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15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**
 17 **OAKLAND DIVISION**

18 FREECYCLESUNNYVALE,
 19 a California unincorporated association,

20 Plaintiff,

21 v.

22 THE FREECYCLE NETWORK,
 23 an Arizona corporation,

24 Defendant.

CASE NO. C06-00324 CW

**STIPULATED REQUEST FOR ORDER
 CHANGING TIME UNDER CIVIL L.R. 6-2**

Before: Honorable Claudia Wilken

25 THE FREECYCLE NETWORK, INC., an
 26 Arizona Corporation,

27 Counterclaimant,

28 v.

FREECYCLESUNNYVALE, a California
 unincorporated association,

Counterdefendant.

1 PURSUANT TO CIVIL L.R. 6-2, Plaintiff FreecycleSunnyvale and Defendant The
2 Freecycle Network, Inc., respectfully request this Court to enter an order changing time.

3 **I. INTRODUCTION**

4 The above-captioned lawsuit concerns The Freecycle Network's claim of trademark rights
5 over the term "freecycle" and a stylized logo depicting that term. FreecycleSunnyvale seeks a
6 declaration of non-infringement or, in the alternative, that the alleged trademarks are generic or
7 that The Freecycle Network has engaged in naked licensing. The Freecycle Network filed
8 counterclaims, alleging trademark infringement, contributory infringement, and unfair
9 competition under the Lanham Act, as well as California state-law claims for unfair competition.
10 Counsel for both parties appear *pro bono*. This Court's Case Management Order presently sets
11 the fact discovery cutoff for August 1, 2006. *See* Minute Order (Docket # 18). For the following
12 reasons, FreecycleSunnyvale and The Freecycle Network respectfully request a ninety (90) day
13 extension of the fact discovery cutoff and all other deadlines in the Case Management Order.

14 **II. REASONS FOR THE REQUESTED ENLARGEMENT OF TIME**

15 First, fact discovery should be extended because the issues that will be litigated before this
16 Court have not been framed. The Court ruled on FreecycleSunnyvale's motions to dismiss and
17 strike The Freecycle Network's counterclaims on July 25, 2006. In its order, this Court granted
18 The Freecycle Network leave to amend within two weeks of the date of the order. Thus, the
19 Freecycle Network is not required to file amended counterclaims until after the current fact
20 discovery cutoff. Accordingly, there is uncertainty as to how the parties will opt to proceed.

21 Second, the parties believe that additional discovery is necessary in this case. For
22 example, the parties have scheduled depositions but have not yet completed their production of
23 documents.

24 Third, assuming that fact discovery will be extended, the other deadlines in this Court's
25 Case Management Order should be similarly extended by ninety (90) days.

26 **III. DISCLOSURE OF PREVIOUS TIME MODIFICATIONS**

27 The parties have not previously sought an order modifying time in this case.
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1 **IV. EFFECT OF THE TIME MODIFICATION ON THE SCHEDULE OF THE CASE**

2 The parties attach a proposed order that revises this Court's Case Management Order by
 3 extending the fact discovery cutoff and all other deadlines by ninety (90) days. If a ninety-day
 4 extension of a deadline would fall on a weekend or holiday, the parties propose that the new
 5 deadline be the following business day. The following table summarizes the proposed changes to
 6 the Case Management Order and to the schedule of the case.

7

8 Deadlines	Current Cutoff	Proposed Cutoff
9 Completion of Fact Discovery:	08/01/06	11/01/06
10 Disclosure of identities and reports of expert witnesses:	09/01/06	12/01/06
11 Completion of Expert Discovery:	10/27/06	01/29/07
12 Plaintiff to file dispositive motion and notice for hearing on 12/8/06 at 10:00 a.m.:	10/27/06	01/29/07
13 Defendant opposition and any cross motion (contained in one brief):	11/10/06	02/12/07
14 Plaintiff reply/opposition:	11/17/06	02/19/07
15 Surreply:	11/27/06	02/27/07
16 All case-dispositive motions to be heard at 10:00 a.m. on or before:	12/08/06	03/08/07
17 Final Pretrial Conference at 1:30 p.m. on:	[to be set]	[to be set]
18 A Trial will begin at 8:30 a.m. on:	[to be set]	[to be set]

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 27 The parties' proposed order will not affect the ADR process. On June 13, 2006, the
 28 parties engaged in court-connected mediation, which was conducted by William N. Herbert,

