

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

B.E. TECHNOLOGY, L.L.C.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2:12-cv-2829 JPM
)	
MICROSOFT CORPORATION,)	
)	
Defendant.)	

**MICROSOFT CORPORATION’S UNOPPOSED MOTION AND MEMORANDUM FOR
EXTENSION TO SET A SINGLE DATE TO RESPOND TO B.E. TECHNOLOGY,
L.L.C.’S MOTION TO DISMISS UNDER FED. R. CIV. P. 12(B)(6) AND MOTION TO
STRIKE UNDER FED. R. CIV. P. 12(F)**

COMES NOW Microsoft Corporation, by and through the undersigned counsel, and respectfully moves the Court pursuant to Fed. R. Civ. P. 6(b)(1)(A) for an extension of time, up to and including February 25, 2013, to file a response to the Motion to Strike portion of Plaintiff B.E. Technology, L.L.C.’s combined Motion so that the time to respond is the same for both portions of B.E. Technology’s combined Motion. In support of this Motion, Microsoft states as follows:

On January 25, 2013, B.E. Technology filed a combined Motion to Dismiss and Strike and supporting Memorandum. (See Dkt. No. 34.) Under Local Rule 7.2(a)(2), a response to a motion to strike must be filed within 14 days after service of the motion, (see Local Rule 7.2(a)(2)), while a response to a motion to dismiss must be filed within 28 days after service of the motion under Local Rule 12.1. Thus, under the Local Rules, Microsoft would be required to respond to the Motion to Strike portion of B.E. Technology’s brief on February 11, 2013 (14 days from filing, plus three additional days for electronic service under Local Rule 6.1 and



Federal Rules of Civil Procedure 6(d) and 5(b)(2)(E)). Microsoft would then be required to respond to the Motion to Dismiss portion of B.E. Technology's brief on February 25, 2013 (28 days from filing, plus three additional days for electronic service). Through this Motion, Microsoft simply seeks, to the extent necessary, to have the due date for its response to B.E. Technology's combined Motion be the same day so that multiple responses need not be filed. Setting a single date by which Microsoft must respond to both the Motion to Strike portion and Motion to Dismiss portion of B.E. Technology's combined Motion would help streamline its response to B.E. Technology's Motion to Dismiss and Strike, reduce litigation costs, and conserve time and resources.

B.E. Technology does not oppose this extension of time. Further, this Motion is made prior to the expiration of Microsoft's original time to respond to B.E. Technology's Motion to Dismiss and Strike. Microsoft has sought no prior extension of time to respond to this Motion.

Accordingly, Microsoft respectfully requests that this Court grant Microsoft an extension of time to file a response to the Motion to Strike portion of B.E. Technology's combined Motion up to and including February 25, 2013, so that it may correspond with its deadline to respond to the Motion to Dismiss portion of B.E. Technology's combined Motion.

A proposed order granting the extension of time is being submitted via electronic mail to the Court.

February 8, 2013

Respectfully submitted,

s/ Adam S. Baldrige
Bradley E. Trammell (TN #13980)
Adam S. Baldrige (TN #023488)
Baker, Donelson, Bearman, Caldwell &
Berkowitz, P.C.
165 Madison Avenue, Suite 2000
Memphis, TN 38103
Telephone: 901.577.2102

Email: btrammell@bakerdonelson.com
abaldrige@bakerdonelson.com

Kelly C. Hunsaker (*Pro Hac Vice*)
Leeron G. Kalay (*Pro Hac Vice*)
FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063
Telephone: (650) 839-5070
hunsaker@fr.com
kalay@fr.com

Attorneys for Defendant
MICROSOFT CORPORATION

CERTIFICATE OF CONSULTATION

Pursuant to Local Rule 7.2(a)(1)(B), I hereby certify that on February 4-5, 2013, I consulted via telephone with counsel for Plaintiff B.E. Technology LLC, Richard Carter, concerning Plaintiff's position with regard to the relief sought in this Motion. Mr. Carter informed me that Plaintiff does not oppose this Motion.

s/ Adam S. Baldrige _____

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2013, a true and correct copy of the foregoing document was electronically filed with the United States District Court for the Western District of Tennessee, and was served on all counsel by the court's electronic filing notification or via email.

s/ Adam S. Baldrige _____