



intervention by the Government in cases involving the constitutionality of acts of Congress.”).

Obtaining the Solicitor General’s approval will require time for thorough consideration.

Moreover, there appears to be no need for the United States to decide whether to intervene at this time, prior to the close of discovery. Defendants have filed a motion to dismiss the case in its entirety on grounds unrelated to the constitutionality of the Lanham Act. That motion was heard on October 31, 2014. In addition, plaintiff’s facial challenge to the constitutionality of the Lanham Act appears to raise purely legal questions that will not turn on the resolution of disputed adjudicative facts, so the United States will not need to participate in discovery as to that issue.

In short, because the parties will not join the question of the constitutionality of the Lanham Act until summary judgment briefing, following the close of discovery, (assuming the Court denies the motion to dismiss), there appears to be no need for the United States to make a final decision on intervention before that time. If it decides to intervene, the United States respectfully suggests that the timing of its briefing in defense of the constitutionality of the Lanham Act be coordinated with the parties’ briefing schedules to reduce duplication and promote judicial economy.

For the reasons stated above, the United States therefore requests an extension of time so that it may file any intervention notice on or before the close of discovery, January 9, 2015. A proposed order to this effect has been attached for the convenience of this Court.

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Dated: November 10, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of November, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to:

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