



from Defendants' fraudulent activities has been used to advertise a motion picture directed by Defendants Servin and Vamos, which they describe as a "true story" about how they "lie their way into big business conferences."

2. Under Fed. R. Civ. P. 12(a)(1)(A)(i) and 15 (a)(3), the named Defendants have different deadlines for responding to the First Amended Complaint due to the fact that they were served on different dates. Defendants acknowledge that one of them (David Sievers) had a deadline of November 20, two (Jacques Servin and Support and Commitment, Inc.) have a deadline of November 23, and two (Morgan Goodwin and Sarah Murphy) have a deadline of November 30. *See* Defendants' Motion at 3.<sup>2</sup>

3. Before Defendants filed their Motion, the Chamber offered Defendants an extension of time until December 11, 2009 to respond to the First Amended Complaint. This extension would have permitted all of the Defendants to file their responses at the same time, and would have prevented any disruption of Defendants' Thanksgiving holiday plans. The extension would also have resulted in the Chamber filing its response to Defendants' forthcoming motion to dismiss before the December holidays. Defendants, however, rejected the Chamber's offer.

4. Defendants are now asking the Court to grant them until January 5, 2010 to respond to the Complaint, asserting that the additional time is needed to "review the factual allegations in the complaint," "prepare Defendants' responses," and "coordinate their various legal defenses, including potential challenges to Plaintiff's attempts to serve the Defendants." Defendants'

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<sup>2</sup> The remaining Defendant (Igor Vamos) has so far avoided service despite efforts to serve him at his home and office, and we learned this morning that he has left the country. Mr. Vamos, however, has obviously been aware of the allegations in the complaint for at least three weeks, since his attorney discussed the case with Chamber's counsel on November 3, and since Mr. Vamos' "Yes Men" Web site published a statement on this case under his picture on October 28, entitled "Yes Men Statement on Chamber Lawsuit." *See* Exh. 1 (extract from Vamos's and Servin's "Yes Men" Web site). The "Yes Men" is a name that Defendants Vamos and Servin use to conduct their trade.

Motion at 3. The additional time sought by Defendants would be prejudicial to the Chamber, and is not justified by the circumstances of this case.

5. The requested extension would be prejudicial to the Chamber because Defendants are engaged in an ongoing course of conduct detrimental to the Chamber. As a result of Defendants' fraudulent use of the Chamber's trademarks and identity, several national news organizations have already been deceived into publishing reports that incorrectly attributed Defendants' statements to the Chamber, which the news organizations later retracted when they learned they had been deceived. Until this case is resolved, the Chamber remains at risk that Defendants will continue to misappropriate its trademarks and identity for the purpose of deceiving the public. For example, as alleged in the Complaint, Defendants acquired and used a portion of the software code from the Chamber's Web site to fraudulently steer traffic to their own fake Web site and then allow users to "click through" to the Chamber's real Web site. *See* First Amended Complaint ¶ 20. Defendants have not returned this software or represented that it has been destroyed. Similarly, Defendants have refused to forego using the Chamber's trademarks on the Web or otherwise pending a ruling on their motion to dismiss (*see* Exh. 2 (Nov. 17, 2009 letter from Robert Corn-Revere to William E. Potts, Jr.)), claiming that this would infringe their own "substantive rights." Defendants' Motion at 4. Every extension that Defendants obtain in this case is therefore an extension of the time that Defendants believe they can continue to misappropriate the Chamber's trademarks, software and identity.

6. Defendants also have no need for the lengthy extension they are requesting. The Complaint's factual allegations involve matters within Defendants' personal knowledge, and they should therefore be able to respond in short order. Moreover, Defendants all retained counsel promptly. On November 3, 2009, an attorney from the Electronic Frontier Foundation

notified the Chamber's counsel that he is representing Defendants Vamos, Servin, Sievers, Goodwin and Support and Commitment, Inc. in this litigation. The following week, five additional attorneys entered appearances on behalf of those same Defendants and also on behalf of Defendant Sarah Murphy, who was added as a Defendant in the First Amended Complaint filed on November 6, 2009.

7. Defendants' professed concern about Defendants having different deadlines for responding to the First Amended Complaint can be easily rectified by requiring all Defendants who have been served to respond to the complaint by the December 11, 2009 date that the Chamber has offered Defendants. This would give Defendant Sievers a 21-day extension of time, Defendants Servin and Support and Commitment, Inc. an 18-day extension of time, and Defendants Goodwin and Murphy an 11-day extension of time. The fact that the remaining Defendant (Igor Vamos) has so far avoided service and has now left the country is no reason to further delay his co-Defendants from responding to the Complaint.

8. Defendants' Motion incorrectly suggests that Rule 6 requires this Court to grant any extension they request, regardless of the delay that it may cause in the progress of this action. Defendants' Motion at 3-4. To the contrary, "[t]he court is expected to use its discretion to extend time periods in a manner that will 'secure the just, speedy, and inexpensive determination of every action and proceeding,' as stated by Rule 1." 1 JAMES WM. MOORE, ET AL., MOORE'S FEDERAL PRACTICE § 6.06[1][a] (3d. ed. 2008) (quoting *Baden v. Craig-Hallum*, 115 F.R.D. 582, 584-585 (D. Minn. 1987)). The lengthy extension sought by Defendants -- which would give Defendant Sievers 66 days and Defendant Servin 63 days to respond to the complaint -- is unreasonable, unnecessary, prejudicial and contrary to the interest of securing a just, speedy and inexpensive determination of this action.

WHEREFORE, Plaintiff respectfully requests that the Court deny Defendants' motion to extend the time in which they must answer or respond to Plaintiff's First Amended Complaint. In the event the Court decides that a reasonable extension is appropriate, Plaintiff respectfully requests that the extension be granted only until December 11, 2009.

Dated: November 23, 2009

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via electronic mail and U.S. Mail postage pre-paid this 23rd day of November, 2009 upon:

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