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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DONGXIAO YUE,  
Plaintiff,  
v.  
MSC SOFTWARE CORPORATION,  
Defendant.

Case No. 15-cv-05526-PJH

**ORDER DENYING PLAINTIFF'S  
ADMINISTRATIVE MOTION TO  
EXTEND DISCOVERY PERIOD FOR  
THE COPYRIGHT CLAIMS AND  
DENYING AS MOOT MSC'S  
ADMINISTRATIVE MOTION FOR  
CLARIFICATION**

Re: Dkt. Nos. 47, 48

Before the court is plaintiff Dongxiao Yue's "Motion for Administrative Relief to Extend Discovery Period for the Copyright Claims." Dkt. 47. Yue's motion asks the court to expand the discovery period for his copyright claims based on Polar Bear Products, Inc. v. Timex Corp., 483 F.3d 700 (9th Cir. 2004). Shortly after plaintiff's motion was filed, defendant MSC Software Corporation responded with a motion seeking clarification as to whether Yue's motion, which was styled as a motion for administrative relief under Local Rule 7-11, should be treated as a discovery motion or as a noticed motion under Local Rule 7-2. Dkt. 48.

The court's July 20 order indicated that Yue could make a motion to extend the discovery period, in light of Yue's expressed intent to join Netbula as a party to this case and after any amended complaint was filed. See Dkt. 46 at 3-4. However, the court will not reconsider the temporal scope for discovery until it is clear which parties will be joined in this case, and what claims will be asserted by the plaintiff.

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If Yue intends to join Netbula as a party, as indicated in his letter to the court, Dkt. 45, he must do so **by August 24**. Counsel for Netbula must enter an appearance on the docket. If Yue does not join Netbula by this date, he will be precluded from adding his fraud and unfair competition claims and from seeking any extended discovery period on the basis of the fraud claims. See Dkt. 44, 46.

If Yue decides not to join Netbula and to proceed only with his copyright and trademark claims, he may re-notice his instant motion to extend the discovery period based solely on his copyright claims. Such motion should be noticed before this court pursuant to Local Rule 7-2 and its 35-day briefing schedule. However, any such motion shall be not be made **until on or after August 24**, after plaintiff has decided whether to join Netbula and whether the fraud claims will be asserted in this case.

Accordingly, plaintiff's motion to extend the discovery period (Dkt. 47) is DENIED, although plaintiff may re-notice the motion under Local Rule 7-2 after August 24. Defendant's motion for clarification on the procedures regarding Yue's motion is DENIED as moot, in light of the foregoing.

**IT IS SO ORDERED.**

Dated: July 27, 2016



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PHYLLIS J. HAMILTON  
United States District Judge