

4. On November 7, 2008, Defendant filed Replies in support of his Motions for Summary Judgment [dkt 71, 72]. The Replies go well beyond the prior briefing, however, and raise new meritless and misleading issues regarding Plaintiff's identification of witnesses, notice of Plaintiff's right to elect statutory damages under a theory of counterfeiting, and the sufficiency of Plaintiff's disclosure of its damages theories.

5. Plaintiff seeks leave to file the short six page Sur-Reply (exclusive of signature pages) attached hereto to address these newly raised issues and to clarify the record.

6. Plaintiff does not make the instant Motion for any improper purpose or to delay these proceedings.

WHEREFORE, Plaintiff Saint Louis University requests that this Court grant Plaintiff's Motion for Leave to file Plaintiff's Sur-Reply in opposition to Defendant's Replies in support of Defendant's Motions for Summary Judgment, and for such other and further relief as the Court deems just under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I further certify that on the 14th day of November, 2008, the foregoing was filed with the Clerk of Court to be served via the Court's ECF system upon all counsel of record.

/s/ Bridget Hoy

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