

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

THE FOREST GROUP, INC.,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-05-4127
	§	
BON TOOL COMPANY, <i>et al.</i> ,	§	
Defendants.	§	

**MEMORANDUM AND ORDER**

This patent case is before the Court on the Motion for Leave to Amend Counterclaims (“Motion to Amend”) [Doc. # 138] filed by Defendant Bon Tool Company (“Bon Tool”).<sup>1</sup> Bon Tool seeks to amend its counterclaim “to assert claims that other parties are the alter ego of the Forest Group, or are operating as a single enterprise with the Forest Group.” *See* Motion to Amend, p. 1. The deadline for amendments to pleadings expired in August 2006, discovery is closed, and the case is scheduled for trial beginning July 7, 2008.

Leave to amend after the deadlines granted in the court’s scheduling order is guided by Rule 16 of the Federal Rules of Civil Procedure, which provides “that a scheduling order shall not be modified except upon a showing of good cause and by

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<sup>1</sup> Also pending is Bon Tool’s Motion for Separate Trial on Proposed New Counterclaims [Doc. # 139]. Because the Court is denying leave to file the proposed new counterclaims, the request for a separate trial on the amendments is moot.


leave of the district judge. The good cause standard requires the party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.” *Southwestern Bell Telephone Co. v. City of El Paso*, 346 F.3d 541, 546 (5th Cir. 2003) (internal quotations omitted).

Bon Tool has not explained why they could not have requested the amendment earlier, and Bon Tool has not demonstrated good cause for the belated request to amend. The Court is not inclined to delay the final resolution of this case to accommodate the late amendment and, consequently, it is hereby

**ORDERED** that Bon Tool’s Motion to Amend [Doc. # 138] is **DENIED**. It is further

**ORDERED** that Bon Tool’s Motion for Separate Trial [Doc. # 139] is **DENIED AS MOOT**.

SIGNED at Houston, Texas, this 19<sup>th</sup> day of **June, 2008**.

  
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Nancy F. Atlas  
United States District Judge