

December 14, 2009, to complete discovery by April 15, 2010, and to be called for trial beginning on August 16, 2010.

4. Since that time, Plaintiff has been diligently moving forward with both informal and formal discovery. Plaintiff has met with and interviewed Defendant Sheldon Shelley, has issued third-party subpoenas to Microsoft and PayPal for records related to the Defendants' websites, and has served written discovery, including interrogatories, requests for production and requests for admission, on Defendants Christopher Prince and Prince Distribution, LLC. As the Defendants' responses are now past due, counsel for Plaintiff is working with Defendants' counsel to receive responses without having to burden the Court with a discovery dispute.

5. On February 18, 2010, the deposition of Defendant Christopher Prince was taken, where, for the first time, Bright Builders, Inc.'s role in the creation and support of the business model and websites through which Plaintiff's trademarks were infringed was revealed. Plaintiff and its counsel were wholly unaware of Bright Builders, Inc. ("Bright Builders") and its integral role in the infringement complained of in the Complaint prior to this time.

6. On March 22, 2010, the parties filed a Consent Motion for Leave to Amend the Complaint to add Bright Builders as a party to the suit.

7. In the event the Court grants the parties' motion, the parties propose that the scheduling order governing this case be amended so as to allow Bright Builders reasonable time to prepare to defend itself at trial. Specifically, the parties propose that the scheduling order be amended to provide the following:

- a. Plaintiff shall file and serve the First Amended Complaint within thirty (30) days of the date of the Court's order granting Plaintiff leave to amend.

- b. Within thirty (30) days of service of the First Amended Complaint on Bright Builders, and in the event Bright Builders makes an appearance in this suit, a conference of the parties pursuant to Rule 26(f) shall be held. Within one week of said conference, the parties shall file an amended Rule 26(f) Report and serve their Rule 26(a)(1) initial disclosures.
- c. Discovery shall be completed by September 15, 2010. The current deadline for the completion of discovery is April 15, 2010.
- d. Trial shall occur during the term of court beginning January 1, 2011. The current trial date is during the term of court beginning August 16, 2010.

In sum, the parties are seeking an approximate five (5) month extension on existing deadlines in order to accommodate the inclusion of Bright Builders as a new party to this suit. An amended scheduling order reflecting these changes will be submitted to the Court for its consideration.

8. Only one other amendment to the scheduling order governing this case has been made since the Court's entry of the Consent Amended Scheduling Order, which was submitted by the parties in conjunction with their Joint 26(f) Report. Specifically, the deadlines for the parties' expert disclosures were extended by approximately 45 days. Prior to the expiration of its amended deadline to identify expert witnesses, Plaintiff filed its expert disclosures with the Court.

WHEREFORE, the parties pray the Court that the scheduling order be amended so as to allow for the inclusion of Bright Builders, Inc., as a new party to this suit.

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