

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Young America's Foundation,

Plaintiff,

v.

Matthew Sitman, *et al.*

Defendants.

Case No. 1:23-cv-00253-CMH-IDD

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

Defendants Matthew Sitman, Sam Adler-Bell, and Foundation for the Study of Independent Social Ideas, Inc. d/b/a Dissent Magazine ("Dissent") move for a second extension of time in which to file a consolidated response to the Complaint in the above-captioned matter, up to and including July 14, 2023. In support of this motion, Defendants state as follows:

1. Dissent was served on April 17, 2023. Mr. Adler-Bell was served on April 24, 2023. Mr. Sitman, through counsel, accepted service of the Complaint on May 3, 2023.
2. On May 3, Defendants previously requested, and the Court granted, an extension of time to respond to the Complaint, until June 14, 2023. *See* Dkt. 21, 22. The time for responding to the Complaint has not yet passed.
3. Defendants now request an additional 30-day extension, until July 14, 2023. This is Defendants' second request for an extension of time in which to respond to the Complaint. Defendants do not anticipate making any further requests for extensions. This second request is not made for the purpose of delay. Good cause exists for Defendants' second request for an extension as set forth below.

4. First, since the time of their first request, Defendants on May 22, 2023 retained additional counsel, who have begun to investigate the factual and legal issues raised by the Complaint and prepare an appropriate response.

5. Second, based on counsel's initial investigation, Defendants intend to move to dismiss the Complaint, including arguments based on the First Amendment to the U.S. Constitution and the doctrine of trademark fair use.

6. Defendants' motion to dismiss briefing will be informed by the U.S. Supreme Court's pending consideration of *Jack Daniel's Properties, Inc. v. VIP Products LLC*, Case No. 22-149. The first question presented in *Jack Daniel's* is "Whether humorous use of another's trademark as one's own on a commercial product is subject to the Lanham Act's traditional likelihood-of-confusion analysis, or instead receives heightened First Amendment protection from trademark-infringement claims." The Supreme Court's resolution of that legal question is expected to set forth a test which may guide this Court's analysis of Defendants' anticipated motion to dismiss. Based on the Supreme Court's historical practice, a decision in *Jack Daniel's* is expected by June 30, 2023.

7. It is in the interest of judicial efficiency to incorporate anticipated on-point Supreme Court guidance in the opening briefs in this matter. Accordingly, Defendants request an additional 30-day extension until July 14, 2023.

8. In a series of communications between May 31, 2023, and June 5, 2023, counsel for Defendants conferred with counsel for Plaintiff in this matter. Plaintiff consents to the requested second extension until July 14, 2023.

9. The Parties waive a hearing on this Motion.

Accordingly, Defendants respectfully request that the Court grant this motion and enter

the Proposed Order filed herewith extending the time in which Defendants may answer or otherwise respond to the Complaint up to and including July 14, 2023.

Dated: June 6, 2023

Respectfully submitted,

/s/ Abid R. Qureshi

LATHAM & WATKINS LLP
Abid R. Qureshi (VSB No. 41814)
Carolyn M. Homer (*pro hac vice*)
555 Eleventh Street, N.W. Suite 1000
Washington, D.C. 20004
Telephone: (202) 637-2200
Facsimile: (202) 637-2201
Email: Abid.Qureshi@lw.com
Email: Carolyn.Homer@lw.com

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION OF VIRGINIA
Eden B. Heilman (VSB No. 93554)
701 E. Franklin Street, Suite 1412
Richmond, VA 23219
Telephone: (804) 644-8022
Facsimile: (804) 649-2733
Email: eheilman@acluva.org

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
Brian M. Hauss (*pro hac vice*)
Ben Wizner (*pro hac vice*)
125 Broad Street, 18th Floor
New York, NY 10004
Telephone: (212) 549-2604
Facsimile: (212) 549-2650
Email: bhauss@aclu.org
Email: bwizner@aclu.org

*Attorneys for Defendants Matthew
Sitman, Sam Adler-Bell, and
Foundation for the Study of
Independent Social Ideas, Inc.*

CERTIFICATE OF SERVICE

I, Abid R. Qureshi, certify that on June 6, 2023, a true and correct copy of the foregoing document was filed electronically with the Clerk of the Court for the U.S. District Court for the Eastern District of Virginia by using the CM/ECF system. I certify that all counsel in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Abid R. Qureshi

Abid R. Qureshi

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Young America's Foundation,

Plaintiff,

v.

Matthew Sitman, *et al.*

Defendants.

Case No. 1:23-cv-00253-CMH-IDD

**[PROPOSED] ORDER GRANTING DEFENDANTS' SECOND MOTION FOR
EXTENSION OF TIME TO RESPOND TO COMPLAINT**

UPON CONSIDERATION of Defendants' Second Motion for Extension of Time to Respond to Complaint, the Court, finding that good cause exists for a consented to, limited second extension of time, hereby GRANTS Defendants' Motion and extends the deadline for all Defendants to answer or otherwise respond to the Complaint up to and through July 14, 2023.

IT IS SO ORDERED.

BY THE COURT:

Date: _____
