

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

B.E. Technology, L.L.C.,

Plaintiff,

Civil Action No. 2:12-cv-02827-JPM-tmp

v.

Sony Mobile Communications (U.S.A.) Inc.,

Defendant.

**UNOPPOSED MOTION (INCLUDING MEMORANDUM) TO ENLARGE TIME
FOR RESPONSE TO MOTION TO STRIKE DEFENSES (DOC. 28)
(WITH CERTIFICATE OF CONSULTATION)**

Defendant Sony Mobile Communications (U.S.A.) Inc. respectfully moves the Court to enter the accompanying proposed Order, enlarging by 14 days the original period for defendant's response to the motion to strike defenses from defendant's answer, filed by plaintiff B.E. Technology on January 25, 2013 (Doc. 28). This relief is authorized by Fed.R.Civ.P. 6(b)(1)(A), and requested on the following bases:

1. As set forth in the Certificate of Consultation below, plaintiff does not oppose this relief.
2. This motion is being made within the original period of 14 days, which expires on February 11, 2013¹; and no previous enlargement of such period has been sought.

¹ / This calculation includes the 3 days added under Rule 6(d).

3. Plaintiff's motion to strike involves issues relating to the comparative requirements of Fed.R.Civ.P. 8(b)(1)(A) when defendant "state[d] ... its defenses," and Rule 8(a)(2) and associated case law, which governed the original pleading of claims that defendant was answering. Plaintiff is believed to have filed similar motions to strike in at least a large majority of the 18 other actions in this Court asserting the same family of U.S. Patents. Moreover, in those cases where the defendants' answers included counterclaims, plaintiff is believed to have universally filed motions for dismissal of the counterclaims under Rule 12(b)(6), which include requests to strike defenses in the same answers. Thus, the Court is going to be presented with the same legal issues in virtually all 19 of the related actions, once the motions to dismiss and/or strike are responded to. Defendant is diligently preparing a response appropriate to such issues; and particularly taking into account the many other activities simultaneously occurring in the action (including attempts to understand massive infringement contention documents), defendant genuinely needs the additional time requested.

4. As manifest from plaintiff's agreement not to oppose, the requested relief would not prejudice plaintiff. It could, instead, actually assist the orderly disposition of the related motions pending in at least the majority of the 19 cases. In the cases with counterclaims, where plaintiff has filed motions to both dismiss and strike, the original response period for those motions already is 28 days, or February 25.² The 14 additional days sought here would make this defendant's response, having the Rule 8(b) defense pleading issues in common, due on the same

² / Again, calculated with the 3 days added under Rule 6(d). Counsel for plaintiff and defendant have consulted and are understood to share the belief that where motions in the same document seek both dismissal under Rule 12(b)(6) and striking of material under Rule 12(f), it seems appropriate for the responding party to likewise file a corresponding single document fully addressing the original, rather than split the response into two documents with two different deadlines.

day. The same relief is being sought in other cases, for the same reasons of need, consistency, and efficiency.

CERTIFICATE OF CONSULTATION

The undersigned attorney hereby certifies that, prior to the foregoing motion's filing, successful consultation was held with Richard Carter, counsel for plaintiff, resulting in permission to state that plaintiff does not oppose the enlargement of time sought in the motion.

/s/Mark Vorder-Bruegge, Jr.
Mark Vorder-Bruegge, Jr.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The foregoing document was filed under the Court's CM/ECF system, automatically effecting service on counsel of record for all other parties who have appeared in this action on the date of such service.

/s/ Mark Vorder-Bruegge, Jr.
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