

NIRO, HALLER & NIRO

181 WEST MADISON STREET-SUITE 4600

CHICAGO, ILLINOIS 60602

TELEPHONE (312) 236-0733

FACSIMILE (312) 236-3137

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RAYMOND P. NIRO
TIMOTHY J. HALLER
WILLIAM L. NIRO
JOSEPH N. HOSTENY, III
ROBERT A. VITALE, JR.
PAUL K. VICKREY
DEAN D. NIRO
RAYMOND P. NIRO, JR.
PATRICK F. SOLON
ARTHUR A. GASEY
CHRISTOPHER J. LEE
DAVID J. SHEIKH
VASILIOS D. DOSSAS
RICHARD B. MEGLEY, JR.
MATTHEW G. McANDREWS
PAUL C. GIBBONS

The Honorable Joan N. Ericksen
United States District Court Judge
United States District Court
300 South Fourth Street, Suite 12W
Minneapolis, MN 55415

GREGORY P. CASIMER
DINA M. HAYES
FREDERICK C. LANEY
DAVID J. MAHALEK
KARA L. SZPONDOWSKI
ROBERT A. CONLEY
LAURA A. KENNEALLY
TAHITI ARSULOWICZ
BRIAN E. HAAN
JOSEPH A. CULIG
ANNA B. FOLGERS
CHRISTOPHER W. NIRO
DANIEL R. FERRI
GABRIEL I. OPATKEN
OLIVER D. YANG
OF COUNSEL:
JOHN C. JANKA

Re: *TimeBase Pty Ltd. v. The Thomson Corp. et al.*, 07-1687 (JNE/JJG)

Dear Judge Ericksen:

Judge Graham has supervised discovery and the schedule for this case. She is well aware of the parties' past and present differences over the schedule; the parties briefed the issues last July, and submitted a joint motion describing their agreements and differences. (A copy of the motion, document number 164, is enclosed). Judge Graham's Order of August 3, 2010 (Document number 166, enclosed) was entered after considering the parties' briefs. Judge Graham declined to change the trial-ready date of June 11.

Now the defendants propose to delay that event by more than five months, to November. Judge Graham rejected the defendants' request to delay the trial-ready date by two months, from June, 2011 to August, 2011. (The defendants' request is at page 6 of document number 164, the parties' July 20, 2011 joint motion).

Other dates would now be moved by as much as four months, a delay which we believe Judge Graham found unacceptable at this late stage. Thomson did not appeal that order.

TimeBase requests that the Court direct Thomson to raise this issue with Judge Graham, so that she can consider the hardship that would be imposed on TimeBase. For example, in 2007, the defendants told the Court that reexamination of the '592 patent would give us the benefit of the Patent Office's views, and that the issue of validity would be resolved in far less time, and at far less cost, than via litigation. The defendants said the claims would likely be invalidated.

Instead, the claims were all confirmed. Rather than being consistent with their prior arguments, the defendants have delayed and complicated this case by citing scores of prior art references, and thousands of combinations of alleged prior art. They even continue to rely upon prior art references explicitly considered, and rejected by the Patent Office. Thomson

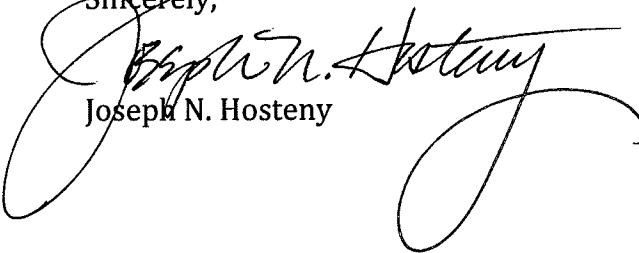
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took advantage of a stay for reexamination, promised many benefits, and now frustrates or ignores those benefits.

TimeBase is a small Australian company, and is affected by market conditions that multiply as delay increases. For example, a dollar in damages would, at one point, have yielded \$1.40 Australian. Now it will only yield \$0.99 Australian. Of course, the patents are wasting assets, because they have a limited lifetime. Licensing is well-nigh impossible while this litigation pends. There are other pertinent facts covered by the protective order.

TimeBase requests that the Court adhere to the schedule set by Judge Graham, or leave it to Judge Graham to consider any modification. The defendants should of course confer with TimeBase's counsel, which they have not done as yet. We can do so with dispatch.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph N. Hosteny". The signature is written in black ink and is positioned above the printed name.

Joseph N. Hosteny

cc: Counsel of Record,
via email and U.S. Mail