

1 REX B. STRATTON, WSBA No. 1913
2 STRATTON LAW & MEDIATION P.S.
3 18826 Robinwood Road SW
4 P.O. Box 636
5 Vashon, Washington 98070
6 Telephone: 206-408-7368
7 Facsimile: 206-260-3816
8 (*Pro Hac Vice*)

9 *Attorneys for Plaintiff and Counter-Defendants*
10 EAKIN ENTERPRISES, INC.
11 JOHN W. EAKIN

12 MARK D. MILLER, Ca. Bar No. 116349
13 SIERRA IP LAW PC
14 7030 N. Fruit Ave., Ste. 110
15 Fresno, CA 93711
16 Telephone: 559-436-3800
17 Facsimile: 559-436-4800

18 *Attorneys for Defendant*
19 SPECIALTY SALES LLC

20 UNITED STATES DISTRICT COURT
21 EASTERN DISTRICT OF CALIFORNIA - FRESNO DIVISION

22 EAKIN ENTERPRISES, INC., a Washington
23 corporation,

24 Plaintiff,

25 vs.

26 SPECIALTY SALES LLC, a California
27 limited liability company,

28 Defendant.

SPECIALTY SALES LLC, a California
limited liability company,

Counter-Plaintiff,

vs.

EAKIN ENTERPRISES, INC., a Washington
corporation, and JOHN W. EAKIN, an
individual,

Counter-Defendants.

Case No.: 1:11-CV-02008-LJO-SKO

**STIPULATION AND ORDER RE:
CONTINUING HEARING ON MOTION
TO COMPEL RESPONSES TO
DISCOVERY REQUESTS**

Date: August 8, 2012

Time: 9:30 A.M.

Ctrm: 7

Action Filed: Sept. 23, 2011

Trial Date: TBD

1 **WHEREAS**, on September 23, 2011, Plaintiff Eakin Enterprises, Inc.
2 (hereinafter “Eakin”) filed this action alleging infringement of U.S. Pat. No. 7,987,820
3 (hereinafter the “‘820 Patent”) against Defendant Specialty Sales, Inc. (hereinafter “Specialty”)
4 in the U.S. District Court for the Eastern District of Washington; and, on December 1, 2011, the
5 U.S. District Court for the Eastern district of Washington ordered the present action transferred
6 to the U.S. District Court for the Eastern District of California;

7 **WHEREAS**, on April 17, 2012, the parties simultaneously exchanged their
8 respective initial disclosures under Fed. Rule Civ. Proc. 26(a);

9 **WHEREAS**, on April 20, 2012, Specialty propounded its first sets of Requests
10 for Admissions, Interrogatories, and Requests for Production on Eakin;

11 **WHEREAS**, on May 23, 2012, Eakin provided its responses to Specialty’s first
12 set of Requests for Admissions and first set of Requests for Production; and, on May 25, 2012,
13 Eakin provided unverified responses to Specialty’s first set of Interrogatories; and, on June 6,
14 2012, Eakin provided a verification to its responses to Specialty’s first set of Interrogatories;

15 **WHEREAS**, on June 19, 2012, counsel for Specialty sent a letter to counsel for
16 Eakin detailing deficiencies in the discovery responses and requested further supplemental
17 responses;

18 **WHEREAS**, on June 28, 2012, counsel for Specialty and counsel for Eakin
19 conducted a telephonic conference seeking to resolve the discovery dispute; counsel for Eakin
20 agreed to provide further responses by July 13, 2012; and counsel for Specialty informed Eakin
21 that it would be filing the instant motion to compel in the event that the responses remained
22 deficient;

23 **WHEREAS**, on June 28, 2012, Specialty filed its Notice of Motion and Motion
24 to Compel Responses to Discovery Requests;

25 **WHEREAS**, on July 9, 2012, Specialty served several notices of depositions to
26 occur in the States of Washington and Oregon between August 14 – 16, 2012;

27 **WHEREAS**, on July 27, 2012, counsel for the Specialty and counsel for Eakin
28 conducted an informal telephone conference with the Court to discuss the discovery dispute;

1 **NOW THEREFORE**, the Parties, through their respective counsel, hereby
2 stipulate and agree as follows:

3
4 1. SUPPLEMENTAL RESPONSES.

5 On or before the close of business on Friday, August 17, 2012, Eakin shall serve:

6 (a) supplemental responses to Specialty’s First Set of Requests for Admissions
7 (hereinafter each an “RFA”), which shall at least include supplemental responses to RFA 4,
8 RFA 5, RFA 8, and RFA 9;

9 (b) supplemental responses to Specialty’s First Set of Requests for Production
10 (hereinafter each an “RFP”), which shall at least include supplemental responses to RFP 4, RFP
11 5, RFP 6, RFP 8, and RFP 10. Included in the scope of the production sought is, without
12 limitation, any document or thing arising from or related to the conception, reduction to
13 practice, public disclosures or uses, sales or offers for sales, or loans or leases, of the cattle foot
14 bath falling within the scope of any claim of the ‘820 Patent; and

15 (c) supplemental responses, verified by a principal of Eakin, to Specialty’s First
16 Set of Interrogatories (hereinafter each an “ROG”), which shall at least include supplemental
17 responses to ROG 7, ROG 8, and ROG 9.

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19 2. DECLARATION OF JOHN EAKIN.

20 On or before August 17, 2012, John Eakin will provide Specialty with a
21 declaration, signed under oath, that:

22 a. A diligent search of the records of Eakin Enterprises, Inc., and its
23 predecessors, divisions, subsidiaries, licensors, licensees, assignors, assignees, franchisees, and
24 affiliates, has been performed to identify all documents and things which are or may be
25 responsive to Specialty’s First Set of Requests for Production.

26 b. Eakin has provided Specialty with all documents and things
27 available to it or within its control which are or may be responsive to Specialty’s First Set of
28

1 Requests for Production, and for any item which Eakin claims to be privileged, otherwise
2 specifically identified such item and produced a privilege log.

3 c. Eakin is aware that, as to any item which is subsequently
4 uncovered, the Court may preclude Eakin from using or introducing such item at trial if the use
5 or introduction thereof is prejudicial to Specialty.

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7 3. CONTINUATION OF HEARING.

8 The Hearing on Specialty's Motion to Compel Responses to Discovery Requests
9 shall be continued until August 29, 2012, at 9:30 A.M. in Courtroom 7, subject to withdrawal
10 by the parties if Eakin's responses supplemental responses and the Declaration of John Eakin
11 called for herein cures the present deficiencies.

12
13 4. DEPOSITIONS.

14 The Depositions (and requests for production and/or inspection, as the case may
15 be) of John Eakin, Eakin Enterprises, Inc., Enviro-tech, LLC, Ballew Law, PC., and Gregory
16 and Janna Te Velde dba Willow Creek Dairy, currently set for August 14-16, 2012, shall be
17 continued until early to mid September, 2012, as agreed upon by the parties and convenient to
18 the deponents.

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23 IT IS SO STIPULATED AND AGREED, THROUGH COUNSEL OF RECORD.

24 Dated: July 31, 2012

STRATTON LAW & MEDIATION P.S.

25
26 By */s/ Rex B. Stratton*
Rex B. Stratton
27 *Attorneys for Plaintiff/Counter-Defendants*
Eakin Enterprises, Inc. and John W. Eakin
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Dated: July 31, 2012

SIERRA IP LAW, PC

By /s/ Mark D. Miller
Mark D. Miller
Attorneys for Defendant/Counter-Plaintiff
SPECIALTY SALES LLC

IT IS SO ORDERED.

Dated: August 1, 2012

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE