

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

E-NUMERATE SOLUTIONS, INC. and
E-NUMERATE, LLC,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

No. 19-859 C

Judge Lydia Kay Griggsby

**JOINT MOTION FOR AN ENLARGEMENT OF TIME OF THE BRIEFING
SCHEDULE FOR DEFENDANT’S MOTION TO DISMISS
PURSUANT TO RCFC 12(b)(6) AND 35 U.S.C. § 101**

Plaintiffs e-Numerate Solutions, Inc. and e-Numerate, LLC (collectively “e-Numerate”) and Defendant United States (“the Government”) jointly move this Court for an enlargement of time for e-Numerate to file its Answering Brief on the Government’s Motion to Dismiss pursuant to Rule 12(b)(6) of the Rules of the Court of Federal Claims and 35 U.S.C. § 101 and for the Government to file its Reply Brief on said motion. Specifically, the parties jointly request: (1) that e-Numerate’s Answering Brief be due on December 20, 2019; and (2) that the Government’s Reply Brief be due on January 24, 2020. This is the first request by the parties for an extension of the response and reply deadlines for this motion. The grounds for this motion are as follows.

E-Numerate filed this suit on June 11, 2019 (D.I. 1) accusing the Government of infringing seven patents. E-Numerate asserted a total of 77 claims in those patents in its Complaint. The Government requested an enlargement of 60 days to move, answer or otherwise respond to the Complaint on a variety of grounds. *See* D.I. 5. E-Numerate did not oppose this request. *See* D.I. 6. As a result, the Government was effectively given 120 days to prepare its Motion to Dismiss after the filing of the Complaint.

E-Numerate's Response Brief is presently due on November 8, 2019 absent an enlargement. This is four weeks from the date the Government filed its motion to dismiss the Complaint in its entirety. E-Numerate's Request seeks an additional 42 days to prepare its Answering Brief. This enlargement is roughly commensurate with the additional time the Government was granted to prepare its Motion to Dismiss beyond the original due date for its response to the Complaint.

E-Numerate's Request is additionally supported on the grounds that the issues involved in the Government's motion are complex in that there are seven patents-in-suit and a total of 77 presently asserted claims that have different claim language. Each patent must be addressed in response to the Government's motion.

E-Numerate is amenable to enlarging the deadline for the Government's Reply Brief until January 24, 2020. If e-Numerate's response brief is filed on December 20, 2019, the Government's reply brief would be due on January 3, 2020, absent an enlargement. Thus, if the Court extends the response brief deadline, the parties jointly request that the Court also extend the reply brief deadline by 21 days, to January 24, 2020. The reason for this enlargement is to avoid the Government's time for replying to Plaintiffs' response largely running during year-end holidays.

Granting this enlargement does not prejudice either party. There is no Scheduling Order in place and formal discovery has not yet commenced.

For the above reasons, e-Numerate and the Government respectfully request that this motion be granted and that the briefing schedule on the Government's Motion To Dismiss be enlarged as follows: (1) e-Numerate's Answering Brief is due on December 20, 2019; and (2) the Government's Reply Brief is due on January 24, 2020.

Respectfully submitted,

Dated: November 4, 2019

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November 4, 2019

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