



Evan Talley <etalley@dunlapcodding.com>

Terves LLC v. Yueyang Aerospace et al.

Cavanagh, Matthew J. <mcavanagh@mcdonaldhopkins.com>
To: Evan Talley <etalley@dunlapcodding.com>
Cc: "Cupar, David B." <dcupar@mcdonaldhopkins.com>

Tue, Sep 3, 2019 at 12:44 PM

We do not oppose. You can file.

Matt Cavanagh
Member

T: 216.348.5730
F: 216.348.5474
mcavanagh@mcdonaldhopkins.com
www.mcdonaldhopkins.com

600 Superior Avenue East
Suite 2100
Cleveland, OH 44114



From: Evan Talley [mailto:etalley@dunlapcodding.com]
Sent: Tuesday, September 03, 2019 1:02 PM
To: Cavanagh, Matthew J.
Cc: Cupar, David B.
Subject: Re: Terves LLC v. Yueyang Aerospace et al.

Matt and David -

Drafts of the Motion and Memo in support are attached. Let me know any questions/concerns or if we have your approval to file.

Evan

Evan W. Talley, Esq.

Dunlap Codding P.C.
The Film Row District

ECOMETAL EXHIBIT 1018
Ecometal, Inc. v. Terves, LLC

609 W. Sheridan Avenue
Oklahoma City, OK 73102
405-607-8600 / 405-607-8686 (f) / 405-361-0353 (m)
<http://www.dunlapcoddling.com>

My paralegal is Julie Oseland. Please feel free to contact her at joseland@dunlapcoddling.com or 405-607-8600 if you need additional assistance.

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2019.09.03 Terves v. Ecometal -- Unopposed Mtn for Ext of Time to Ans or Oth Rsp (DRAFT).docx
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2019.09.03 Terves v. Ecometal -- Memo ISO Unopposed Mtn for Ext of Time to Ans or Oth Rsp (DRAFT).docx
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**UNITED STATES DISTRICT COURT
NORTHER DISTRICT OF OHIO
EASTERN DIVISION**

Terves LLC,)	
	)	Case No. <u>1:19-cv-1611</u>
Plaintiff,)	
	)	JUDGE DONALD C. NUGENT
vs.)	
)	
Yueyang Aerospace New Materials Co.,	)	<u>DEFENDANTS ECOMETAL, INC.</u>
Ltd.,	)	<u>AND NICK YUAN'S UNOPPOSED</u>
	)	<u>MOTION FOR EXTENSION OF TIME</u>
and	)	<u>WITHIN WHICH TO ANSWER OR</u>
	)	<u>OTHERWISE RESPOND</u>
Ecometal Inc.,)	
)	
and)	
)	
Nick Yuan,)	
)	
Defendants.)	

Defendants Ecometal Inc. and Nick Yuan, through their undersigned counsel, hereby move pursuant to Fed. R. Civ. P. 6(b) for (1) an extension of time of up to seven (7) days, to and including September 11, 2019, to move to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(4)-(5) for insufficient process and/or insufficient service of process; and (2) an extension of time of up to thirty (30) days, to and including October 4, 2019, within which to answer or otherwise respond, excluding raising the aforementioned defenses under Fed. R. Civ. P. 12(b)(4)-(5), to the Complaint. This is Defendants' first request for an extension of time. As more fully set out in Defendants' Memorandum in support of this motion, good cause exists for the extension of time sought in this Motion. Defendants' counsel contacted counsel for Plaintiff Terves LLC, who indicated that Terves LLC does not oppose this motion.

Dated: September 3, 2019.

Respectfully submitted,

/s/ DRAFT

**ECOMETAL EXHIBIT 1018
Ecometal, Inc. v. Terves, LLC**

Steven J. Forbes (**OHIO BAR NUMBER**)
NORCHI FORBES LLC
Commerce Park IV
23240 Chagrin Blvd., Ste. 210
Telephone: (216) 514-9500
E-mail: sforbes@norchilaw.com

-and-

Evan W. Talley, OBA # 22923 (*pro hac vice*
application forthcoming)
DUNLAP CODDING PC
609 W. Sheridan Avenue
Oklahoma City, OK 73102
Telephone: (405) 607-8600
E-mail: etalley@dunlapcoddling.com

ATTORNEYS FOR DEFENDANTS
ECOMETAL INC. AND NICK YUAN

CERTIFICATE OF SERVICE

I certify that on September 3, 2019, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF system for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Matthew J. Cavanaugh
David B. Cupar

/s/ _____

**UNITED STATES DISTRICT COURT
NORTHER DISTRICT OF OHIO
EASTERN DIVISION**

Terves LLC,)	
	)	Case No. <u>1:19-cv-1611</u>
Plaintiff,)	
	)	JUDGE DONALD C. NUGENT
vs.)	
)	
Yueyang Aerospace New Materials Co.,	)	<u>DEFENDANTS ECOMETAL, INC.</u>
Ltd.,	)	<u>AND NICK YUAN'S MEMORANDUM</u>
	)	<u>IN SUPPORT OF UNOPPOSED</u>
and	)	<u>MOTION FOR EXTENSION OF TIME</u>
	)	<u>WITHIN WHICH TO ANSWER OR</u>
Ecometal Inc.,	)	<u>OTHERWISE RESPOND</u>
)	
and)	
)	
Nick Yuan,)	
)	
Defendants.)	

Defendants Ecometal Inc. and Nick Yuan, through their undersigned counsel, submit this memorandum in support of their Unopposed Motion for Extension of Time Within Which to Answer or Otherwise Respond.

Defendants Ecometal Inc. and Nick Yuan, both residing in Richmond Hill, Ontario, Canada, were purportedly served with copies of the Summons and Complaint in this patent infringement case on August 13, 2019, which would make their time to answer or otherwise respond September 3, 2019. However, as Plaintiff Terves LLC has not yet confirmed that Defendants were so served, Plaintiff has not filed an affidavit of service as to Defendants Ecometal and Yuan, and it is uncertain at this time whether those Defendants were properly served through the Hague Convention. In addition to the potential international service issues that remain unresolved, this is a patent infringement case which involves complex technical and legal issues, which require careful review and consideration. The Complaint alleges Defendants infringed and

continue to infringe U.S. Patent No. 9,903,010 (“the ’010 Patent”), which includes 42 total patent claims, and U.S. Patent No. 10,329,653 (“the ’653 Patent”), which includes 78 total patent claims. Accordingly, Defendants move, unopposed by Plaintiff, pursuant to Fed. R. Civ. P. 6(b), for (1) an extension of time of up to seven (7) days, to and including September 11, 2019, to move to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(4)-(5) for insufficient process and/or insufficient service of process; and (2) an extension of time of up to thirty (30) days, to and including October 4, 2019, within which to answer or otherwise respond, excluding raising the aforementioned defenses under Fed. R. Civ. P. 12(b)(4)-(5), to the Complaint.

Fed. R. Civ. P. 6(b) allows the Court to, for good cause shown, extend the time for Defendants to answer or otherwise respond to the Complaint. Defendants submit that good cause has been shown for the requested extension in order for Defendants to further investigate whether service was properly effected through the Hague Convention, and if so, to evaluate the complex technical and legal issues associated with this patent infringement case. Accordingly, Defendants request that the Court grant their Unopposed Motion for Extension of Time Within Which to Answer or Otherwise Respond, and (1) extend Defendants’ time to move to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(4)-(5) for insufficient process and/or insufficient service of process by up to seven (7) days, to and including September 11, 2019; and (2) extend Defendants’ time to answer or otherwise respond to the Complaint, excluding raising the aforementioned defenses under Fed. R. Civ. P. 12(b)(4)-(5), by up to thirty (30) days, to and including October 4, 2019.

Dated: September 3, 2019.

Respectfully submitted,

/s/ DRAFT

Steven J. Forbes (**OHIO BAR NUMBER**)

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CERTIFICATE OF SERVICE

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David B. Cupar

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