Doc. 58). 25 The Court has reviewed the papers and has determined that this matter is suitable for decision 26 without oral argument pursuant to Local Rule 230(g). Accordingly, the hearing set for January 27 27, 2012, at 9:30 am was VACATED. Plaintiff's Motion to File a Supplemental Complaint is 28 1

GRANTED.

Supplemental pleadings can be filed only with leave of the Court on just terms and may be permitted in order to set out any transaction, occurrence, or event that happened after the date of the initial pleading. Fed. R. Civ. P. 15(d); <u>Eid v. Alaska Airlines, Inc.</u>, 621 F. 3d 858 (9th Cir. 2010). Moreover, the Court may order that the opposing party plead to the supplemental pleading within a specified time. Fed. R. Civ. P. 15(d). Resolution of motions to file supplemental pleadings are a matter of the trial court's discretion. <u>Keith v. Volpe</u>, 858 F. 2d 467, 273 (9th Cir. 1988). The rule is a tool of judicial economy and its use is favored. <u>Id</u>.

Here, Plaintiff seeks to add new allegations and causes of action relating to events occurring in November 2011, after the filing the complaint. Specifically, Plaintiff asserts new causes of action for trademark infringement, unfair competition, and breach of contract. Given these facts, the Court finds that the filing of the supplemental pleading is just. Moreover, Defendants have filed a non-opposition to the motion.

Accordingly, the following IS HEREBY ORDERED:

- 1) The First Supplemental Complaint is deemed filed as of the date of this order;
- 2) The Clerk of the Court shall file the First Supplemental Complaint as a separate entry in the docket for purposes of clarifying the record.(Doc. 47-2); and
- 3) Defendants' Answers are due 21 days after the date of this order.

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Dated: <u>January 11, 2012</u>

IT IS SO ORDERED.

/s/ Gary S. Austin