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1	Case 4:06-cv-00324-CW	Document 66	Filed 07/17/2007	Page 1 of 4	
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9	UNITED STATES DISTRICT COURT				
10	NORTHERN DISTRICT OF CALIFORNIA				
11					
12	OAKLAND DIVISION				
13	FREECYCLESUNNYVALE,		CASE NO. C06-0032	4 CW	
14	a California unincorporated as	sociation,			
15	Plaintiff,		 STIPULATED REQ	UEST FOR ORDER	
16	v.		CHANGING TIME	UEST FOR ORDER UNDER CIVIL L.R. 6-2	
17	THE FREECYCLE NETWOF an Arizona corporation,	RK,			
18	•		Before: Honorable C	laudia Wilken	
19	Defendant.				
20	THE FREECYCLE NETWO	RK, INC., an			
21	Arizona Corporation,				
22	Counterclai	mant,			
23	v.				
24	FREECYCLESUNNYVALE, unincorporated association,	a California			
25	Counterdef	endant.			
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			STIPULATED REQ	ÜEST FOR ORDER CHANGING TIME CASE NO. C06-00324 CW	

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

INTRODUCTION

The above-captioned lawsuit concerns The Freecycle Network's claim of trademark rights over the term "freecycle," the phrase "The Freecycle Network," and a stylized logo depicting the term "freecycle." FreecycleSunnyvale seeks a declaration of non-infringement or, in the alternative, a declaration that the alleged trademarks are generic or that The Freecycle Network has engaged in naked licensing. The Freecycle Network has filed counterclaims, alleging trademark infringement, contributory infringement, and unfair competition under the Lanham Act, as well as California state-law claims for unfair competition. Counsel for both parties appear pro bono. This Court's Case Management Order presently sets the fact discovery cutoff for August 3, 2007. See Order (April 3, 2007; Document #65). For the following reasons, The Freecycle Network and FreecycleSunnyvale respectfully request a ninety (90) day extension of the fact discovery cutoff for the limited purpose of completing previously noticed depositions, and all other deadlines in the Case Management Order.

REASONS FOR THE REQUESTED ENLARGEMENT OF TIME II.

The parties' request for an extension of the fact discovery cutoff is limited to the sole purpose of completing party and non-party depositions previously noticed. Due to witness unavailability, party and non-party witnesses whose depositions were noticed in advance of the current discovery cutoff of August 3, 2007, will not be available for deposition prior to August 3rd. Should the Court grant the parties request for a ninety (90) day extension to the current discovery cutoff, however, the parties have agreed that they will not propound any further written discovery requests or deposition notices.

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

DISCLOSURE OF PREVIOUS TIME MODIFICATIONS III.

The parties have previously sought orders modifying time in this case. On June 2, 2006, this Court entered an order extending time to complete court-connected mediation in the Northern District of California. See Order (June 2, 2006; Document # 35). On three subsequent occasions, this Court entered orders extending the fact discovery cutoff and related deadlines. See Order (August 1, 2006; Document #44); Order (October 3, 2006; Document #57); Order (December 22, 2006; Document # 62); Order (April 3, 2007; Document # 65).

IV. EFFECT OF THE TIME MODIFICATION ON THE SCHEDULE OF THE CASE

The parties attach a proposed order that revises this Court's Case Management Order by extending the fact discovery cutoff and all other deadlines by approximately ninety (90) days.

The following table summarizes the proposed changes to the Case Management Order and to the schedule of the case.

Deadlines	Current Cutoff	Proposed Cutoff
Completion of Fact Discovery:	08/03/07	11/01/07
Disclosure of identities and reports of expert witnesses:	09/04/07	12/03/07
Completion of Expert Discovery:	10/01/07	12/31/07
Plaintiff to file dispositive motion(s) and notice for hearing on 2/28/08 at 2:00 p.m.:	10/11/07	01/10/08
Defendant's opposition and any cross motion (contained in one brief):	10/25/07	01/23/08
Plaintiff's reply/opposition:	11/01/07	01/30/08
Surreply:	11/08/07	02/06/07
Further Case Management Conference at 2:00 p.m. and all case-dispositive motions to be heard on or before:	[to be set]	[to be set]
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, Esq. In addition, during the months of January to April, 2007, the parties engaged in mediation through the Ninth Circuit's mediation program by virtue of a related case which is on appeal to the Ninth Circuit, in an attempt to reach a global settlement including the action before this Court. Both attempts at mediation have been unsuccessful in settling the lawsuit or narrowing the issues to be litigated.

V. CONCLUSION

For the foregoing reasons, the parties respectfully request an order changing time that grants an approximately ninety (90) day extension of the fact discovery cutoff for the limited purpose of completing previously noticed depositions, and all other deadlines in the Case Management Order.

Dated: July 17, 2007

PERKINS COIE LLP
PAUL J. ANDRE
LISA KOBIALKA
ESHA BANDYOPADHYAY
SEAN M. BOYLE

By: /s/

By: /s/ Esha Bandyopadhyay

THE FREECYCLE NETWORK, INC.

Dated: July 17, 2007

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Attorneys for Defendant

Filer's Attestation: Pursuant to General Order No. 45, Section X(B), the filer hereby attests that the signatories' concurrence in the filing of this document has been obtained.

ERIC B. EVANS