

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

United States District Court

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| 11 | BE IN, INC., a New York Corporation, |) | Case No.: 12-CV-03373-LHK |
| 12 | Plaintiff, |) | |
| 13 | v. |) | ORDER CONTINUING CASE |
| 14 | GOOGLE INC., a California corporation; |) | MANAGEMENT CONFERENCE |
| 15 | RICHARD ROBINSON, an individual, and |) | |
| 16 | Does 1 through 3 inclusive, |) | |
| 17 | Defendants. |) | |

On June 28, 2012, Plaintiff Be In, Inc. ("Plaintiff") filed a complaint in the above action, ECF No. 1, which it then amended on August 16, 2012, ECF No. 12. On September 4, 2012, Defendants Google Inc. and Richard Robinson ("Defendants") filed a Motion to Dismiss Plaintiff's Third and Fourth Causes of Action. ECF No. 15. The parties then stipulated to reschedule the hearing on Defendants' Motion to Dismiss and to continue the initial Case Management Conference. ECF No. 26.

Prior to the hearing on Defendants' Motion to Dismiss, Davis Wright Tremaine LLP and Clifford Chance US LLP filed a Motion to Withdraw as Counsel for Plaintiff, ECF No. 28, which Defendants did not oppose, ECF No. 29. Gibson, Dunn & Crutcher LLP then entered an appearance for Plaintiff on March 6, 2013. ECF No. 31. In light of obtaining new counsel, on

1 March 25, 2013, Plaintiff filed an unopposed administrative motion to adjourn the hearing on
2 Defendants' Motion to Dismiss and to continue the initial Case Management Conference because
3 Plaintiff anticipated seeking to amend the complaint. See ECF No. 34. The Court granted
4 Plaintiff's motion to continue the initial Case Management Conference, ordered Plaintiff to file a
5 second amended complaint by April 30, 2013, and denied as moot Defendants' Motion to Dismiss
6 and Plaintiff's Motion to Seal filed in connection with Plaintiff's Opposition to the Motion to
7 Dismiss. See ECF No. 35. Pursuant to the Court's March 26, 2013 Order, Plaintiff then filed a
8 Motion for Leave to File a Second Amended Complaint on April 30, 2013. ECF No. 37.

9 On May 14, 2013, Plaintiff filed a Substitution of Counsel, substituting Morrison &
10 Foerster LLP as counsel of record in place of Gibson, Dunn & Crutcher LLP. ECF No. 42.
11 Defendants then filed a Conditional Opposition to Plaintiff's Motion for Leave to File Second
12 Amended Complaint to the extent Gibson Dunn – and not Plaintiff's new counsel – signed the
13 Second Amended Complaint. ECF No. 43. The parties then filed a stipulation in which they
14 agreed that: (1) Plaintiff would file a reply in support of its Motion for Leave to File a Second
15 Amended Complaint or to withdraw that motion by May 30, 2013; (2) if Plaintiff withdrew its
16 motion, Defendants would "use their best efforts" to inform Plaintiff's counsel whether they would
17 stipulate to the filing of a revised second amended complaint by June 5, 2013; and (3) in the
18 absence of a stipulation, Plaintiff would have until June 14, 2013, to file a motion for leave to file
19 the revised second amended complaint. ECF No. 46. On May 30, 2013, Plaintiff filed a Notice of
20 Withdrawal of Motion for Leave to File Second Amended Complaint. ECF No. 50. Absent
21 stipulation by Defendants, Plaintiff now has until June 14, 2013, to file a motion for leave to file
22 the revised second amended complaint. ECF No. 47.

23 Accordingly, the Court hereby CONTINUES the Case Management Conference set for
24 June 5, 2013, to August 14, 2013, at 1:30 p.m.

25 **IT IS SO ORDERED.**

26 Dated: June 4, 2013

27 
28 LUCY H. KOH
United States District Judge