

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

McAFEE, INC.

Plaintiff,

v.

WILMER, CUTLER, PICKERING, HALE
AND DORR, L.L.P

Defendant.

JURY REQUESTED

No. 408-cv-160

**PLAINTIFF MCAFEE, INC.'S MOTION FOR LEAVE TO FILE
SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION TO DISMISS**

COMES NOW, McAfee, Inc. ("Plaintiff") and files this, Motion for Leave to File Supplemental Response to Defendant's Motion to Dismiss and shows as follows:

1. Defendant filed its Motion to Dismiss under Rules 12(b)(1), (3),(6),(7), and 9(b) and Request for Oral hearing on June 9, 2008.
2. Pursuant to Eastern District Local Rule CV-7(e) Plaintiff's deadline to file a response is today, June 24, 2008.
3. Due to a clerical error Plaintiff's response date was not calendared correctly. This error was discovered on the eve of Plaintiff's deadline.
4. Plaintiff has filed a response. However, given the calendaring error additional time is needed to adequately respond to Defendant's Motion. Plaintiff respectfully requests seven (7) days from the date the Court rules on this Motion in which to file a supplemental response.
5. This request for leave is due to excusable neglect and this request is brought in good faith. Defendant will not be prejudiced by this extension.

Respectfully submitted,

/s/ Martin E. Rose

Martin E. Rose
Texas State Bar No. 17253100
Attorney-In-Charge

Lynda Lee Weaver
State Bar No. 21010680
Kevin A. Koudelka
State Bar No. 24025971
Of Counsel

ROSE•WALKER, L.L.P.
3500 Maple Avenue, Suite 900
Dallas, Texas 75219
(214) 752-8600 phone
(214) 752-8700 fax
mrose@rosewalker.com
lweaver@rosewalker.com
kkoudelka@rosewalker.com

and

Joe Kendall
State Bar No. 11260700
PROVOST UMPHREY LLP
3232 McKinney Ave., Ste. 700
Dallas, TX 75204
Telephone: (214) 744-3000
Fax: (214) 744-3015
jkendall@provostumphrey.com

**ATTORNEYS FOR PLAINTIFF
MCAFEE, INC.**

CERTIFICATE OF SERVICE

I hereby certify that the following counsel of record are being served today, June 24, 2008, with a copy of the foregoing, via the court's ECF filing system.

Paul Yetter
YETTER & WARDEN
Two Houston Center
909 Fannin, Suite 3600
Houston, TX 77010
Phone: 713.632.8000
Fax: 713-632-8002
pyetter@yetterwarden.com

/s/ Martin E. Rose

Martin E. Rose