E-FILED
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Clerk, U.S. District Court, ILCD

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

CATERPILLAR INC.	)	
Plaintiff,	)	Case No. 05-1394
v.	)	
ENTEC ENGINE CORPORATION, a corporation; and CLYDE C. BRYANT, an individual,	)	
Defendants.	)	

CATERPILLAR'S UNOPPOSED MOTION REGARDING TIME TO FILE CATERPILLAR'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

Caterpillar hereby moves for an expansion of time to file its response to Defendant's Motion to Dismiss until February 9, 2006. In support of this motion, Caterpillar states as follows:

1. Defendants served their Motion to Dismiss by mail service on January 23, 2006 pursuant to Federal Rule of Civil Procedure 5(b)(2)(B).

2. Local Rule 7.1(B)(1) requires Caterpillar's response to Defendants' motion to be filed within fourteen (14) days after service of Defendants' Motion.

3. Federal Rule of Civil Procedure 6(e) provides Caterpillar an additional 3 days to the prescribed period to respond to Defendants' Motion because Defendants' means of service was pursuant to Federal Rule of Civil Procedure 5(b)(2)(B).

4. Accordingly, the deadline for Caterpillar's response to Defendants' Motion appears to be February 9, 2006.

5. However, Defendants also filed their Motion to Dismiss through the ECF system on January 24, 2006, and it was sent electronically to Plaintiff on that date.

6. It is unclear whether this Court still applies the mailbox rule when the ECF System is used for filing.

7. Caterpillar moves, if necessary, and for clarification, for an expansion of the time to file its response to Defendants' Motion to Dismiss until February 9, 2006.

8. Caterpillar conferred with Defendants by telephone on February 3 and 6, 2006, and Defendants agreed not to oppose this motion.

WHEREFORE, Caterpillar prays for the expansion of time so requested and for such other and further relief as the Court deems proper.

Respectfully submitted,

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Caterpillar Inc.

SO ORDERED

Dated: _____

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2006, a copy of the foregoing Unopposed Motion Regarding Time to File Caterpillar's Opposing to Defendants' Motion to Dismiss was served upon the following attorneys via the CM./ECF filing service:

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