

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SIPCO, LLC and IP CO., LLC <i>d/b/a</i> INTUS IQ,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 16-830-RGA
)	
STREETLINE, INC., KAPSCH TRAFFICCOM HOLDING CORP., and KAPSCH TRAFFICCOM U.S. CORP.)	
)	
Defendants.)	
)	

**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO
RESPOND TO THE SECOND AMENDED COMPLAINT**

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*Counsel for Defendants Streetline, Inc.,
Kapsch TrafficCom Holding Corp., and
Kapsch TrafficCom U.S. Corp.*

Dated: July 10, 2017

Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A), Defendants Streetline, Inc. (“Streetline”), Kapsch Trafficom Holding Corp. (“Kapsch Holding”) and Kapsch Trafficom U.S. Corp. (“Kapsch U.S.”) (collectively, “Defendants”) respectfully request that the Court extend their time to respond to Plaintiffs SIPCO, LLC’s (“SIPCO”) and IPCO, LLC’s (“IPCO”) (collectively, “Plaintiffs”) Second Amended Complaint (D.I. 25) by 28 days, from July 14, 2017 to August 11, 2017.

Prior to bringing this motion, Defendants conferred with counsel for Plaintiffs in a good faith effort to obtain Plaintiffs’ consent. Plaintiffs offered to consent, but only on condition that Defendants agree to file only an answer – rather than another motion to dismiss the complaint – at the end of the proposed 28-day period. *See* Exh. A (July 6-7, 2017 email correspondence between counsel). Defendants cannot agree to that condition, because Defendants intend to file a motion to dismiss the Second Amended Complaint. Thus, Defendants understand that Plaintiffs will oppose the instant motion.¹

Defendants respectfully submit that the requested extension is reasonable under the circumstances, and is necessary for Defendants to formulate a full and complete motion to dismiss. An extension is needed for at least the following reasons:

1. Plaintiffs’ Second Amended Complaint includes ten new “claim charts,” which purport to show how each element of certain claims of the ten patents-in-suit are met by Defendants’ accused products. These claim charts comprise 284 pages of new material. The 14-day response period provided by Fed. R. Civ. P. 15(a)(3) simply does not provide enough

¹ Defendants note, however, that Plaintiffs cannot legitimately claim to be prejudiced by a 28-day extension, because they offered to consent to an extension of exactly that length (albeit only if Defendants agreed to file an answer, rather than a motion to dismiss). *See* Exh. A. Plaintiffs’ “conditioning” of their consent upon Defendants’ agreement to *wave their right to file a motion to dismiss* seems to be little more than an attempt to leverage Defendants’ *need* for an extension of time, into an inducement for Defendants to *give up their substantive rights*.

time for Defendants to parse these 284 pages of claim charts and determine whether they allege sufficient facts to state a plausible claim for infringement under *Twombly/Iqbal*. Defendants respectfully submit that they need the requested extension, both: (i) to parse through the claim charts and determine whether – and to what extent – they satisfy the *Twombly/Iqbal* standard; and (ii) to the extent that they do not satisfy the *Twombly/Iqbal* standard, to formulate and draft arguments to that effect, for inclusion in Defendants’ motion to dismiss.

2. Defendants’ counsel Stephen Underwood – who was substantially involved in preparing Defendants’ prior motions to dismiss, and who will be substantially involved in preparing the next one – is currently studying to take the California Bar Exam, which will be held on July 25. Mr. Underwood will have limited – if any – availability to work on this matter until then. Thus, the requested extension is necessary to allow Defendants’ counsel of choice sufficient time to prepare the motion to dismiss.

3. Plaintiffs’ Second Amended Complaint fails to cure the deficiencies of the prior Complaints pertaining to the alleged involvement of the Kapsch Defendants in the allegedly-infringing conduct. Thus, Defendants intend to argue, this case should be dismissed with prejudice as to the Kapsch Defendants. Defendants require adequate time to formulate and draft arguments to show that dismissal with prejudice is proper as to these Defendants.

Additionally, Plaintiffs cannot identify any genuine prejudice that they would suffer from a 28-day extension. This case has been pending for nearly ten months, yet it is still only at the complaint stage. That is solely due to the fact that Plaintiffs have insisted on filing complaints that are manifestly deficient on their face. If time truly was of the essence for Plaintiffs, they could have avoided this entire 10-month delay simply by filing a complaint that satisfies *Twombly/Iqbal*. Yet, for nearly ten months now, they have failed to do so. Thus,

Plaintiffs should not be heard to complain that they would be unduly prejudiced by a 28-day delay, when they have themselves already caused a nearly ten-month delay, by repeatedly filing complaints that manifestly fail to satisfy the pleading requirements of the Federal Rules.

WHEREFORE, for the foregoing reasons, and for good cause shown, Defendants respectfully request that their deadline to respond to the Second Amended Complaint be extended by 28 days, until August 11, 2017.

Respectfully submitted,

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RULE 7.1.1 STATEMENT

I hereby certify that counsel for Defendants conferred with counsel for Plaintiffs in an attempt to narrow or resolve the issues presented in this motion. However, the parties were not able to reach agreement, necessitating this motion.

/s/ Nicholas D. Mozal
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