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12 Attorneys for Plaintiff, E. & J. GALLO WINERY

13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA

16 E. & J. GALLO WINERY, a California
corporation,

17 Plaintiff,

18 v.

19 PROXIMO SPIRITS, INC., a Delaware
20 corporation; AGAVERA CAMICHINES,
S.A., DE C.V., a Mexico corporation, and
21 DOES 1-25,;

22 Defendants.

Case No. 1:10-CV-00411-LJO-SKO

**STIPULATION TO EXTEND TIME FOR
DEFENDANT PROXIMO SPIRITS, INC.
TO RESPOND TO THE COMPLAINT;
AND ORDER THEREON**

STIPULATION

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WHEREAS, service of the Summons, Complaint and other papers was made on Defendant PROXIMO SPIRITS, INC. (“PROXIMO SPIRITS”), on May 7, 2010;

WHEREAS, the other Defendant, AGAVERA CAMICHINES, S.A. DE C.V. is a Mexico corporation (“AGAVERA”);

WHEREAS, a Notice, Request for Waiver of Summons and other papers was sent on May 20, 2010, to Lawrence E. Abelman, requesting Mr. Abelman to waive service of the Summons on AGAVERA;

WHEREAS, AGAVERA is willing to waive service of the Summons and has agreed to a response date of July 26, 2010, that is a date sooner than the deadline of ninety (90) days provided for under Rule 4(d)(3) for a defendant served outside any judicial district of the United States;

WHEREAS, PROXIMO SPIRITS and AGAVERA anticipate being represented by the same counsel in the within action and have requested that the response date for PROXIMO SPIRITS also be extended to July 26, 2010, to match the response date for AGAVERA;

WHEREAS, Plaintiff E & J GALLO WINERY (“GALLO”) is willing to agree to an extension in favor of PROXIMO SPIRITS up to and including July 26, 2010, to answer or otherwise respond to the complaint, in light of the agreement for AGAVERA to waive service of the Summons with July 26, 2010 as the date to answer or otherwise respond to the complaint;

WHEREAS, under the agreement reached between counsel, both Defendants will file their answers or other response to the complaint more promptly than had PROXIMO SPIRITS filed their response at an earlier time, but AGAVERA either agreed to a waiver of service with the full ninety (90) day period allowed by Rule 4(d)(3), or insisted on service in Mexico under the Hague Convention; and

WHEREAS, GALLO and PROXIMO SPIRITS are aware that under Local Rule 144(a), the extension for PROXIMO SPIRITS agreed to herein requires the approval of the Court, and they accordingly request the Court to approve such extension.

1 NOW, THEREFORE, GALLO and PROXIMO SPIRITS hereby stipulate and agree
2 through their respective counsel, and subject to the approval of the Court, that the time within
3 which PROXIMO SPIRITS shall respond to the Complaint herein, shall be extended up to and
4 including July 26, 2010.

5 Dated: June 7, 2010

Respectfully submitted,

6 McCORMICK, BARSTOW, SHEPPARD,
7 WAYTE & CARRUTH LLP

D. Greg Durbin

Daniel S. Cho

8 HARVEY SISKIND LLP

9 D. Peter Harvey

Seth I. Appel

10 By: /s/ D. Greg Durbin

11 Attorneys for Plaintiff,

12 E. & J. GALLO WINERY

13 Dated: June 7, 2010

Respectfully submitted,

14 ABELMAN, FRAYNE & SCHWAB

15 Michael Aschen

16 Anthony Coppola

17 KIMBLE, MacMICHAEL & UPTON

18 Mark D. Miller

19 Marcus N. DiBuduo

20 By: /s/ Mark D. Miller

21 Anthony Coppola

Attorneys for Defendants,

22 PROXIMO SPIRITS, INC. and

23 AGAVERA CAMICHINES, S.A. DE C.V.

24 IT IS SO ORDERED.

25 Dated: **June 9, 2010**

 /s/ Sheila K. Oberto

26 UNITED STATES MAGISTRATE JUDGE

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