

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

REBECCA BAMBERGER WORKS,
LLC d/b/a BAM COMMUNICATIONS, a
Delaware limited liability company;
LLORENTE & CUENCA USA, INC., a
Delaware corporation; and LLORENTE &
CUENCA MADRID S.L., a foreign
corporation,

Plaintiffs,

v.

REBECCA BAMBERGER, an individual;
RBW HOLDCO, INC., a California
corporation; BAM BY BIG LLC, a
California limited liability company; and
DOES 1 through 20,

Defendants.

REBECCA BAMBERGER, an individual;
RBW HOLDCO, INC., a California
corporation; and BAM BY BIG LLC, a
California limited liability company,

Counterclaimants,

Case No.: 24-CV-706 JLS (DDL)

**ORDER GRANTING IN PART *EX*
PARTE APPLICATION**

(ECF No. 89)

1 v.
2 REBECCA BAMBERGER WORKS,
3 LLC d/b/a BAM COMMUNICATIONS, a
4 Delaware limited liability company;
5 LLORENTE & CUENCA USA, INC., a
6 Delaware corporation; and LLORENTE &
7 CUENCA MADRID S.L., a foreign
8 corporation,
9
10 Counterdefendants

11 Presently before the Court is Defendants Rebecca Bamberger; RBW Holdco, Inc.;
12 and BAM by BIG LLC’s (collectively, “Defendants”) *Ex Parte* Application to Amend
13 Scheduling Order (“Appl.,” ECF No. 89) and supporting Memorandum of Points and
14 Authorities (“Mem.,” ECF No. 89-1).¹ Also before the Court is Plaintiffs Rebecca
15 Bamberger Works LLC d/b/a BAM Communications; Llorente & Cuenca USA, Inc.; and
16 Llorenta & Cuenca Madrid S.L.’s (collectively, “Plaintiffs”) Opposition to the *Ex Parte*
17 Application (“Opp’n,” ECF No. 90).

18 On May 31, 2024, the Court granted in part and denied in part Plaintiffs’ request for
19 a preliminary injunction. *See* ECF No. 34. On August 7, 2024, Plaintiffs identified six
20 actions taken by Defendants that they believed violated the Preliminary Injunction Order
21 and filed a Contempt Motion alerting the Court. *See* ECF No. 66. The Court set a hearing
22 date for the Motion of December 11, 2024, *see* ECF No. 67 at 2, and the briefing schedule
23 currently requires Defendants to file an opposition by October 8, 2024, and allows
24 Plaintiffs to file an optional reply by October 15, 2024. ECF No. 73 at 3.

25 On September 18, 2024, Plaintiffs filed a Supplement to the Motion, identifying
26 three additional purported violations of the Preliminary Injunction Order, *see* ECF No. 84,
27

28 ¹ All citations to electronically filed documents refer to the blue pagination numbers assigned by the
CM/ECF system.

1 so the Court clarified that Defendants were to submit an opposition to the Motion and
2 Supplement together in a single response, *see* ECF No. 86. Just two days after Plaintiffs
3 filed their Supplement, new counsel noticed an appearance on behalf of Defendants to take
4 the place of Defendants’ prior counsel who withdrew from this case with the Court’s
5 approval on September 3, 2024. *See* ECF Nos. 87–88.

6 Defendants now seek a three-week extension to the briefing schedule for the
7 Contempt Motion, representing that “all of the conditions for engagement were not
8 satisfied until the afternoon of September 20, 2024” and that new counsel is still yet to
9 receive the case file from prior counsel. Mem. at 4. Given the seriousness of the
10 allegations in the Contempt Motion, Defendants argue that the extension is necessary to
11 “meaningfully defend against the allegations made.” *Id.* at 2.

12 Plaintiffs oppose the extension, arguing that Defendants’ new counsel was well
13 aware of the pending briefing schedule when they were considering whether to take the
14 case. Opp’n at 3. Plaintiffs also place blame on Defendants for “creat[ing] the crisis that
15 necessitated the application” by waiting until the afternoon of the deadline set by the Court
16 to formally retain new counsel. *Id.* at 4.

17 The Court finds Defendants have established good cause to extend the briefing
18 deadlines as to the Contempt Motion. The Motion is not set for a hearing until
19 December 11, 2024, which still leaves over a month between the conclusion of briefing
20 and the hearing if the Court were to adopt Defendants’ proposal. The Court acknowledges
21 the fact-intensive nature of preparing an opposition to the Motion and Supplement and sees
22 no need to rush the briefing on the current timeline.

23 That said, Defendants have not convincingly explained why they need an additional
24 three weeks to prepare their response. Although they may still be in need of the case file
25 from prior counsel, surely new counsel have reviewed the docket and have discussed the
26 case with their clients so as to allow them to begin preparing their defense. The Court
27 considered the timeline of events for this case when it clarified the briefing schedule on
28 September 23, 2024, *see* ECF No. 86, and prefers to remain approximately on schedule.

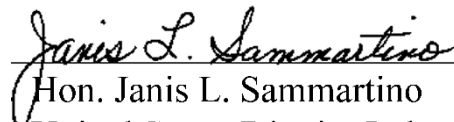
1 Accordingly, the Court will grant a one-week extension to the briefing schedule.

2 The Court takes this opportunity to note its growing concern with the rise of *Ex Parte*
3 applications in this case. *See* ECF Nos. 72, 74, 78, 89. The Parties are reminded that “*Ex*
4 *Parte* motions are rarely justified,” only to be used “where there is a temporal urgency such
5 that immediate and irreparable harm will occur if there is any delay in obtaining relief.”
6 *Mission Power Eng’g Co. v. Cont’l Cas. Co.*, 883 F. Supp. 488, 490 (C.D. Cal. 1995). The
7 Parties are expected to exert more than minimal effort in resolving their differences without
8 the Court’s intervention, and *Ex Parte* applications are not meant to be a first resort when
9 opposing counsel takes issue with a proposed change to the schedule. Generally speaking,
10 “both parties [should] observe regular motion procedures and work together to avoid crises
11 that necessitate *ex parte* relief moving forward.” *Est. of Najera-Aguirre v. Cnty. Of*
12 *Riverside*, No. ED CV 18-762-DMG (SPx), 2018 WL 10152556, at *3 (C.D. Cal. Dec. 7,
13 2018). This admonition applies with full force to Plaintiffs’ hint at a possibly forthcoming
14 *Ex Parte* application to expedite the hearing on the Contempt Motion. *See* Opp’n at 5 n.4.

15 Good cause appearing, the Court **GRANTS IN PART** Defendants’ *Ex Parte*
16 Application to Amend Scheduling Order (ECF No. 89). Defendants **SHALL FILE** a
17 single opposition addressing both the Motion and Supplement on or before October 15,
18 2024. Plaintiffs **MAY FILE** a single reply, if any, on or before October 22, 2024.

19 **IT IS SO ORDERED.**

20 Dated: September 25, 2024

21 
22 Hon. Janis L. Sammartino
23 United States District Judge
24
25
26
27
28