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 COUPONS, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

COUPONS, INC.,

Plaintiff,

vs.

JOHN STOTTMIRE, and DOES 1-10,

Defendants.

Case No. 5:07-CV-03457 HRL

**COUPONS' OPPOSITION IN PART TO
 DEFENDANT'S ADMINISTRATIVE
 MOTION TO EXTEND TIME TO
 ANSWER THE THIRD AMENDED
 COMPLAINT**

Judge: Honorable Howard R. Lloyd

Plaintiff Coupons, Inc. continues to attempt to be reasonable in its accommodation of Defendant Stottlemire's repeated requests for long continuances. Stottlemire's pending request for a continuance of his time to answer the Third Amended Complaint to January 31, 2009 is not reasonable. Coupons believes a continuance until December 15, 2008 is reasonable and that it takes into account the ten days lost to the aborted settlement effort.

I. ARGUMENT

Coupons filed its Third Amended Complaint on July 22, 2008, and the Court denied Stottlemire's motion to dismiss on November 6. Under the rules, Stottlemire's answer was due November 21. Stottlemire moved to extend his time to answer the complaint to January 31, 2009. The parties then apparently settled on November 13, so that Coupons did not previously file this opposition to Stottlemire's Motion. However, as explained in the cover letter accompanying this

1 opposition, Stottlemire breached the material terms of the settlement, requiring Coupons to
2 proceed with the case.

3 Given that ten days were lost to the settlement process, Stottlemire should be given ten
4 additional days beyond the time to answer previously stipulated to by Coupons (December 5) and
5 Stottlemire's answer should be due on December 15.

6 The Complaint was filed 16 months ago. Stottlemire has filed three motions to dismiss
7 Coupons' complaints and the parties have extensively briefed both factual and legal issues
8 involved with all of the causes of action -- the DMCA claims as well as the California state law
9 claims. There are no longer any mysteries; Stottlemire has had 16 months to come to grips with
10 the allegations and determine whether to admit or deny them. Moreover, he can amend his
11 answer as discovery proceeds, and we presume that leave to amend will be liberally allowed, as it
12 has with the Complaint. Given this history, it is unreasonable for Stottlemire to demand two and
13 one-half months to write an answer, even with his move out of state.

14 Stottlemire's status as a pro se litigant is no license for abandoning the parties' and the
15 Court's interests in moving the litigation forward. Stottlemire is not unsophisticated, and has
16 proven his understanding of the facts and issues in this case throughout his briefing and oral
17 arguments. He also has demonstrated his ability to maneuver in the litigation process and file a
18 variety of motions. (Indeed, he has demonstrated access to legal assistance in strategizing and
19 mobilizing counsel to assist him.)

20 Here, for example, Coupons' counsel informed Stottlemire on Monday evening,
21 November 10 of Coupons' willingness to stipulate to a two week extension. Stottlemire chose
22 not to work on the answer, but to instead draft and file this motion to extend time and the
23 accompanying detailed declaration in support of the motion by the morning of Wednesday,
24 November 12. Certainly Stottlemire can draft and file an answer to the Third Amended
25 Complaint, with which he is quite familiar, within the next month.

26 Indeed, he has dealt easily in a factual manner with the allegations of the complaint and
27 knows what he can deny or admit. On top of that he already knows that he wants to file
28

1 counterclaims. This particular litigant has more than enough time and energy to draft his answer
2 with the extension Coupons agreed to.

3 Finally, Coupons and its counsel are sympathetic to the fact that expected and unexpected
4 obstacles arise in people's personal lives. However, if litigation deadlines were entirely
5 dependent on people's schedules being free from competing time demands, the system would
6 come to a halt.

7 In conclusion, December 15 is enough time for Stottlemire to answer the Third Amended
8 Complaint and to file any counterclaims.

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10 Dated: November 24, 2008

FARELLA BRAUN & MARTEL LLP

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12 By: /s/ Neil A. Goteiner
13 Neil A. Goteiner

14 Attorneys for Plaintiff
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