

2009) (recognizing that so long as pleading requirements of Fed. R. Civ. P. 8 and 9 are met, “the substantive merits of allegations made in either an amended complaint or an amended answer should be tested though a substantive motion (pursuant to, e.g. Rules 12(b)(6) or 56, not a procedural one”). In addition, I cannot conclude, at this juncture, that the amendments are futile or fail to state a claim. Because leave to amend is freely granted, and St. Clair has not established undue prejudice, undue delay, bad faith, or futility, I will grant RIM’s Motion.

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. Plaintiff’s Motion For Leave To File A First Amended Complaint (D.I. 82) is **GRANTED**.
2. The Clerk shall docket the proposed First Amended Complaint For Patent Infringement attached as Exhibit 1 to the Motion, and the First Amended Complaint shall be deemed filed and served as of the date of this Order.
3. Defendants’ Motion For Leave To File Amended Answer And Counterclaims (D.I. 78) is **GRANTED**.
4. The Clerk shall docket the proposed Amended Answer And Counterclaims attached as Exhibit 1 to the Motion, and the Amended Answer and Counterclaims shall be deemed filed and served as of the date of this Order.

Dated: June10, 2009



The Honorable Leonard P. Stark
UNITED STATES MAGISTRATE JUDGE