

Local Rule CV-7(a). This rule may be modified for good cause with the Court's consent. FED. R. Civ. P. 16(b). Indeed, "[t]he court is lenient in permitting litigants to file documents that exceed the page limits after a showing of good cause." *Clarke v. Dir., Tex. Dep't of Crim. Justice-Corr. Insts. Div.*, No. 4:08cv381, 2013 U.S. Dist. LEXIS 126607, at *2 (E.D. Tex. Sep. 4, 2013).

B. Blitzsafe Is Seeking to Re-litigate Several Claim Terms That Have Been Litigated Extensively in a Prior Litigation.

In March 2010, Marlowe Patent Holdings LLC filed a lawsuit against several companies in the District of New Jersey asserting infringement of the '786 patent, styled *Marlowe Patent Holdings LLC v. Dice Electronics LLC et al.*, No. 3:10-cv-01199-PGS-DEA (D.N.J.) (the "*Dice Case*"). District Judge Peter Sheridan presided over the case. Ira Marlowe is the owner of both Marlowe Patent Holdings and Blitzsafe, as well as being the sole named inventor of the '786 patent. While the *Dice Case* was pending, a second lawsuit was filed by Marlowe Patent Holdings against Ford Motor Company, styled *Marlowe Patent Holdings LLC v. Ford Motor Co.*, No. 3:11-cv-07044-PGS-DEA (D.N.J.) (filed Dec. 2, 2011) (the "*Ford Case*"). Judge Sheridan eventually consolidated the *Dice Case* and *Ford Case* for claim construction purposes.

Over the next two years, the parties extensively litigated the proper construction of the claim terms of the '786 patent. During this time, Marlowe Patent Holdings had the opportunity to submit three sets of briefs and participate in three separate hearings over the appropriate construction of the claims. Judge Sheridan ultimately issued a 41-page claim construction opinion and 3-page claim construction order on January 20, 2015. Dkts. 109, 110 in the *Ford Case*. In the opinion and order, Judge Sheridan construed fourteen disputed claim terms of the '786 patent. *Id.* Both the *Dice Case* and the *Ford Case* ended shortly thereafter, with the parties stipulating to a dismissal with prejudice. Dkt. 244 in the *Dice Case*, Dkt. 130 in the *Ford Case*.

Not long after the *Dice* and *Ford* Cases concluded, Marlowe Patent Holdings assigned the '786 patent to Blitzsafe on July 10, 2015. Ira Marlowe also assigned the '342 patent to Blitzsafe on the same day. Blitzsafe was formed as a Texas limited liability company just two days earlier, identifying Blitzsafe of America, Inc. as its sole manager and governing entity. Ira Marlowe is the owner of Blitzsafe of America, Inc. as well as the CEO of Blitzsafe Texas, LLC. The instant consolidated lawsuits followed.

Because Blitzsafe insists on re-litigating the meaning of claims terms already decided by Judge Sheridan, there are currently twelve groups of claim terms that are in dispute between the parties. However, Defendants believe that this Court should adopt all of Judge Sheridan's constructions from the *Dice* and *Ford* Cases, and reject Blitzsafe's attempts to re-litigate the construction of the following terms: "interface," "device presence signal," "pre-programmed," "external," and "portable." In addition to those five terms, the parties to the *Ford* Case agreed to the construction of "car stereo"—an agreed construction that Blitzsafe now seeks to change.

C. Defendants Are Consolidating Their Arguments in One Brief.

In addition to the foregoing, five groupings of defendants (*i.e.*, Honda, Volkswagen, Toyota, Hyundai/Kia, and Nissan) have had their cases consolidated for pretrial purposes. *See* Dkt. 25. Had Defendants all filed separate briefs in separate cases, the overall page limits would have been 150 pages.

Additionally, Defendants raise indefiniteness arguments in the Claim Construction Response. Defendants bear the burden of proof on these invalidity arguments. *See, e.g.*, 35 U.S.C. § 282(a). Typically, the party with the burden of proof would be allowed to file reply briefs. Under the Patent Rules, however, the Defendants are not afforded a reply brief for these

arguments. In this regard, Defendants have consolidated the arguments that would typically cover more pages in additional briefs in this one brief.

II. CONCLUSION.

For the reasons set forth above, Defendants respectfully request the Court to grant their motion to increase the page limit for Defendants' responsive claim construction brief from 30 pages to 32 pages.

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Respectfully submitted,

/s/ Joseph M. Beauchamp

Joseph M. Beauchamp
Texas State Bar No. 24012266
Email: jmbeauchamp@jonesday.com

H. Albert Liou
Texas State Bar No. 24061608
Email: aliou@jonesday.com

Erin C. Dickerman 24087358
Texas State Bar No.
Email: edickerman@jonesday.com

JONES DAY
717 Texas Street, Suite 3300
Houston, Texas 77002-2712
Telephone: (832) 239-3939
Facsimile: (832) 239-3600

Joseph Melnik
California State Bar No. 255601
Email: jmelnik@jonesday.com

JONES DAY
1755 Embarcadero Road
Palo Alto, California 94303
Telephone: (650) 739-3939
Facsimile: (650) 739-3900

Randy Akin
Texas State Bar No. 00954900
Email: gra@randyakin.com
G.R. (Randy) Akin, P.C.
3400 W. Marshall Avenue, Suite 300
Longview, Texas 75604
Telephone: (903) 297-8929
Facsimile: (903) 297-9046

**ATTORNEYS FOR DEFENDANTS
AMERICAN HONDA MOTOR CO., INC.;
HONDA OF AMERICA MFG., INC.;
HONDA MANUFACTURING OF
ALABAMA, LLC; AND HONDA
MANUFACTURING OF INDIANA, LLC**

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