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**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA**

WHITNEY INFORMATION NETWORK,  
INC.; a Colorado corporation,

Plaintiffs,

v.

XCENTRIC VENTURES, LLC, an  
Arizona limited liability company;  
BADBUSINESSBUREAU.ORG, an  
Arizona limited liability company; and ED  
MAGEDSON, an individual,

Defendants.

Case No: 2:04-CV-47-ftm-34-SPC

**DEFENDANTS' RESPONSE TO  
PLAINTIFF'S SUPPLEMENT TO  
MOTION FOR ADDITIONAL  
DISCOVERY TIME PURSUANT TO  
RULE 56(f), FEDERAL RULES OF  
CIVIL PROCEDURE TO RESPOND  
TO DEFENDANT'S MOTION FOR  
SUMMARY JUDGEMENT**

Defendants Xcentric Ventures, LLC, ("Xcentric"), and Ed Magedson ("Magedson") (collectively, the "Defendants") respectfully respond to Plaintiff's Supplement to Plaintiff's Motion.

Plaintiff still has not indicated how delay will allow Plaintiff to present any evidence against the motion for summary judgment. *See, Barfield v. Brierton*, 883 F.2d 923, 931 (11<sup>th</sup> Cir. 1989). Plaintiff has never had any basis upon which to allege that Defendants authored the content on Rip-off Report concerning Plaintiff. Indeed, this Court may recall that Plaintiff's original complaint did **not** allege that Defendants authored the reports, only that Defendants published the reports. Plaintiff later amended and alleged that Defendants authored the content, but only because this Court ruled that

the Communications Decency Act precluded Defendants from being held liable without such an allegation and proof.

In the face of a summary judgment motion, Plaintiff is still unable to offer even a scintilla of evidence that Defendants authored the content at issue. Instead, it continually asks for more time to do so. The depositions that Plaintiff claims it needed to respond to the motion for summary judgment are complete. The depositions did not provide evidence against the summary judgment motions. This Court should not allow delay for the sake of delay. Plaintiff offers no basis for the Court to believe the delay will allow any substantive opposition to the Summary Judgment Motion.

Xcentric incorporates by reference the detailed legal arguments set forth in its Response to Plaintiff's 56(f) Motion. Plaintiff's 56(f) Motion should be denied.

DATED this 27<sup>th</sup> day of August, 2007.

**JABURG & WILK, P.C.**

s/Maria Crimi Speth  
Maria Crimi Speth, Esq.  
Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of August, 2007, I caused the attached document to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF Registrants:

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s/Debra Gower\_\_\_\_\_