

2009-1221

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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ROBERT JACOBSEN,

Plaintiff-Appellant,

vs.

MATTHEW KATZER, and KAMIND ASSOCIATES, INC. (doing business as  
KAM Industries),

Defendants-Appellees.

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APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA IN CASE NUMBER C06-1905-JSW,  
JUDGE JEFFREY S. WHITE

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**MATTHEW KATZER AND KAMIND ASSOCIATES INC.'S RESPONSE  
IN OPPOSITION TO AMICUS CURIAE SOFTWARE FREEDOM LAW  
CENTER'S MOTION FOR LEAVE TO FILE A BRIEF IN SUPPORT OF  
APPELLANT**

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**RESPONSE TO MOTION FOR LEAVE FOR AMICI CURIAE TO  
PARTICIPATE IN ORAL ARGUMENT**

**I. Argument**

Defendants-Appellees Matthew Katzer and Kamind Associates, Inc. (Katzer) oppose *Amicus Curiae*'s (Amicus) motion for leave to file a brief in support of Appellant.

Fed. R. App. Pro. 29(e) directs the filing of an amicus brief "no later than 7 days after the principal brief of the party being supported is filed." Amicus seeks to file a brief in support of Appellant. Appellant's principle brief was filed with this Court on June 1, 2009. Amicus certify that they filed their brief with this Court on June 15, 2009, one week late.

Amicus's motion fails to make any showing of good cause why this Court should extend the time period to accept a late-filed brief as required by Fed. R. App. Pro. 26(b). See 1998 Advisory Committee Notes to FRAP 29(e) (applying the good cause showing requirement to FRAP 29(e)).

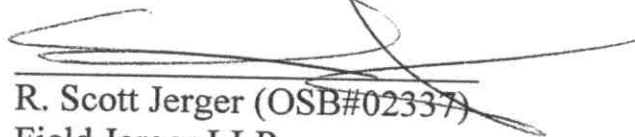
Amicus's motion prejudices Katzer as any time spent responding to Amicus cuts into his limited time to respond to Appellant's principle brief.

## II. Conclusion

Since Amicus have failed to allege any reason why they should be allowed to file a brief in support of appellant, Amicus's motion should be denied as it is prejudicial to Katzer.

Dated: June 16, 2009

Respectfully submitted by:



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**PROOF OF SERVICE**

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I hereby certify that on June 16, 2009 I filed the original and three copies of Defendants-Appellees' **Response in Opposition to Amicus Curiae's Motion for Leave to File a Brief in Support of Appellant** on the Clerk of the US Court of Appeals for the Federal Circuit at the following address via UPS overnight mail:

Clerk of Court  
United States Court of Appeals for the Federal Circuit  
717 Madison Place, NW  
Washington, DC 20439

I further certify that on June 16, 2009, I served two true copies of Defendants-Appellees' **Response in Opposition to Amicus Curiae's Motion for Leave to File a Brief in Support of Appellant** following parties, through their attorneys, at the following address via UPS overnight mail:

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Dated: June 16, 2009



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