

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHRISTINE VARAD,)	
)	
Plaintiff,)	
)	C.A. No. 06 CA 11370 MLW
v.)	
)	
REED ELSEVIER INCORPORATED,)	
d/b/a/ Lexis Nexis Corporation,)	
Lexis Nexis Accurint,)	
)	
Defendant.)	

**DEFENDANT’S MOTION TO STAY THE FILING OF AN OPPOSITION
TO PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT, OR
ALTERNATIVELY TO EXTEND THE TIME TO RESPOND TO
PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

Defendant Reed Elsevier Inc. (“Reed”) hereby moves to stay the filing of its opposition to plaintiff Christine Varad’s Motion for Summary Judgment (“Opposition”) until a reasonable time after the Court has ruled on the fully briefed, pending Motion to Dismiss (docket entries 4,6, 9 & 10). Alternatively, Reed requests that the Court extend the time for Reed to file its Opposition until December 12, 2006, thirty days from the current due date. A stay of the defendant’s Opposition is warranted because Reed has moved to dismiss the complaint against it, and instead substitute Seisint, Inc. (“Seisint”), the entity that Reed believes is the proper defendant (as Seisint was the only entity that corresponded with the plaintiff, and is the owner of the product database at issue in the litigation). Therefore, it is necessary that the threshold issue of the proper defendant be decided prior to either entity having to respond to a dispositive motion, as the response will be driven, in part, by which entity is the defendant. Accordingly, the Opposition should be stayed until a decision is rendered on the Motion to Dismiss.

In further support of this motion, Reed states as follows:

1. Plaintiff, acting pro se, commenced this action on August 8, 2006. On October 10, 2006, in conjunction with its answer to the complaint, Reed filed a motion to dismiss the complaint against it, and instead substitute Seisint as the named defendant (“Motion to Dismiss”). Reed also submitted, in support of its Motion to Dismiss, an Affidavit of John M. Byrne, director and corporate counsel at Seisint. On October 18, 2006, the plaintiff opposed Reed’s Motion to Dismiss, and on October 27, 2006, Reed filed a motion for leave to file a reply brief (with reply attached). Accordingly, the Motion to Dismiss is now fully briefed.

2. On October 30, 2006, plaintiff filed a motion for summary judgment and supporting memorandum (“Motion for Summary Judgment”). Reed’s response is currently due November 13, 2006.

3. No discovery has taken place to date, nor has a Local Rule 16.1 scheduling conference been set by the Court.¹

4. Given the pending Motion to Dismiss, it is necessary that the Opposition to the Motion for Summary Judgment be stayed until a reasonable time after the Court decides which entity - Reed or Seisint - is the proper defendant. This is so because an Opposition on behalf of Reed will necessarily be different than that of Seisint. For example, because Reed has had no interaction with plaintiff (as set forth more fully in the Motion to Dismiss), its response to plaintiff’s 93A claim would necessarily differ, as Reed has not been served with a demand letter (but Seisint was).

¹ Reed requests that the Court schedule a Local Rule 16.1 conference within the next thirty days, if possible, as it believes that the parties would benefit from an early case management conference.

5. Alternatively, Reed requests that the Court extend the time for Reed's Opposition until December 12, 2006. The extension of time is necessary because the plaintiff has moved for summary judgment on all counts, including claims for defamation, and liability under the Fair Credit Reporting Act and M.G.L. c. 93A. Given that neither party has had an opportunity to conduct any discovery to date, Reed is left to gather responsive facts and arguments to a dispositive motion in an unreasonably short timeframe.² Further, lead counsel for Reed has several professional commitments in the next few weeks, including a multi-day arbitration, an out of state mediation, a deposition, as well as several personal commitments, including the upcoming Thanksgiving holiday. Accordingly, a 30 day extension, until December 12, 2006, is reasonable and necessary.

6. The stay or extension will not prejudice the plaintiff, as the case is in its early stages.

WHEREFORE, Reed respectfully requests that the Court stay the filing of an Opposition to the Motion for Summary Judgment until a reasonable time after the Court has ruled on the pending Motion to Dismiss. Alternatively, Reed requests that the Court extend the time to respond to plaintiff's Motion for Summary Judgment until December 12, 2006, and for such further relief as the Court deems just and proper.

² For example, pro se plaintiff has included in her memorandum of law a section entitled "Statement of the Facts," but such Statement is, in large part, without citation to supporting testimony – a clear violation of Local Rule 56.1. Accordingly, Reed is left to oppose these "facts" without the benefit of proper support or any discovery. As such, additional time is necessary to parse through the Statement and to set forth opposing facts.

REED ELSEVIER INC.
By its attorneys,

/s/ Kristin M. Cataldo
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Dated: November 7, 2006

LOCAL RULE 7.1 CERTIFICATION

The undersigned counsel for defendant Reed Elsevier Inc. hereby certifies that on November 6, 2006, I telephoned pro se plaintiff Christine Varad and requested her assent to the subject motion. Ms. Varad refused to assent.

/s/ Kristin M. Cataldo
Kristin M. Cataldo

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2006, I caused a copy of the foregoing to be served on the following by regular mail:

Christine M. Varad, pro se
P.O. Box 582
Milton, MA 02186

/s/ Kristin M. Cataldo
Kristin M. Cataldo