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6 Attorneys for Defendants, THE BOARD OF TRUSTEES OF THE CALIFORNIA  
 STATE UNIVERSITY and ROBERT A. RAUCH, an individual.  
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8 UNITED STATES DISTRICT COURT  
 9 SOUTHERN DISTRICT OF CALIFORNIA

11 MARKETING INFORMATION 12 MASTERS, INC., a California corporation,, 13 Plaintiff, 14 v. 15 THE BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY 16 (erroneously sued herein as THE BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY 17 SYSTEM, a public entity acting through its subdivision SAN DIEGO STATE UNIVERSITY); and ROBERT A 18 RAUCH, an individual,, 19 Defendants. 20	) CASE NO. 06CV 1682 JAH JMA ) ) <b>DEFENDANTS REPLY IN SUPPORT</b> ) <b>OF ITS MOTION TO DISMISS</b> ) <b>PLAINTIFF'S SECOND AMENDED</b> ) <b>COMPLAINT</b> ) ) ACTION FILED: 08/18/06 ) ) Hearing Date: 05/05/08 ) Time: 2:30 p.m. ) Dept.: 11
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 22 Defendants, THE BOARD OF CALIFORNIA TRUSTEES OF THE  
 23 CALIFORNIA STATE UNIVERSITY (the "Trustees") and ROBERT A. RAUCH  
 24 ("Rauch") acting within his official capacity (collectively, "Defendants") hereby file  
 25 this Reply in Support of its Motion to Dismiss plaintiff MARKETING  
 26 INFORMATION MASTERS, INC.'s ("Plaintiff") Second Amended Complaint  
 27 (SAC).  
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1 **I. INTRODUCTION**

2 On March 13, 2008, Defendants filed its Motion to Dismiss Plaintiff's SAC  
3 (the "Motion"). Any Opposition to that Motion was due to be filed by Plaintiff on or  
4 before April 21, 2008. Despite this deadline, Plaintiff failed to file any such  
5 Opposition. Likewise, Plaintiff has not sought leave of Court to file a belated  
6 Opposition, nor has it filed any written statement requesting any particular ruling  
7 from this Court with regards to the Motion. Pursuant to the Local Rules of this  
8 District, Plaintiff's failure to file an Opposition may be deemed an implicit consent to  
9 the granting of Defendants' Motion. Accordingly, Defendants respectfully submit  
10 that this Court should grant Defendants' Motion to Dismiss in its entirety.

11 **II. LEGAL ARGUMENT**

12 Local Rule 7.1(e)(2) provides in relevant part that "[e]ach party opposing a  
13 motion, application or order to show cause shall file that opposition or statement of  
14 non-opposition with the clerk and serve the movant or movant's attorney not later  
15 than 14 days prior to the notice hearing. (For example, for a motion to be heard on a  
16 Monday, the opposition papers must be filed and served no later than two Mondays  
17 prior to the noticed hearing.)" Local Rule 7.1(f)(3)(c) provides: "If an opposing  
18 party fails to file the papers in the manner required by Civil Local Rule 7.1.e.2, that  
19 failure may constitute a consent to the granting of a motion or other request for  
20 ruling by the court."

21 Here, Plaintiff's Opposition was due to be filed on or before April 21, 2008.  
22 Despite that statutory deadline, Plaintiff failed to oppose the Motion in any respect.  
23 As such, pursuant to the Local Rule 7.1, Defendants respectfully submit that this  
24 Court Grant Defendants' Motion dismiss in its entirety.

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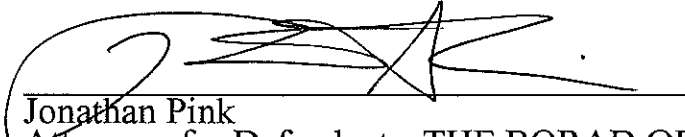
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**III. CONCLUSION**

Based on the foregoing, Defendants respectfully request that this Court Grant their Motion to Dismiss in its entirety.

DATED: April 28, 2008                      LEWIS BRISBOIS BISGAARD & SMITH LLP

By   
Jonathan Pink  
Attorneys for Defendants, THE BORAD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY (erroneously sued herein as THE BOARD OF TRUSTEES OF THE CALIFORNIA UNIVERSITY SYSTEM, a public entity acting through its subdivision SAN DIEGO STATE UNIVERSITY); and ROBERT A RAUCH.