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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," the phrase "The Freecycle Network," and a stylized logo depicting the  
6 term "freecycle." FreecycleSunnyvale seeks a declaration of non-infringement or, in the  
7 alternative, that the alleged trademarks are generic or that The Freecycle Network has engaged in  
8 naked licensing. The Freecycle Network filed counterclaims, alleging trademark infringement,  
9 contributory infringement, and unfair competition under the Lanham Act, as well as California  
10 state-law claims for unfair competition. Counsel for both parties appear *pro bono*. This Court's  
11 Case Management Order presently sets the fact discovery cutoff for February 2, 2006. *See* Order  
12 (Docket # 57). For the following reasons, FreecycleSunnyvale and The Freecycle Network  
13 respectfully request a ninety (90) day extension of the fact discovery cutoff and all other  
14 deadlines in the Case Management Order.

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

16 First, the parties believe that additional time to conduct discovery is necessary in this case.  
17 In an effort to amicably resolve discovery disputes, the parties have met and conferred on several  
18 occasions, most recently on December 18, 2006. Many matters have been resolved amicably, and  
19 the parties will supplement their discovery. In addition, third party discovery is ongoing. Much  
20 of the additional discovery that will be forthcoming is preliminary to selecting deponents and  
21 scheduling depositions.

22 Second, the parties will again focus their efforts in an attempt to resolve their differences  
23 through mediation. Previously, in this Court, the parties participated in court-connected  
24 mediation on June 13, 2006, but were unable to settle the lawsuit or narrow the issues. A related  
25 case, which is on appeal to the Ninth Circuit, was selected for inclusion in the Ninth Circuit's  
26 mediation program. That mediation is scheduled for January 18 and 19, 2007. The parties will  
27 attempt to reach a global settlement that will include the action before this Court.  
28

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

### 3 **III. DISCLOSURE OF PREVIOUS TIME MODIFICATIONS**

4 The parties have previously sought orders modifying time in this case. On June 2, 2006,  
5 this Court entered an order extending time to complete court-connected mediation in the Northern  
6 District of California. *See* Order (Document # 35). On August 1, 2006, this Court entered an  
7 order extending the fact discovery cutoff and related deadlines. *See* Order (Document #44). On  
8 October 3, 2006, this Court entered an order extending the fact discovery cutoff and related  
9 deadlines. *See* Order (Document #57).

### 10 **IV. EFFECT OF THE TIME MODIFICATION ON THE SCHEDULE OF THE CASE**

11 The parties attach a proposed order that revises this Court's Case Management Order by  
12 extending the fact discovery cutoff and all other deadlines by approximately ninety (90) days.  
13 The following table summarizes the proposed changes to the Case Management Order and to the  
14 schedule of the case.

16 Deadlines	Current Cutoff	Proposed Cutoff
17 Completion of Fact Discovery:	02/02/07	05/02/07
18 Disclosure of identities and 19 reports of expert witnesses:	03/01/06	06/01/07
20 Completion of Expert 21 Discovery:	03/30/07	06/29/07
22 Plaintiff to file dispositive 23 motion and notice for hearing on 12/8/06 at 10:00 a.m.:	03/30/07	06/29/07
24 Defendant's opposition and 25 any cross motion (contained in one brief):	04/13/07	07/13/07
26 Plaintiff's reply/opposition:	04/20/07	07/20/07
27 Surreply:	04/27/07	07/27/07

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Deadlines	Current Cutoff	Proposed Cutoff
Further Case Management Conference and all case-dispositive motions to be heard at 10:00 a.m. on or before:	05/11/07	08/10/07
Final Pretrial Conference at 1:30 p.m. on:	[to be set]	[to be set]
A Trial will begin at 8:30 a.m. on:	[to be set]	[to be set]

The parties' proposed order will not affect the ADR process in this Court. On June 13, 2006, the parties engaged in court-connected mediation, which was conducted by William N. Herbert, Esquire. That mediation was unsuccessful in settling the lawsuit or narrowing the issues to be litigated. The parties' proposed order will facilitate the ADR process in a related case before the Ninth Circuit, which may settle the lawsuit or narrow the issues to be litigated.

