

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

NERDS ON CALL, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 1:07-cv-0535-DFH-TAB
	)	
INTERNET BILLING SERVICES, INC.,	)	
and RYAN ELDRIDGE, Individually,	)	
	)	
Defendants.	)	

**PLAINTIFF'S VERIFIED OPPOSED REQUEST FOR EXTENSION OF TIME  
TO RESPOND TO DEFENDANTS' MOTION TO DISMISS**

Comes now Plaintiff, NERDS ON CALL, INC., by counsel, Theodore J. Minch, and respectfully requests a fourteen (14) day extension of time to respond to Defendants' Motion to Dismiss, and in support, alleges and says as follows:

1. On December 12, 2007, a settlement conference was held in this Case; at the settlement conference, it was determined that the prospects of settlement were minimal yet the Court encouraged the Parties to continue dialogue.

2. At the close of the Conference, counsel for Plaintiff advised the Court that Plaintiff's response to Defendants' Motion to Dismiss could be completed and filed on or before December 21, 2007.

3. On December 14, 2007, counsel for Plaintiff sent written correspondence to counsel for Defendants, via electronic and first class mail, in which counsel for Plaintiff made a revised offer of interim resolution to this dispute; the foregoing offer was based, in good faith, upon statements made by California counsel for Defendants with regard to Defendants' belief that the proper forum for this dispute is in the United States Patent and Trademark Office – Trademark Trial and Appeal Board and California counsel's written statement in its December 7,

2007 response to Plaintiff's initial settlement offer that the proper venue for this action is the United States District Court for the Northern District of California. See Exhibit A, Plaintiff's letter of December 14, 2007.

4. Despite counsel for Plaintiff's request that any response be made, as a professional courtesy, on or before the close of business December 18, 2007, Defendants responded by way of filing Defendants' Answer and Counterclaim to Plaintiff's Complaint for Damages and Equitable Relief on December 19, 2007 and, later, on the same date, California counsel for Defendants sent a written response to Plaintiff's December 14, 2007 letter; California counsel for Defendants flatly rejected Plaintiff's offer, advised Plaintiff of only two (2) options by which the Case may be settled, and admonished Plaintiff that Defendants expected Plaintiff to file its response to Defendants' Motion to Dismiss on December 21, 2007 "as promised." See Exhibit B, Defendants' letter of December 19, 2007.

5. Counsel for Plaintiff has attempted to reach his client, Kevin Bouchonnet, Owner of Nerds on Call, Inc., for the purposes of obtaining evidence (by way of affidavit and / or supporting documentation) in support of Plaintiff's Response to Defendants' Motion to Dismiss and to determine Plaintiff's position with regard to settlement / Defendants' December 19, 2007 letter; counsel for Plaintiff has been unsuccessful in reaching and discussing the foregoing with Plaintiff because, according to Mr. Bouchonnet's family, Mr. Bouchonnet suffered a stroke on Tuesday, December 18, 2007 or Wednesday, December 19, 2007 and is therefore unable at this time to advise counsel for Plaintiff as to his position vis-à-vis Defendants' December 19, 2007 letter and / or provide counsel for Plaintiff with his input as to the foregoing affidavit and evidence.

6. As a result of the foregoing unforeseeable circumstances, none of which are the fault of Plaintiff and / or counsel for Plaintiff, a reasonable extension of time as herein requested is just, necessary, and proper.

7. This Request is not for the purpose of undue delay; this request is just, necessary, and proper in light of the foregoing circumstances, all of which are unavoidable and are no fault of Plaintiff and / or counsel for Plaintiff; and, should this request be denied, Plaintiff will be irreparably and unjustly prejudiced.

WHEREFORE, Plaintiff, NERDS ON CALL, INC., by counsel Theodore J. Minch, hereby respectfully requests the Court grant Plaintiff a fourteen (14) day extension of time until and including January 4, 2008 for Plaintiff to file Plaintiff's Response to Defendants' Motion to Dismiss, and for all other appropriate and just relief in the premises.

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Dated: December 21, 2007

/s/ Theodore J. Minch  
Theodore J. Minch (18798-49)  
Sovich Minch, LLP  
Attorneys for Plaintiff Nerds on Call, Inc.

Respectfully submitted,

/s/ Theodore J. Minch  
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**PROOF OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served upon the following counsel for record this 21<sup>st</sup> day of December, 2007 via electronic mail only:

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