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E-Filed 11/10/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FEDERAL TRADE COMMISSION,

No. C 09-03814 RS

Plaintiffs,

**ORDER RE MOTION TO ENLARGE
TIME**

v.

SWISH MARKETING, INC., et al,

Defendants.

_____ /

Defendants have filed a motion under Civil Local Rule 6-3 requesting that they be given an open extension of time to respond to the complaint herein that would not expire until 21 days after the District Court for the District of Columbia has ruled on the Federal Trade Commission’s motion to dismiss in a declaratory relief action brought in that forum by several of the defendants (“the DC action”). The DC action was filed some time after the FTC had threatened to bring this suit, but before it was filed. Defendants assert that if the FTC’s motion to dismiss the DC action is not granted, they will bring a motion to stay this action, pending final disposition of the DC action. The present motion under Rule 6-3, however, effectively is also a motion to stay this action, although only until after a ruling on the motion to dismiss.¹

¹ Defendants do not expressly request relief from the Case Management Scheduling order, but the FTC’s opposition assumes that those activities would also be postponed.

1 The issues presented in the present motion, and by the FTC's opposition, are not well-suited
2 for disposition on an expedited basis under the ordinary procedures of Rule 6-3. Accordingly, the
3 matter will be set on the Court's law and motion calendar for December 16, 2009, at 10:30 a.m. No
4 later than November 18, 2009, defendants may file any additional briefing they may wish to submit
5 in support of the motion. No later than December 4, 2009, the FTC may file any additional
6 opposition. Pending resolution of this motion, the parties are relieved from their obligations to
7 make initial disclosures and to confer on a discovery plan, however they should comply with their
8 obligations regarding the ADR process.

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IT IS SO ORDERED.

Dated: 11/10/09



RICHARD SEEBORG
UNITED STATES MAGISTRATE JUDGE