

1 Craig M. Stainbrook, Calif. State Bar #160876
 STAINBROOK & STAINBROOK, LLP
 2 412 Aviation Boulevard, Suite H
 Santa Rosa, California 95403
 3 707.578.9333 phone
 707.578.3133 fax
 4 Email: craig@northbay-iplaw.com

5 Warren L. Dranit, Calif. State Bar #160252
 Terry S. Sterling, Calif. State Bar #106379
 6 Spaulding McCullough & Tansil, LLP
 90 South E Street, Suite 200
 7 Santa Rosa, CA 95404
 707.524.1900 phone
 8 707.524.1906 fax
 Email: dranit@smlaw.com; sterling@smlaw.com

9 Attorneys for Plaintiff
 10 NEWMATIC SOUND SYSTEMS, INC.

11
 12 **UNITED STATES DISTRICT COURT**
FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13

14 NEWMATIC SOUND SYSTEMS, INC.
 (a California corporation),

15 Plaintiff

16 vs.

17 MAGNACOUSTICS, INC. (a New York
 18 corporation), WAYNE LEDERER, individually,
 and DOES 1-10, inclusive,

19 Defendants.
 20

CASE NO. CV 10-00129 JSW

Judge: Jeffrey S. White

**PLAINTIFF NEWMATIC SOUND
 SYSTEMS, INC.'S EX PARTE
 APPLICATION FOR ADMINISTRATIVE
 RELIEF AND APPROVAL TO FILE A
 MEMORANDUM IN OPPOSITION TO
 DEFENDANT'S MOTION TO DISMISS
 FIRST AMENDED COMPLAINT IN
 EXCESS OF 15 PAGES IN LENGTH;
 DECLARATION OF TERRY S.
 STERLING; [~~PROPOSED~~] ORDER**

22 TO DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:

23 Plaintiff Newmatic Sound Systems, Inc. ("Newmatic Sound") is opposing defendants' Motion
 24 to Dismiss First Amended Complaint For Lack Of Article III Standing ("Motion"). In order to
 25 properly oppose the Motion, more space is needed than the 15 pages allowed by this Court's Civil
 26 Standing Order, ¶6. Pursuant to Rules 7-10 and 7-11 of this Court's Local Rules, Newmatic Sound
 27 hereby submits its Ex Parte Application for Administrative Relief from the page limitation of 15
 28

1 pages, and requests that approval be granted to file a longer opposition memorandum, not to exceed
2 25 pages in length.

3 Good cause exists to grant this Ex Parte Application. Defendants have moved to dismiss the
4 First Amended Complaint based on: an alleged lack of personal jurisdiction as to defendant
5 Magnacoustics, Inc.; an alleged lack of personal jurisdiction as to defendant Wayne Lederer; and an
6 alleged lack of Article III standing as a result of Newmatic Sound's failure to include Wayne Lederer,
7 owner of the patent at issue, as a defendant in the original Complaint (defendants claim that this
8 defect was not cured by adding Lederer as a defendant in the First Amended Complaint). The
9 arguments relating to all of these issues, and particularly the arguments relating to personal
10 jurisdiction, are very fact intensive. Newmatic Sound must detail all of the contacts that each of the
11 defendants has with the State of California, and then analyze those facts under the applicable legal
12 principles. To do so and still be able to respond to defendants' arguments regarding Article III
13 standing will require more than 15 pages.

14 Newmatic Sound anticipates that the memorandum in opposition to the Motion will not
15 exceed 25 pages, and that this amount of space is necessary to fully argue the issues raised in the
16 Motion. Newmatic Sound will not have the opportunity to provide the court with a full analysis of
17 the jurisdictional issues, including a complete analysis of the law and facts pertaining thereto, unless
18 this Application is granted.

19 Therefore, Newmatic Sound respectfully requests that this Court grant this Ex Parte
20 Application and allow Newmatic Sound to file a memorandum of points and authorities in support of
21 its Opposition to defendants' Motion to Dismiss not to exceed 25 pages in length.

22 DATED: April 7, 2010

Respectfully submitted,

23 SPAULDING MCCULLOUGH & TANSIL, LLP
24 Attorneys For Plaintiff NEWMATIC SOUND
25 SYSTEMS, INC.

26 By: /s/ Terry S. Sterling
27 Terry S. Sterling
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

~~PROPOSED~~ ORDER

IT IS HEREBY ORDERED that plaintiff NEWMATIC SOUND SYSTEMS, INC. may file a Memorandum of Points and Authorities in opposition to defendant's Motion to Dismiss First Amended Complaint For Lack Of Article III Standing of up to 25 pages in length.

DATED: April 13, 2010



HONORABLE JEFFREY S. WHITE
United States District Judge