

United States District Court

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BE IN, INC., a New York Corporation,)	Case No.: 5:12-CV-3373-LHK
)	
Plaintiff,)	ORDER CONTINUING CASE
)	MANAGEMENT CONFERENCE;
v.)	VACATING HEARING ON
)	DEFENDANTS’ MOTION TO DISMISS;
GOOGLE INC., a California corporation;)	ORDERING PLAINTIFF TO FILE
RICHARD ROBINSON, an individual, and)	MOTION FOR LEAVE TO FILE
Does 1 through 3 inclusive,)	SECOND AMENDED COMPLAINT
)	
Defendants.)	
)	
)	

On March 25, 2013, Plaintiff Be In, Inc. (“Plaintiff”) filed an unopposed administrative motion to adjourn the April 18, 2013 hearing on Google’s Motion to Dismiss Plaintiff’s Third and Fourth Causes of Action and to continue Initial Case Management Conference. ECF No. 34. In this motion, Plaintiff represents that it anticipates seeking to amend its complaint and that the proposed amended complaint “will remove one or more causes of action in the Amended Complaint and will assert new causes of action.” Id. at 2. Plaintiff “also contemplates that it may

1 withdraw claims against certain current defendants and/or name additional entities as defendants.”

2 Id.

3 In connection with this administrative motion, the parties filed a joint stipulation and
4 proposed order requesting that the Court grant Plaintiff’s unopposed administrative motion to
5 adjourn the hearing on Defendant’s Motion to Dismiss Plaintiff’s Third and Fourth Causes of
6 Action and to continue the initial case management conference. ECF No. 34-1.

7 In light of Plaintiff’s unopposed motion and the parties’ joint stipulation, the Court
8 CONTINUES the case management conference scheduled for April 18, 2013, to June 5, 2013, at
9 2:00 p.m. The Court ORDERS Plaintiff to file its Motion for Leave to File a Second Amended
10 Complaint by April 30, 2013. The Court DENIES as moot Defendants’ Motion to Dismiss
11 Plaintiff’s Third and Fourth Causes of Action, ECF No. 15, and Plaintiff’s Motion to Seal a
12 document filed in connection with Plaintiff’s Opposition to the Motion to Dismiss, ECF No. 22.
13 The Court VACATES the April 18, 2013 hearing on Defendants’ motion to dismiss.

14 If the Court grants Plaintiff’s Motion for Leave to File a Second Amended Complaint,
15 Defendants may file a new Motion to Dismiss, if appropriate. If the Court denies Plaintiff’s
16 Motion for Leave to File a Second Amended Complaint, Defendants may re-file their current
17 Motion to Dismiss, and the Court will hear this motion on an expedited basis.

18 **IT IS SO ORDERED.**

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20 Dated: March 26, 2013

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22 LUCY H. KOH
23 United States District Judge
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