

EXHIBIT 1

Carmen Medici

From: Robert A Mittelstaedt [ramittelstaedt@JonesDay.com]

Sent: Tuesday, June 28, 2011 4:49 PM

To: Carmen Medici

Cc: David Kiernan; Xan Bernay

Subject: Re: Apple- Extension of Time

You can say in your motion that Apple doesn't oppose your request to provide additional time for Noll but see no reason to defer the meet/confer date. De

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From: "Carmen Medici" [cmedici@rgrdlaw.com]

Sent: 06/28/2011 04:30 PM MST

To: Robert Mittelstaedt

Cc: David Kiernan; "Xan Bernay" <XanB@rgrdlaw.com>

Subject: RE: Apple- Extension of Time

I agree it was cordial, I did not mean for my recap to sound otherwise.

We've discussed it and cannot agree to a schedule for filing Supplemental Reports today. Nor are we ready to discuss the content of Roger's report. He is just too busy to divert attention away from his current obligations.

So, we ask that you stipulate to this schedule, to avoid motion practice:

1. **July 12, 2011:** Plaintiffs shall file a Supplemental Declaration by their expert, Roger G. Noll, stating that he can show antitrust impact and a methodology for measuring damages in accordance with the Court's May 19, 2011 Order.
2. **July 15, 2011:** Defendant shall file its Response to the Supplemental Declaration, if any.
3. **July 15, 2011:** Plaintiffs and Defendant shall submit a joint Stipulation setting forth the dates for Professor Noll to complete a Supplemental Report that is consistent with the Court's May 19, 2011 Order and for Defendant to submit its Supplemental Rebuttal Expert Report.

If I don't hear from you, I'll assume that you do not agree to the stipulation. Thank you again for understanding the time-sensitive nature of this request and speaking with me today.

Carmen

From: Robert A Mittelstaedt [mailto:ramittelstaedt@JonesDay.com]

Sent: Tuesday, June 28, 2011 4:09 PM

To: Carmen Medici

Cc: dkiernan@jonesday.com; Xan Bernay

Subject: RE: Apple- Extension of Time

This isn't exactly what happened in our call. We were, cordially I thought, exploring your position in

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relation to the court's order. I asked if you were in a position to agree on dates that the Court asked us to confer on. You said you'd check with Noll and your team. I didn't "refuse" anything. I didn't suggest July 12 instead of July 13 for Noll--you did so as not to reduce our time from three to two days. Let us know what you find out about when Noll will file his supplemental report and the intended scope and content of it. And at that point we will give you a final response on your request for a stipulation or a non-opposition to your admin motion.

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From: "Carmen Medici" <cmedici@rgrdlaw.com>
To: <ramittelstaedt@jonesday.com>, <dkiernan@jonesday.com>
Cc: "Xan Bernay" <XanB@rgrdlaw.com>
Date: 06/28/2011 03:45 PM
Subject: RE: Apple- Extension of Time

Bob, David-

Thanks for returning my call.

You said that you would not agree to any extension of time unless we agreed to a schedule for the submission of the Supplemental Report and Supplemental Rebuttal Report as contemplated footnote 1 of the Court's Order. As we discussed, we will endeavor to come up with a briefing schedule today for the Supplemental Report and Supplemental Rebuttal Report. If we cannot (and you still do not agree to the stipulation), then we will file a motion to push back the dates for Professor Noll's declaration as outlined in the email at the bottom of this thread.

We proposed to modify the stipulation to push back the dates for Professor Noll's declaration and Apple's response to July 13th and July 15th while maintaining the current date for submitting a schedule for submitting Supplemental Reports (July 8th). You refused. We also proposed that we change the due date for Professor Noll's declaration to July 12th instead of July 15th in order to give you three days to respond and you also refused that proposal.

We will talk internally about the scope of Roger's report and get back to you on that.

As we discussed, I will let you know via email if we cannot propose dates for the Supplemental Reports and are filing a motion before we file it tonight. You said you or David would be available to consider any proposals we had this evening.

Thanks,
Carmen

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From: Carmen Medici
Sent: Tuesday, June 28, 2011 2:31 PM
To: 'ramittelstaedt@jonesday.com'; 'dkiernan@jonesday.com'
Cc: Xan Bernay
Subject: RE: Apple- Extension of Time

Bob, David-

I tried to call both of you, but you were not available. Bob, your secretary said you were on a conference call and David, your phone went to voicemail. As I stated on the voicemail I left you David, it is important that we get this issue in front of the Court as soon as possible considering the tight time constraints. If we do not hear back from you by 7pm tonight, we will file a motion to change time (as outlined below in L.R. 6-3) rather than a stipulation. I hope we can avoid that.

I'll be in the office the remainder of the day. If I don't pick up my phone, please email me and I'll call you right away.

Thanks,
Carmen

From: Carmen Medici
Sent: Tuesday, June 28, 2011 12:34 PM
To: 'ramittelstaedt@jonesday.com'; 'dkiernan@jonesday.com'
Cc: Xan Bernay
Subject: Apple- Extension of Time

Bob, David-

We would like to submit a Stipulated Request for Order Changing Time to the Court changing the date for Professor Noll to submit his declaration. Because of his workload in other cases, he is unavailable to work on a declaration until at least July 6, 2011. We propose delaying this filing until July 13, 2011 and that Apple will file its Response by July 15, 2011 (if any).

We also propose that we complete the meet and confer contemplated in footnote 1 to July 15, 2011.

If you are amenable to this, please let me know so I can draw up the stipulation for your review and signature.

Thanks,
Carmen

I paste below the relevant portions of the Civil Local Rules for your reference.

6-2. Stipulated Request for Order Changing Time.

(a) Form and Content. The parties may file a stipulation, conforming to

Civil L.R. 7-12, requesting an order changing time that would affect the date of an

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event or deadline already fixed by Court order, or that would accelerate or extend time frames set in the Local Rules or in the Federal Rules. The stipulated request must be accompanied by a declaration that:

- (1) Sets forth with particularity, the reasons for the requested enlargement or shortening of time;
- (2) Discloses all previous time modifications in the case, whether by stipulation or Court order; and
- (3) Describes the effect the requested time modification would have on the schedule for the case.

(b) Action by the Court. After receiving a stipulated request under this Rule, the Judge may grant, deny or modify the requested time change.

6-3. Motion to Change Time.

(a) Form and Content. A motion to enlarge or shorten time may be no more than 5 pages in length and must be accompanied by a proposed order and by a declaration that:

- (1) Sets forth with particularity, the reasons for the requested enlargement or shortening of time;
- (2) Describes the efforts the party has made to obtain a stipulation to the time change;
- (3) Identifies the substantial harm or prejudice that would occur if the Court did not change the time; and
- (4) If the motion is to shorten time for the Court to hear a motion:
 - (i) Describes the moving party's compliance with Civil L.R. 37-1(a), where applicable, and

(ii) Describes the nature of the underlying dispute that would be addressed in the motion and briefly summarizes the position each party had taken.

(5) Discloses all previous time modifications in the case, whether by stipulation or Court order;

(6) Describes the effect the requested time modification would have on the schedule for the case.

7-12. Stipulations.

Every stipulation requesting judicial action must be in writing signed by all affected parties or their counsel. A proposed form of order may be submitted with the stipulation and may consist of an endorsement on the stipulation of the words, "PURSUANT TO STIPULATION, IT IS SO ORDERED," with spaces designated for the date and the signature of the Judge.

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