



July 14, 2010

VIA HAND DELIVERY

Hon. Harold Baer, Jr.
United States District Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 2230
New York, New York 10007-1312

Re: Gucci America, Inc. v. Frontline Processing Corp., et al., 09 Civ. 6925 (SDNY) (HB)

Dear Judge Baer:

I write on behalf of Plaintiff Gucci America, Inc. (“Plaintiff”) in the above-captioned action to request a brief extension of time to file Plaintiff’s motion for summary judgment against Defendants Durango Merchant Services, LLC (“Durango”) and Woodforest National Bank (“Woodforest”). Plaintiff’s request is necessitated by Durango’s delay in complying with the order entered by this Court on July 2, 2010 (the “Order”) in response to Plaintiff’s motion for sanctions stemming from Durango’s use of a file-scrubbing program on several computers. The Order required, *inter alia*, “that Durango allow Gucci to have a forensic expert ‘image’ the hard drives of computers owned by William Demopolis and Nathan Counley, and provide the imaged hard drives to Plaintiff.” (Dkt. No. 47, at 4). The Order further provided that “should new information come to light or if Plaintiff feel[s] that further sanctions are necessary, it will make this request in its dispositive motion papers, should any be filed.” *Id.*

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In light of the Court’s Order, Plaintiff anticipated filing a motion for summary judgment based in part upon Durango’s spoliation of evidence. To date, however, Durango has not provided its hard drives to Plaintiff’s forensic experts. Durango’s counsel has represented that the hard drives will be made available later today, which is also the Court’s deadline for the parties to file dispositive motions. The information—or lack thereof—that Plaintiff’s forensic experts are able to recover from Durango’s hard drives will necessarily impact Plaintiff’s motion for summary judgment and the relief requested therein. Given the overlapping facts and legal issues regarding Durango and Woodforest, Plaintiff planned to file a single brief in support of its motion against both defendants.

Under these circumstances, Plaintiff respectfully requests a brief extension of time to July 26, 2010 to submit its motion for summary judgment against Defendants Durango and Woodforest. That would be the minimum amount of time to allow Plaintiff’s forensic experts to examine the hard drives and to prepare a report. We would then incorporate such

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information into Plaintiff's motion for summary judgment. Defendants did not file their Answers to until July 7, 2010 and Plaintiff's cross-motion in response to Defendants' motion for summary judgment would not be due until July 26, 2010 in any event, but out of an abundance of caution, Plaintiff wanted to seek the Court's permission to file its motion on that date.

Respectfully submitted,

Robert Weigel / jch

Robert Weigel

RLW/jch

cc: William Mentlik, Esq. (via email)
Todd Wengrovsky, Esq. (via email)

August 1 For both
Plaintiff and Defendant's
Fully-briefed motions.

SO ORDERED:

Harold Baer, Jr.

Harold Baer, Jr., U.S.D.J.

Date: 7/15/10

Endorsement:

August 1 for both plaintiff and defendant's fully briefed motions.