

FILED

SEP 28 2018

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *WTC* DEPUTY

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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 VICTAULIC COMPANY, a New Jersey
12 Corporation,

13 Plaintiff,

14 v.

15 TAIZHOU REALFLEX PIPETEC CO.,
16 LTD, a People's Republic of China
Corporation,

17 Defendant.
18

Case No.: 3:17-cv-01006-BEN-JLB

**ORDER GRANTING MOTION FOR
THIRD EXTENSION OF TIME TO
SERVE UNDER THE HAGUE
CONVENTION**

19 Before the Court is Plaintiff Victaulic Company's motion for a third extension of
20 time to serve Defendant Taizhou RealFlex Pipetec Co. Ltd. ("Realflex"). (Docket No.
21 10.) Plaintiff's Motion seeks an additional six months to serve Defendant RealFlex. For
22 the reasons set forth below, Plaintiff's Motion is **GRANTED**.

23 Plaintiff filed its Complaint on May 16, 2017. (Docket No. 1.) It is Plaintiff's
24 understanding that Defendant RealFlex is a corporation existing under the laws of China,
25 with its principal place of business in Taizhou City, Zhejiang Province, People's
26 Republic of China. (Mot. at 2; Compl. ¶ 3.) Plaintiff has since engaged "a firm
27 specializing in service of process in foreign countries" to commence service pursuant to
28 the Hague Convention. (Mot. at 2.) On July 13, 2017, a representative from the firm,

1 Celeste Ingalls, forwarded the summons and complaint to Central Authority for China for
2 service on Defendant RealFlex. (*Id.* at 2.)

3 Previously, Ms. Ingalls submitted a declaration that “service through the Hague
4 Convention in China is a process that can take approximately seven to twelve months.”
5 (Docket No. 5-2, Declaration of Celeste Ingalls ¶ 12.) In support of the second motion
6 for extension, Ms. Ingalls provided a new declaration stating she had “recently received
7 notification from the Ministry of Justice in Beijing that the standard turnaround time for
8 service will now be between 1 and 2 years.” (Docket No. 8-2, Declaration of Celeste
9 Ingalls ¶ 11.) The Court granted the second motion, extending the time to serve to
10 September 15, 2018, and granting leave to Plaintiff to file a later request for an extension,
11 if needed.

12 The extended September 15, 2018 deadline to serve passed without the Central
13 Authority in China completing service on RealFlex. According to his motion, Plaintiff’s
14 counsel failed to timely file for an extension by the Court’s September 15, 2018 deadline
15 because of a calendaring error. Promptly after discovering the error, Plaintiff’s counsel
16 contacted Chambers about his intention to seek a third extension of time, which
17 Plaintiff’s counsel filed only three days after the September 15, 2018 deadline.
18 Therefore, Plaintiff’s calendaring error and prompt action to remedy the missed deadline
19 constitute excusable neglect within Rule 6(b)(1)(B).

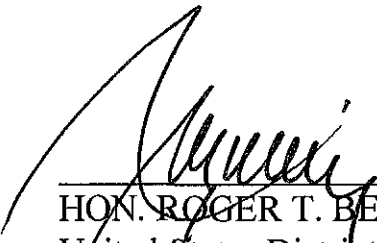
20 In support of the present motion for extension, Ms. Ingalls provided a new
21 declaration stating she received “notification in January 2018 from the Ministry of Justice
22 in Beijing [that] 2 years remains their standard turnaround time.” (Docket No. 10-2,
23 Declaration of Celeste Ingalls ¶ 11.) Plaintiff has shown good cause for an extension of
24 time to serve, and an additional six month extension is reasonable under the
25 circumstances. The time to serve is extended to **March 15, 2019**.

26 In addition, Plaintiff is granted leave to file a further request for an extension if
27 Plaintiff does not anticipate service will be completed by March 15, 2019. However, any
28 further extension request shall (1) specifically identify each of the new efforts Plaintiff

1 has made since September 15, 2018 to timely complete service and (2) be supported by
2 documentary evidence, over and above a declaration, of Plaintiff's and/or Ms. Ingall's
3 good faith efforts to serve RealFlex. For example, Plaintiff may support any future
4 motion for extension with documentation of communications with the Chinese
5 government reflecting Plaintiff's efforts to effect service and the Chinese Government's
6 standard turnaround times.

7 **IT IS SO ORDERED.**

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9 DATED: September 16, 2018

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HON. ROGER T. BENITEZ
United States District Judge