

## United States District Court, Northern District of Illinois

<b>Name of Assigned Judge or Magistrate Judge</b>	Robert M. Dow, Jr.	<b>Sitting Judge if Other than Assigned Judge</b>	
<b>CASE NUMBER</b>	10 C 6697	<b>DATE</b>	12/14/2010
<b>CASE TITLE</b>	7-Eleven, Inc. vs. Spear, et al.		

### DOCKET ENTRY TEXT

For the reasons stated below, Defendants' motion for extension of time to respond to Plaintiff's motion for preliminary injunction [22] is granted in part and denied in part. Specifically, Defendants are given until 12/22/2010 to file a response to the preliminary injunction motion; Plaintiff is given until 1/5/2011 to file a reply if it so chooses. If Plaintiff elects not to file a reply, it may so advise the Court. Defendants are given until 1/5/2011 to answer or otherwise plead to Plaintiff's complaint. Notice of motion date of 12/15/2010 is stricken and no appearances are necessary on that date.

■ [ For further details see text below.]

Docketing to mail notices.

### STATEMENT

Before the Court is Defendants' motion for extension of time to respond to Plaintiff's motion for preliminary injunction [22]. In that motion, Defendants request an extension from December 8 to January 5 for the filing of their response brief and their answer or other responsive pleading. In support of the motion, Defendants explain that they only recently retained counsel and that new counsel needs additional time to prepare an appropriate response and to assert what counsel contends may be valid defenses to Plaintiff's claims.

Shortly after the motion was filed, Plaintiff notified the Court that it intended to file a written response in opposition, which the Court now has received [24]. As Plaintiff points out, Defendants already have received a generous amount of time to respond to the motion for preliminary injunction, which was filed on October 19. Plaintiff further notes that at the last court appearance in this case, the Court stated that the extension to December 8 would be the "final extension" on the preliminary injunction motion.

In considering the parties' respective positions, the Court remains of the view that it expressed at the November 19 hearing – namely, that the Court must balance the need to move the case along to avoid prejudice to Plaintiff against the need to give Defendants an opportunity to say something in regard to the relief requested. See 11/19/10 Tr. at 8 (attached as Ex. A to Pl. Resp. [24-1]). In weighing the competing concerns, the Court is mindful that Defendants' filing of a last minute motion to extend a "final" deadline is in large part a self-inflicted wound in that Defendants repeatedly have been warned of the need to obtain counsel, at a minimum, to defend the interests of the corporate Defendant. At the same time, the Court is aware of the health problems that Defendant Spear reportedly has experienced. In addition, as the Court alluded to at the November 19 hearing, it is preferable to decide any motion – and particularly a motion for extraordinary relief (like a preliminary injunction motion) – with the benefit of an adversarial presentation.

The aforementioned concerns cut in both directions, but the benefit to the Court from the submission of a brief prepared by counsel on behalf of Defendants – instead of the alternative of ruling on Plaintiff's motion solely on

## STATEMENT

the basis of the one-sided presentation currently before the Court – sufficiently outweighs (1) any additional prejudice to Plaintiff as a result of extending the briefing schedule by two weeks and (2) the Court’s reluctance to extend a “final” deadline. Moreover, because of the Court’s own schedule over the upcoming holidays, it is unlikely that the extension will delay a ruling on the motion.

Accordingly, Defendants’ motion [22] is granted in part, and Defendants are given until 12/22/2010 to file a response to Plaintiff’s preliminary injunction motion. Plaintiff is given until 1/5/2011 to file a reply if it so desires. Plaintiff may file a reply sooner if it wishes. Should Plaintiff conclude that it does not wish to file a reply, it may notify the Court that no reply will be forthcoming. The time to answer or otherwise plead in response to Plaintiff’s complaint is extended to 1/5/2011. Notice of motion date of 12/15/2010 is stricken and no appearances are necessary on that date.