

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 09-60973-CIV-ALTONAGA/BROWN

TRANSAMERICA CORPORATION,

Plaintiff,

vs.

MONIKER ONLINE SERVICES, LLC,
OVERSEE.NET, MONIKER PRIVACY
SERVICES, INC., and JOHN DOES 1-10
a/k/a "H.W. Barnes," "Domains Ventures,"
and "Domain Park Limited,"

Defendants.

**DEFENDANTS' MOTION FOR
EXTENSION OF TIME TO RESPOND TO COMPLAINT**

Defendants, Moniker Online Services, LLC ("Moniker"), Moniker Privacy Services, LLC ("MPS"), and Oversee.net ("Oversee") (collectively, the "Moniker Defendants"), respectfully move for an additional extension of time, pursuant to Fed. R. Civ. P. 6(b)(1), to respond to the First Amended Complaint filed by Plaintiff, Transamerica Corporation ("Transamerica"). As grounds for this motion, Defendants state:

1. The Moniker Defendants' response to the First Amended Complaint is due on September 9, 2009.
2. The Moniker Defendants previously served a motion for sanctions pursuant to Federal Rule of Civil Procedure 11 upon the Transamerica. In response, Transamerica amended the Complaint, removing many – but not all – of its frivolous allegations.
3. The Moniker Defendants will once again be serving a Rule 11 Motion on Transamerica. Pursuant to Rule 11, Transamerica is entitled to a twenty-one (21) day

safe harbor period to decide if they want to withdraw (or seek leave to amend) the First Amended Complaint. Therefore, Defendants seek a thirty (30) day extension of time to allow them sufficient time to complete the Rule 11 motion, serve it on Transamerica, and allow the twenty-one (21) day safe harbor period to expire.¹

4. If the Court is not disposed to grant a 30 day extension to allow for the Rule 11 safe harbor period to expire, the Moniker Defendants request at least a 10 day extension.

A. Transamerica's First Amended Complaint is different in some fundamental ways from the initial Complaint. The Moniker Defendants were prepared to answer the initial Complaint because they could not, in good faith, move to dismiss it because of the allegations it made about the Moniker Defendants' ownership of the domain names at issue.

B. The First Amended Complaint does not allege the Moniker Defendants own the domains. Consequently, legal defenses, previously foreclosed by the initial Complaint's factual allegations, are now available to the Moniker Defendants. These defenses will be set forth in a motion to dismiss directed to all of the counts in the First Amended Complaint.

C. Preparing the motion to dismiss will require more than the 10 days allowed to respond to an amended complaint because the First Amended Complaint is fundamentally different. The Moniker Defendants should, therefore, be given at least the usual 20 days allowed to respond to an initial complaint.

¹ The Moniker Defendants anticipate completing (and serving) the Rule 11 Motion on Tuesday, September 8, 2009. Rule 11's safe harbor would then expire on September 29, 2009. The Moniker Defendants would then have 10 days to file a responsive pleading by October 9, 2009.

5. Counsel represents and certifies that this motion is being sought in good faith and not for the purpose of interposing undue delay.

6. Pursuant to Local Rule 7.1(A)(3), undersigned counsel conferred with Plaintiff's counsel, who was unable to timely indicate whether Plaintiff would agree to the requested extension of time.

WHEREFORE, Defendants, Moniker Online Services, LLC, Moniker Privacy Services, LLC, and Oversee.net, request that this Court enter an Order granting them an extension of time of thirty (30) days within which to serve a response to the Complaint.

Respectfully submitted,

**DE LA O, MARKO,
MAGOLNICK & LEYTON**

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CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2009, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document was served this day on all counsel of record and pro se parties identified on the attached Service List either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized matter for those counsel or parties who are not authorized to receive Notices of Electronic Filing.

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/s/ Miguel M. de la O
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Defendants.

ORDER ON AGREED MOTION FOR EXTENSION OF TIME

THIS MATTER having come before the Court upon Defendants' Agreed Motion for Extension of Time to Respond to the Complaint and the Court being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that the Motion for Extension of Time to Respond to the Complaint is Granted. Defendants, Moniker Online Services, LLC, Oversee.Net, and Moniker Privacy Services, Inc., shall have up to and including October 9, 2009, within which to serve Defendants' Response to Plaintiff's Complaint.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida this
___ day of _____, 2009.

Cecilia M. Altonaga
Judge, U.S. District Court