

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>AARON CLARK,</b>	:	
	:	
<i>Plaintiff,</i>	:	
<b>v.</b>	:	<b>Case No. 2:08CV982</b>
	:	
<b>THE WALT DISNEY COMPANY,</b>	:	<b>Judge Holschuh</b>
<b>JAKKS PACIFIC, INC., PLAY</b>	:	
<b>ALONG TOYS, KB TOYS,</b>	:	<b>Magistrate Judge Abel</b>
<b>AMAZON.COM and TOYS ‘R US</b>	:	
	:	
<i>Defendants.</i>	:	

**PLAINTIFF AARON CLARK’S MOTION FOR AN EXTENSION OF TIME  
TO SUBMIT ADDITIONAL BRIEFING IN RESPONSE TO DEFENDANTS’ PENDING  
MOTION FOR SUMMARY JUDGMENT ON PLAINTIFF’S PATENT  
INFRINGEMENT CLAIM**

Plaintiff Aaron Clark (hereinafter “Plaintiff”), by and through undersigned counsel, respectfully submits this Motion for an Extension of Time to Submit Additional Briefing in response to and for this Honorable Court’s consideration of Defendants JAKKS Pacific, Inc. (“JAKKS”), Play Along Toys (“PAT”) and Toys “R” Us’ (“TRU”) (collectively “Defendants”) pending Motion for Summary Judgment.

In a Memorandum Opinion and Order dated June 19, 2009 (Doc. 48), the Court ruled, with respect to Plaintiff’s patent infringement claim<sup>1</sup> that it would treat Defendants’ Motion to Dismiss (Doc. 11) as a Motion for Summary Judgment and thereby allow Plaintiff 45 days from June 19, 2009 to file any additional briefing and/or exhibits for this Honorable Court’s consideration of the pending Motion for Summary Judgment. Plaintiff’s 45-day period expires on August 3, 2009.

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<sup>1</sup> The Court dismissed Plaintiff’s Lanham Act and Ohio Deceptive Trade Practices Act (Counts 2 and 3, respectively) in the Second Complaint.

On May 6, 2009, Plaintiff served discovery on Defendants JAKKS, PAT, TRU and Disney Shopping, Inc. (“DSI”). A week after Plaintiff served Defendants with discovery requests Defendants raised general objections to all discovery requests<sup>2</sup> and sought to stay discovery pending decision of this Honorable Court on Defendants’ pending motions to dismiss. On May 28, 2009 this Honorable Court conducted a discovery conference whereby the Court, rather than staying discovery, placed limitations, pursuant to Fed.R.Civ.P. 26(b)(2)(C), on Plaintiff’s discovery requests and allowed Plaintiff to re-serve discovery requests likely to lead to information to support Plaintiff’s claims and help resolve critical issues<sup>3</sup>. On June 18, 2009, Plaintiff resubmitted discovery requests on Defendants. Defendants’ responses are due on or before July 18, 2009.

Given the current briefing schedule for Plaintiff to supplement the record by August 3, 2009 and the receipt of any responses and documents responsive to Plaintiff’s discovery requests on July 18, 2009, Plaintiff respectfully requests additional time to supplement the record in order to fully review Defendants discovery responses and adequately prepare additional materials to support Plaintiff’s claims in response to Defendants’ Motion for Summary Judgment.

**WHEREFORE**, Plaintiff respectfully requests this Honorable Court grant an extension for additional time from the 45-day period to September 3, 2009 to allow Plaintiff to submit any additional briefing and/or exhibits for this Honorable Court’s consideration in connection with Defendants’ pending Motion for Summary Judgment on Plaintiff’s patent infringement claim.

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<sup>2</sup> Defendants argued that Plaintiff’s discovery requests were vague and ambiguous, overbroad and unduly burdensome, sought documents and information protected by the attorney-client privilege and/or attorney work product doctrine, sought irrelevant information, and were incoherent and confusing.

<sup>3</sup> The Court has not filed a Discovery Conference Order memorializing its ruling from the May 28, 2009 discovery conference.

Dated: June 22, 2009

Respectfully submitted,

/s/ Brian E. Dickerson

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*Attorneys for Plaintiff Aaron Clark*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 22, 2009, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system upon counsels of record.

/s/ Sharlene I. Chance

Sharlene I. Chance (0070999)

*Attorney for Plaintiff Aaron Clark*