

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

David C. Bohrer (No. 212397)
david.bohrer@valoremlaw.com
VALOREM LAW GROUP, LLP
60 South Market Street, Suite 1250
San Jose, California 95113-2396
Telephone: (408) 938-3882
Facsimile: (408) 915-2672

J. Patrick Heptig (No.793940 (Texas))
pat.heptig@valoremlaw.com
Of Counsel (*pro hac vice pending*)
VALOREM LAW GROUP, LLP
15050 E. Beltwood Pkwy.
Addison, Texas 75001
Telephone: (214) 451-2154
Facsimile: (312) 676-5499

Attorneys for Plaintiff
AQUATIC AV, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AQUATIC AV, INC., a California corporation,

Plaintiff,

vs.

THE MAGNADYNE CORPORATION,
INC., a California corporation,

Defendant.

Case No. 3:14-cv-1931 NC

**AGREED MOTION AND ~~PROPOSED~~
ORDER EXTENDING INITIAL CMC AND
RELATED DEADLINES**

Courtroom: A, 15th Floor
Judge: Hon. Nathanael Cousins

1 Pursuant to Civil Local Rules 6-2 and 6-3, plaintiff Aquatic AV, Inc. (“Aquatic” or
2 “plaintiff”), by and through its counsel, hereby submits the following Agreed Motion and
3 [Proposed] Order Extending Initial CMC and Related Deadlines (“Motion to Extend”), and
4 supporting Declaration of David C. Bohrer in support of Agreed Motion and [Proposed] Order
5 Extending Initial CMC and Related Deadlines (“Bohrer Decl.”).

6 1. The action entitled *Aquatic AV, Inc. v. The Magnadyne Corporation*, No. 3:14-cv-
7 1931 NC was commenced on April 25, 2014.

8 2. In an effort to facilitate settlement discussions, plaintiff did not immediately serve the
9 summons and complaint. Plaintiff provided a courtesy copy of the complaint to defendant The
10 Magnadyne Corporation, Inc. (“Magnadyne” or “defendant”) and invited informal settlement
11 discussions.

12 3. Mr. Marc Lorelli, Brooks Kushman, P.C., responded on behalf of Magnadyne and
13 expressed interest in discussing possible early resolution.

14 4. The parties, through their counsel (Mr. Bohrer and Mr. Lorelli), did in fact engage in
15 settlement discussions over the approximate period early May, 2014 continuing up through the
16 present; the parties’ efforts in this regard have included entering into a written agreement protecting
17 confidentiality of settlement discussions, numerous substantive oral and written settlement
18 communications, distribution and discussion of defendant’s sales data regarding the accused
19 products, and plaintiff’s preparation and presentation of claim charts.

20 5. The settlement discussions, while ongoing, have not yet resolved the matter and
21 plaintiff has therefore served the complaint using the alternate procedures set forth in Federal Rule
22 of Civil Procedure 4(d) (“waiving service”). In particular, on June 24, 2014, plaintiff served
23 defendant with a request to waive service, which defendant has agreed to do. Defendant’s
24 responsive pleading comes due under Rule 4(d)(3) on August 25, 2014.

25 6. On April 28, 2014, the Court entered its Order Setting Case Management Conference
26 and ADR Deadlines [D.N. 6], stating in pertinent part:

27 ///

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

July 2, 2014

Last day to:

- meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan
- file ADR Certification signed by Parties and Counsel
- file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference

July 16, 2014

Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement

July 23, 2014

INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Courtroom A, 15th Floor at 10:00 A.M.

7. The parties seek to extend the above deadlines so they fall after defendant's responsive pleading comes due on August 25, 2014, as follows:

August 27, 2014

Last day to:

- meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan
- file ADR Certification signed by Parties and Counsel
- file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference

September 3, 2014

Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement; last day for plaintiffs/defendants to file consent or declination to proceed before Magistrate Judge.¹

September 10, 2014

INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Courtroom A, 15th Floor at 10:00 A.M. [or as soon thereafter as the Court may prefer]

8. Mr. Lorelli, on behalf of Magnadyne, has reviewed the content of this motion and advised on behalf of Magnadyne that there is no objection to either the content or the relief

¹ As this motion was being finalized for filing, on July 1, 2014, a clerk's notice [D.N. 9] was filed extending initial CMC to July 30, 2014 and setting deadline of July 16, 2014 for plaintiffs/defendants to consent or decline to proceed before a Magistrate Judge. Consistent with the foregoing schedule, plaintiff seeks to extend the deadline to consent or decline to proceed before a Magistrate Judge to September 3, 2014 (as well as extend the initial CMC to September 10, 2014).

1 requested. (Since Mr. Lorelli has not yet entered an appearance on behalf of Magnadyne, he lacked
2 the ability to stipulate as counsel of record.)

3 WHEREFORE, for the reasons stated herein and the supporting Bohrer Decl., plaintiff
4 requests the Court to extend the initial case management conference and related deadlines as
5 provided in the attached proposed order.

6 Dated: July 1, 2014

VALOREM LAW GROUP, LLP

7 By: /s/ David C. Bohrer
8 David C. Bohrer
9 Attorneys for Plaintiff
10 AQUATIC AV, INC.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
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

Based upon the plaintiff's Agreed Motion and ~~Proposed~~ Order Extending Initial CMC and Related Deadlines, as well as the Declaration of David C. Bohrer in support of Agreed Motion and ~~Proposed~~ Order Extending Initial CMC and Related Deadlines, the initial case management order and related deadlines are extended as follows:

August 27, 2014

Last day to:

- meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan
- file ADR Certification signed by Parties and Counsel
- file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference

September 3, 2014

Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement; last day for plaintiffs/defendants to consent or decline to proceed before a Magistrate Judge

September 10, 2014

INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Courtroom A, 15th Floor at 10:00 A.M. [or as soon thereafter as the Court may prefer]

IT IS SO ORDERED.

Dated: July 8, 2014



CERTIFICATE OF SERVICE

I am a resident of the State of California, over the age of eighteen (18) years, and not a party to the within action. My business address is Valorem Law Group, LLP, 60 South Market Street, Suite 1250, San Jose, California 95113.

On July 1, 2014, I served the foregoing document described as on each interested party as follows:

AGREED MOTION AND [PROPOSED] ORDER EXTENDING INITIAL CMC AND RELATED DEADLINES

Marc Lorelli, Esq.
mlorelli@brookskushman.com
BROOKS KUSHMAN, P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Telephone: (248) 358-4400
Facsimile: (248) 358-3351

[By Electronic Mail] I caused the foregoing document to be served electronically by electronically mailing a true and correct copy through Valorem Law Group, LLC's electronic mail system to the email address, as set forth above, and the transmission was reported as complete and no error was reported.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 1, 2014 at San Jose, California.

/s/ Barbara Golstein
Barbara Golstein

CERTIFICATE OF SERVICE

I, David C. Bohrer, am the ECF User whose identification and password are being used to file this document. I hereby certify that on July 1, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email address on file with the Clerk of the Court.

Dated: July 1, 2014

/s/ David C. Bohrer
David C. Bohrer

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