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August 17, 2007

Hon. James R. Spencer, Chief Judge
United States District Court
Eastern District of Virginia
Lewis F. Powell, Jr. U.S. Courthouse
1000 East Main Street
Richmond, Virginia 23219

Re: *segOne Inc. v. Fox Broadcasting Company*, Civil Action No. 3:07cv342-JRS
Late Filing of Reply Brief by Defendant Fox Broadcasting Company

Dear Chief Judge Spencer:

I am counsel for Plaintiff segOne, Inc. in the above-referenced action. I write in response to the filing today by Defendant Fox Broadcasting Company of its reply brief in support of its motion to dismiss segOne's Complaint for lack of subject matter jurisdiction.

Fox filed its reply brief two days after the time allowed under the Eastern District's local rules, and it also failed to file (as required by those rules) a motion requesting that this Court grant additional time.

Please note that on Wednesday, August 8, counsel for Fox contacted my co-counsel, Christopher Sprigman, to request segOne's support for a motion by Fox requesting additional time to file its reply brief. Mr. Sprigman stated that segOne would neither support nor oppose such a request, and that Fox could say as much in any motion that it filed requesting extra time.¹

Therefore, because segOne has already told Fox's counsel that it would not oppose extra time for the filing of the reply brief, segOne takes no position whether this Court should strike the brief on account of its late filing.

I should also mention that Fox's late-filed brief makes much of Judge Batts's ruling on the

¹ Note also that Fox sought, and was granted (again, with no objection from segOne), extra time to file its initial motion and accompanying memorandum.

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Copyright Act’s “homestyle exemption”—a matter that Fox did not address its initial memorandum’s Argument. While that exemption was raised by Fox and its co-plaintiffs in the litigation against Flying J, it is entirely irrelevant to segOne’s arguments in the present suit before this Court. segOne will not raise the issue of the homestyle exemption in this declaratory action and will not seek any ruling from this Court on its applicability to any use of the segOne device. Fox’s assertions in its rebuttal memorandum that segOne is asking this Court to disagree with the New York court’s conclusions on the scope of the homestyle exemption are simply incorrect.

Respectfully,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August, 2007, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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