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6
 7 **UNITED STATES DISTRICT COURT**
 8 **NORTHERN DISTRICT OF CALIFORNIA**
 9 **SAN FRANCISCO DIVISION**

10
 11 E & E CO., LTD., a California corporation,
 12 **Plaintiff,**

13 vs.

14 LIGHT IN THE BOX LIMITED, a Hong
 Kong corporation,
 15 **Defendant.**

Case No. 3:15-CV-00069-EMC

Judge Edward M. Chen

**STIPULATED REQUEST AND
 [PROPOSED] ORDER EXTENDING
 TIME FOR DEFENDANT TO FILE
 REPLY IN SUPPORT OF MOTION TO
 DISMISS THE SECOND AMENDED
 COMPLAINT**

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 18 Plaintiff E & E Co., Ltd., (“Plaintiff” or “E&E”) and Defendant Light In The Box
 19 Limited (“Defendant” or “LITB”) (collectively, the “Parties”), hereby stipulate to a one week
 20 extension of the deadline for Defendant to file and serve its Reply in Support of the Motion to
 21 Dismiss from January 19, 2016 to January 26, 2016. The Parties’ stipulation is based on the
 22 following facts:

23 1. Plaintiff E&E filed a Second Amended Complaint (“SAC”) in the above captioned
 24 case against Defendant LITB on October 14, 2015 (Dkt. No. 60) asserting claims for
 25 (1) Copyright Infringement; (2) False Designation of Origin and False Advertising (15 U.S.C. §
 26 1125(a)); and (3) California Unfair Competition (“UCL Claim”);

27 2. Defendant LITB filed a motion to dismiss E&E’s claims for False Advertising and
 28 the UCL Claim on December 28, 2015 (Dkt. No. 72). With respect to the UCL Claim, LITB

1 argued that the SAC's failure to identify the prong or prongs of the California Business and
2 Professions Code being invoked, as well as the specific acts forming the basis of the alleged
3 violation, is insufficient to satisfy the notice requirements of Rule 8;

4 3. Plaintiff E&E filed an Opposition to LITB's Motion to Dismiss the SAC on
5 January 11, 2016 (Dkt. No. 74). In its Opposition, E&E expressed a willingness to dismiss its
6 claim for False Advertising, but maintains that the UCL Claim was sufficiently pled. To resolve
7 any doubt, E&E expressed a willingness to further amend the SAC to identify the specific prongs
8 and acts forming the basis of the UCL Claim;

9 4. In light of E&E's expressed willingness to amend the SAC with respect to both the
10 False Advertising claim and the UCL Claim, LITB offered to stipulate to such an amendment.
11 E&E requested that LITB identify any further perceived deficiencies in the proposed draft "Third
12 Amended Complaint" attached to E&E's Opposition as Exhibit A ("Opp. Ex. A") (Dkt. No. 74-1).
13 LITB has requested a one week extension to consider whether E&E's proposed amendment, Opp.
14 Ex. A, should be subject to a further motion to dismiss under Fed. R. Civ. P. 12(b)(6). If LITB
15 decides not to challenge the proposed amended complaint under Fed. R. Civ. P. 12(b)(6), it has
16 agreed to withdraw the pending Motion to Dismiss the SAC, enter into a stipulation permitting
17 E&E to file a Third Amended Complaint as proposed in Opp. Ex. A, and has further agreed that it
18 will not file any further motion to dismiss the contemplated Third Amended Complaint under Fed.
19 R. Civ. P. 12(b)(6). If LITB still believes that the proposed document in Opp. Ex. A contains
20 pleading deficiencies, LITB has agreed that it will notify E&E of the alleged deficiencies in
21 advance of stipulating to an amendment of the pleadings, in order to provide E&E with the
22 opportunity to consider whether it needs to cure any such alleged deficiency. As such, the Parties
23 request more time to evaluate that course of action before expending any further Party or Court
24 time and expense litigating the present motion;

25 5. The Parties submit that the requested extension will have no effect on the scheduled
26 date for the Hearing on the Motion to Dismiss the Second Amended Complaint, currently set for
27 February 11, 2016;

1 6. The Parties submit that this agreement was made in the spirit of conserving judicial
2 resources and is in the best interests of the Parties.

3 The Parties, therefore, respectfully request that the deadline for Defendant to file
4 and serve its Reply in Support of the Motion to Dismiss be reset from January 19, 2016, to
5 January 26, 2016.

6 Dated: January 19, 2016

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9 *Attorney for Defendant, Light In The Box Limited*

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15 *Attorneys for Plaintiff, E & E CO., LTD.*

16 **Attestation:** Pursuant to Civil Local Rule 5-1(i)(3), the filer attests that concurrence in the filing
17 of this document has been obtained from the signatories to this document.
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1 **[PROPOSED] ORDER**

2 Pursuant to the Parties' stipulation and for good cause shown, IT IS HEREBY
3 ORDERED that:

4 1. The deadline for Defendant Light In The Box Limited to file and serve its Reply in
5 Support of the Motion to Dismiss the Second Amended Complaint shall be reset from January 19,
6 2016, to January ²⁵~~26~~, 2016.

7 Pursuant to Stipulation, IT IS SO ORDERED.

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9 Dated: January ¹⁹, 2016

10 _____
11 Edward M. Chen,
12 United States District Judge

