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 6 Defendant, *pro se*

7 UNITED STATES DISTRICT COURT
 8 NORTHERN DISTRICT OF CALIFORNIA
 9 SAN JOSE DIVISION

10 COUPONS, INC., a California corporation,)	Case No.: 5:07-cv-03457-HRL
11 Plaintiff,)	OPPOSITION TO MOTION TO CONTINUE HEARING AND CASE MANAGEMENT DATES
12 vs.)	
13 JOHN STOTTLEMIRE, and DOES 1-10,)	
14 Defendant)	Courtroom: 2, 5 th Floor
)	Judge: Hon. Howard R. Lloyd

15 On October 22, 2007 Plaintiff Coupons, Inc (“Plaintiff”) filed a motion to continue
 16 hearing and case management dates. Defendant John Stottlemire (“Defendant”) opposes this
 17 motion on the ground that Farella Braun & Martel LLP are not recognized by the Court as the
 18 attorney of record in this action and therefore cannot bring a motion to continue hearing before
 19 this Court.

20 **PROCEDURAL HISTORY**

21 On July 2, 2007 Plaintiff filed its Complaint with this Court alleging violations of the
 22 Digital Millennium Copyright Act 17 U.S.C. § 1201 and related state law claims against
 23 Defendant.

24 On July 2, 2007 the Court referred this case to ECF.

25 On July 24, 2007 Defendant filed an Administrative Motion to Extend Time to File
 26 Response to the Complaint.

27 On July 26, 2007 Plaintiff filed its opposition to Defendant’s Administrative Motion to
 28 Extend Time to File Response to the Complaint.

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1 On August 1, 2007 this Court Granted In Part Defendant's Administrative Motion to
2 Extend Time to File Response to the Complaint.

3 On August 29, 2007 Plaintiff filed its First Amended Complaint with this Court again
4 alleging violations of the Digital Millennium Copyright Act 17 U.S.C. § 1201 and related state
5 law claims against Defendant.

6 On September 24, 2007 Defendant filed its Motion for Dismissal or in the Alternative
7 Motion for Summary Judgment. The date of November 13, 2007 was agreed upon by Defendant
8 and Plaintiff's lead counsel, Hollis Hire as the date the motion would be heard by the Court
9 whereby giving Plaintiff 35 days to file any opposition.

10 On October 15, 2007 Defendant filed its Motion for Sanctions Pursuant to Rule 11 of the
11 Federal Rules of Civil Procedure against Plaintiff and Plaintiff's lead counsel, Hollis Hire. The
12 date of November 20, 2007 was agreed upon by Defendant and Plaintiff's lead counsel, Hollis
13 Hire as the date the motion would be heard by the Court whereby giving Plaintiff 14 days to file
14 any opposition.

15 On October 19, 2007 Plaintiff filed its Substitution of Attorneys.

16 **DEFENDANT'S OPPOSTION TO PLAINTIFF'S MOTION**

17 Plaintiff's purported counsel, Farella Braun & Martel, LLP should not be recognized by
18 the Court as the attorney of record in this action and Plaintiff's Motion should be denied.

19 Civil Local Rule 11-5 states:

20 "Counsel may not withdraw from an action until relieved by order of the Court
21 after written notice has been given reasonably in advance to the client and to all
other parties who have appeared in the case."

22 General Order 45, Electronic Case Filing IV.C further states:

23 "Notification of Appearance. Because the ECF system's e-mailed Notices of
24 Electronic Filing (see Sec. II.G) will only be delivered to the original addressee, it
is important to keep the list of counsel current. Counsel shall follow these
25 instructions: (A) *A Notice of Appearance should be filed whenever counsel joins
a case;* (B) In the event that counsel from the same firm replace one another as
26 representatives of a client, a Notice of Substitution of Counsel shall be filed.; (C)
In the event that a particular counsel ceases to be involved with a case when the
27 party is still represented by other counsel, a Notice of Change in Counsel shall be
filed.; (D) The withdrawal of a party's sole remaining counsel is governed by
28 Civil Local Rule 11-5 and requires an order of the court.; (E) *The replacement of
one firm by another as counsel for a party also requires an order of the court.*"
(emphasis added)

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1
2 Civil Local Rule 7-1(a) states:

3 “Any written request to the Court for an order must be presented by one of the
4 following means: (1) Duly noticed motion pursuant to Civil L.R. 7-2; (2) A
5 motion to enlarge or shorten time pursuant to Civil L.R. 6-1; (3) When authorized,
6 an ex parte motion pursuant to Civil L.R. 7-10; (4) When applicable, a motion for
7 administrative relief pursuant to Civil L.R. 7-11; or (5) Stipulation of the effected
8 parties pursuant to Civil L.R. 7-12.”

9 Civil Local Rules require Plaintiff to file a motion to substitute counsel and provide
10 Defendant with the opportunity to oppose the motion. If Plaintiff had filed the required motion,
11 Defendant could have filed opposition to the motion on the following grounds:

- 12 a) Plaintiff, as of October 19, 2007, only had four days to answer Defendant’s
13 Motion to Dismiss or in the Alternative Motion for Summary Judgment
14 b) Defendant currently has a Motion for Sanctions Pursuant to Rule 11 of the
15 Federal Rules of Civil Procedure filed with the Court against Plaintiff and its
16 lead counsel, Hollis Hire; asking the Court to deny Hollis Hire’s withdrawal
17 from the action until after the Motion for Sanctions was decided by the Court.

18 The Court, if it grants Defendant’s Motion for Sanctions, could also order sanctions
19 against the law firm Wilson, Sonsini, Goodrich & Rosati. Plaintiff can not simply file a
20 Substitution of Attorney as it has done and remove Defendant’s rights to oppose the substitution.

21 As Plaintiff has not filed the appropriate motion with the Court to obtain the order
22 required to substitute law firms, Wilson, Sonsini, Goodrich & Rosati remain the attorneys for
23 Plaintiff until relieved by order of the Court.

24 Plaintiff’s only reason given to request an extension of time is the substitution of the law
25 firm of Farella Braun & Martel LLP and as Plaintiff’s substitution violates General Orders and
26 Civil Local Rules, Defendant requests that the motion be denied.

27 Dated: October 22, 2007

28 By: _____/s/
John A Stottlemire, *pro se*

1 **CERTIFICATE OF SERVICE**

2 I certify that on October 22, 2007, I caused John Stottlemire’s Opposition to Motion to
3 Continue Hearing and Case Management Dates to be electronically filed with the Clerk of Court
4 through ECF, and that ECF will send an e-notice of the electronic filing to the following:

5 Neil A. Goteiner, ngoteiner@fbm.com
6 Dennis M. Cusack, dcusack@fmb.com
7 Hollis Beth Hire, hhire@wsgr.com
8 John L. Slafsky, jslafsky@wsgr.com

9 _____ /s/
10 33103 Lake Garrison St
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12 John Stottlemire, *pro se*