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| 18 | UNITED STATES DISTRICT COURT | |
| 19 | NORTHERN DISTRIC | |
| 20 | SAN FRANCIS | CO DIVISION |
| 21 22 23 24 25 26 27 28 | CTIA - THE WIRELESS ASSOCIATION®, Plaintiff, v. THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, Defendant. | Case No. 3:10-cv-03224 WHA STIPULATION AND [PROPOSED] ORDER REGARDING FURTHER STAY AND BRIEFING |
| | | Stip. Re Stay and Briefing No. C 10-03224 WHA |

| 1 | RECITALS | |
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| 2 | 1. The Parties have worked in good faith to develop expedited case management | |
| 3 | schedules for the adjudication of this case. | |
| 4 | 2. To that end, the Court adopted on December 21, 2010, a stipulated schedule that | |
| 5 | established timelines for expert disclosures, depositions, and briefing. Doc. 25. In December and | |
| 6 | January, the parties expended significant resources conducting expert discovery. CTIA's expert | |
| 7 | reports were produced and the City deposed those experts. | |
| 8 | 3. In late January, the City informed CTIA that it intended to make substantive | |
| 9 | revisions to the disclosures required by the Ordinance and the accompanying Regulations that | |
| 10 | could impact the issues presented in this litigation. The City further advised CTIA that it believed | |
| 11 | these revisions would be in place by no later than March 15, although neither the timing of the | |
| 12 | revisions nor the exact nature of the revisions were certain. Given these potential changes, the | |
| 13 | parties determined that it would not serve the interests of the parties or the Court to proceed with | |
| 14 | the briefing schedule then in place. | |
| 15 | 4. On February 3, 2011, the parties informed the Court of these developments and | |
| 16 | (1) stipulated that the then-existing briefing schedule be vacated and (2) agreed to a temporary | |
| 17 | stay of enforcement of the Ordinance and the accompanying Regulations until June 15, 2011. | |
| 18 | The Court approved the parties' stipulation and agreement on February 3. Doc. 44. That | |
| 19 | stipulation provided that the parties would discuss in good faith any need to further delay | |
| 20 | enforcement should the revised requirements become effective after March 15, 2011. Id. | |
| 21 | 5. Thereafter, on April 26, 2011, the City notified CTIA by letter that the City was | |
| 22 | extending the stay of enforcement of the Ordinance and Regulations until further notice. The | |
| 23 | City stated that the stay was intended to allow the Board of Supervisors to consider potential | |
| 24 | changes to the Ordinance, and to afford the retailers an opportunity to adjust to any new | |
| 25 | requirements before having to comply. | |
| 26 | 6. On May 17, 2011, a proposed amended Ordinance was introduced before the | |
| 27 | Board of Supervisors and referred to the Board's Public Safety Committee. The proposed | |
| 28 | amendment would modify the Ordinance's disclosure requirements, direct the Department of the | |
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| 1 | Environment to adopt new implementing regulations, and require that retailers comply within 15 | |
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| 2 | days of adoption with certain of the regulations and within 30 days for the remaining regulations. | |
| 3 | 7. Given the stay of enforcement and the proposed amendment, the parties agree that | |
| 4 | motion practice in this case should be deferred pending enactment of any amendments and/or | |
| 5 | adoption of the new regulations. The parties will meet and confer regarding a briefing schedule | |
| 6 | to be proposed to the Court once any amendments are enacted or new regulations adopted. | |
| 7 | 8. Because of the shortness of the compliance deadlines in the proposed amended | |
| 8 | Ordinance, CTIA anticipates that it may request preliminary injunctive relief from the Court | |
| 9 | should the deadlines be enacted as proposed. | |
| 10 | 9. The parties propose that the case management conference currently set for June 16, | |
| 11 | 2011 be continued to a date convenient to the Court, at which time the parties can inform the | |
| 12 | Court of the City's progress toward enacting any amendments or new regulations. Given the | |
| 13 | anticipated timetable for the City's consideration of the proposed amendments, the parties | |
| 14 | respectfully suggest September or October of this year as an appropriate time for such a | |
| 15 | conference. | |
| 16 | STIPULATION | |
| 17 | The parties accordingly stipulate as follows: | |
| 18 | 1. The City agrees and stipulates to extend the stay of any enforcement of the | |
| 19 | existing Ordinance and Regulations until further notice. | |
| 20 | 2. Motion practice in this case shall be deferred pending enactment of amendments to | |
| 21 | the Ordinance and/or adoption of new implementing regulations. | |
| 22 | 3. The parties will meet and confer regarding a briefing schedule to be proposed to | |
| 23 | the Court once amendments are enacted or new regulations adopted. | |
| 24 | 4. The case management conference c urrently scheduled for June 16, 2011 be is set for | |
| 25 | continued to October 6, 2011, at 11:00 AM. | |
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| 1 | Dated: June 7, 2011 | JONES DAY |
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| 2 | | |
| 3 | | By: /s/ Craig E. Stewart Craig E. Stewart |
| 4 | | Attorneys for Plaintiff |
| 5 | | CTIA – The Wireless Association® |
| 6 | Dated: June 7, 2011 | DENNIS J. HERRERA, State Bar #139669 |
| 7 | | City Attorney WAYNE SNODGRASS, State Bar #148137 |
| 8 | | VINCE CHHABRIA, State Bar #208557 |
| 9 | | Deputy City Attorneys City Hall, Room 234 |
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| 10 | | Telephone: (415) 554-4674 |
| 11 | | Facsimile:(415) 554-4699E-Mail:vince.chhabria@sfgov.org |
| 12 | | |
| 13 | | By: Vince Chhabria |
| 14 | | Attorneys for Defendant |
| 15 | | The City And County Of San Francisco, |
| 16 | | California |
| 17 | IT IS SO ORDERED. | |
| 18 | Dated: June 16, 2011. | STES DISTRICT |
| 19 | Dated | |
| 20 | | SVILLIAM H. ALSUP |
| 21 | | GRANTED CLAUDGE |
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| 23 | | Judge William Alsup |
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| 25 | | THEN DISTRICT OF CON |
| 26 | SFI-699619v1 | DISTRICT OF |
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| 20 | | Stip. Re Stay and Briefing |
| | | - 3 - No. C 10-03224 WHA |

| 1 | Dated: June 7, 2011 | JONES DAY |
|----------|---------------------|--|
| 2 | | By: /s/ Craig E. Stewart |
| 3 | | Craig E. Stewart |
| 4 | | Attorneys for Plaintiff CTIA – The Wireless Association® |
| 6 | Dated: June 7, 2011 | DENNIS J. HERRERA, State Bar #139669 |
| 7 | | City Attorney WAYNE SNODGRASS, State Bar #148137 |
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| 13 | | By: Unce Chhabria ass Vince Chhabria |
| 14 | | |
| 15 | | Attorneys for Defendant The City And County Of San Francisco, California |
| 16 17 | IT IS SO ORDERED. | |
| 18 | | |
| 19 | Dated: | |
| 20 | | WILLIAM H. ALSUP |
| 21 | | UNITED STATES DISTRICT JUDGE |
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