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15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA

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|----|----------------------------|---|---------------------------------|
| 17 | |) | CASE NO: 09-CV-5939 PJH |
| 18 | PETROLIAM NASIONAL BERHAD, |) | |
| 19 | |) | MOTION PURSUANT TO LOCAL |
| 20 | Plaintiff, |) | RULE 6-3 TO POSTPONE |
| 21 | |) | HEARING ON PLAINTIFF'S |
| 22 | vs. |) | MOTION TO STRIKE CERTAIN |
| 23 | |) | AFFIRMATIVE DEFENSES |
| 24 | GODADDY.COM, INC., |) | |
| 25 | |) | JUDGE: Hon. Phyllis J. Hamilton |
| 26 | Defendant. |) | |
| 27 | |) | |
| 28 | |) | |

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29 MOTION TO POSTPONE HEARING ON
 30 PLAINTIFF'S MOTION TO STRIKE
 31 CERTAIN AFFIRMATIVE DEFENSES
 32 Case No: 09-CV-5939 PJH

1 On August 3, 2010, Defendant GoDaddy.com, Inc. (“Go Daddy”) filed a motion for
2 judgment on the pleadings and for an order finding Plaintiff Petroliam Nasional Berhad
3 (“Plaintiff”) liable for attorneys’ fees (the “Dispositive Motion”). The hearing Go Daddy’s
4 Dispositive Motion is set for September 8, 2010, and the motion is fully briefed.

5 On August 25, 2010, Plaintiff filed a motion titled “Motion to Strike Certain Affirmative
6 Defenses of GoDaddy.” (The text of the motion, however, makes clear that Plaintiff seeks to
7 strike all of Go Daddy’s affirmative defenses.) Plaintiff set the hearing date for the Motion to
8 Strike for September 29, 2010. With this hearing date, Go Daddy’s opposition brief is due on
9 September 8, 2010, the day of the hearing on the Dispositive Motion. *See* Local Rule 7-3. Go
10 Daddy would then be forced to expend resources to oppose the Motion to Strike when the
11 complaint itself could be dismissed in the near term, rendering the Motion to Strike moot.
12 Depending on the schedule for decision on the Dispositive Motion, Plaintiff may also be required
13 to reply to the opposition, and the parties may be required to argue the motion before the
14 Dispositive Motion is resolved.

15 Go Daddy seeks to minimize unnecessary expense by postponing the hearing date for the
16 Motion to Strike until 5 weeks after the Dispositive Motion is decided. As Go Daddy has also
17 requested an order finding Plaintiff liable for attorneys’ fees, the minimization of fees may be in
18 Plaintiff’s interest as well. Go Daddy notes that Plaintiff could have filed its Motion to Strike
19 anytime after the Answer was filed on March 11, 2010, but instead waited until August 25, 2010
20 (long after the 21-day deadline to file a Motion to Strike pursuant to Fed. R. Civ. P. 12(f)). As
21 Plaintiff has delayed this long in filing its Motion to Strike, surely there is no prejudice to Plaintiff
22 in waiting until after the Dispositive Motion is decided to proceed with briefing for the Motion to
23 Strike.

24 Pursuant to Local Rule 6-3, Go Daddy has requested that Plaintiff stipulate to
25 postponement of the hearing on the Motion to Strike, but Go Daddy received no response to this
26 request. *See* Declaration of Hollis Hire (“Hire Decl.”), ¶ 2, Ex. A. Also, pursuant to Local Rule
27 6-3, Go Daddy states:

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- The schedule modifications in this case include:
 - On two occasions, the parties stipulated to an extension of time to respond to the Complaint, for a total of 60 days. *See* Hire Decl. ¶ 3.
 - The parties also stipulated to continue the second Case Management Conference in this case by one week to accommodate a personal scheduling conflict of counsel for Plaintiff. *See id.*
- As stated above, Go Daddy seeks the enlargement of time to avoid unnecessary expense in responding to Plaintiff’s Motion to Strike, filed 167 days following the Answer and while a Dispositive Motion is pending. If Go Daddy’s Dispositive Motion is granted, then the parties (and the Court) would have devoted resources to the belated Motion to Strike unnecessarily, as the decision on Dispositive Motion may render the Motion to Strike moot. If Go Daddy’s request for an Order Finding Plaintiff Liable for Attorneys’ Fees is granted, such mitigation of expense would be to the benefit of Plaintiff as well.
- The proposed time modification would not alter the schedule for the case, as no schedule has been set. *See id.*

Dated: August 30, 2010

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