

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

_____)
In the Matter of)
)
Jerk, LLC, a limited liability company,)
also d/b/a JERK.COM, and) DOCKET NO. 9361
)
John Fanning,)
individually and as a member of)
Jerk, LLC.)
)
_____)

COMPLAINT COUNSEL'S OPPOSITION TO
RESPONDENT JOHN FANNING'S MOTION TO ENLARGE TIME TO RESPOND TO

COMPLAINT COUNSEL'S MOTION FOR SUMMARY JUDGMENT

I. Fanning's Motion should be denied because he failed to meet and confer with Complaint Counsel before filing.

The Court's May 28, 2014, Scheduling Order in this matter states:

Each motion (other than a motion to dismiss or a motion for summary decision) shall be accompanied by a separate signed statement representing that counsel for the moving party has conferred with opposing counsel in an effort in good faith to resolve by agreement the issues raised by the motion and has been unable to reach such an agreement. Motions that fail to include

II.

such separate statement may be denied on that ground.

Scheduling Order, pp. 4-5. Fanning's Motion contains no such separate statement. It cannot,

meet the requirements of the Scheduling Order with Complaint Counsel before his filing. He did not

laid out their arguments, material facts, and supporting evidence in a clear and orderly manner.

[REDACTED]

review for relevance.

Fanning's argument that summary decision will subvert his due process right to "expose

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

III. Complaint Counsel would support a more reasonable extension, should the

[REDACTED]

- Deadline for Fanning to file an Answer to Complaint Counsel’s MSD: October 28, 2014
- Deadline for Complaint Counsel to file their Reply: November 10, 2014

[REDACTED]

Branch.”

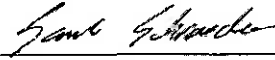
IV. Conclusion

In summary, Fanning’s motion should be denied for his failure to meet and confer. If, however, in light of Complaint Counsel’s articulated support for a reasonable extension, the Commission were to order an extension, it should extend the deadlines proposed herein, instead of granting the unreasonably long and prejudicial extension Fanning seeks.

² Commission Rule 3.24(a)(2) provides that a party opposing a motion for summary decision has 14 days in which to file an opposition.

Dated: October 3, 2014

Respectfully submitted,



Sarah Schroeder
Yan Fang
Boris Yankilovich
Kenneth H. Abbe

Federal Trade Commission
Western Region -- San Francisco
201 M Street, Suite 570



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BEFORE THE FEDERAL TRADE COMMISSION

_____)
In the Matter of)
_____)
_____)
_____)
_____)
_____)
_____)
_____)

[PROPOSED] ORDER

It is hereby ORDERED that:

[] Respondent Fanning's Motion to Enlarge Time is Denied, or

ORDERED:

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED:

I hereby certify that on October 3, 2014, I served a true and correct copy of
(1) COMPLAINT COUNSEL'S OPPOSITION TO RESPONDENT JOHN FANNING'S
MOTION TO ENLARGE TIME TO RESPOND TO COMPLAINT COUNSEL'S MOTION