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9 Attorneys for Defendant
10 THERMAL TECHNOLOGIES, INC.,
11 a Utah corporation

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION

15 BYLIN HEATING SYSTEMS, INC., a
16 California corporation, doing business as
17 BYLIN ENGINEERED SYSTEMS,

18 Plaintiff,

19 vs.

20 THERMAL TECHNOLOGIES, INC., a Utah
21 corporation; and DOES 1 through 10, inclusive.

22 Defendant.

Case No. 2:11-cv-01402-KJM-KJN

**STIPULATION AND ORDER TO STAY
CASE**

First Amended Complaint filed June 29, 2011

23 **PLEASE BE ON NOTICE THAT** all Parties in this action have determined and agreed to
24 engage in settlement discussions to reach a negotiated resolution of all matters in dispute in this
25 proceeding. While counsel have considered participating in the Court's Voluntary Dispute
26 Resolution Program, the Parties are optimistic that through direct settlement discussions, they can
27 reach a negotiated resolution of all matters in dispute in this action.

28 **THE PARTIES REQUEST AN ORDER**, and hereby stipulate, that:

1. The Parties have ninety (90) days from the date of the entry of this Order to reach a negotiated resolution of all claims in this action.
2. The above action is hereby stayed to allow for informal settlement discussions and, if necessary, a private mediation of the dispute in an effort to reach a negotiated resolution between the

1 parties. Plaintiff and Defendant hereby jointly request that this Court enter an order staying this
2 action for ninety (90) days from the date of the entry of this Order.

3 3. The Parties shall not pursue litigation of this action or any claims raised in Plaintiff's
4 Complaint and/or Plaintiff's First Amended Complaint during the ninety (90) days period of stay,
5 which involves activities or procedures in which another Party is entitled or required to participate,
6 including discovery.

7 4. The parties engage in their Rule 26 conference no later than fourteen (14) days after
8 the expiration of the ninety-day stay, which stay will become effective from the date of the entry of
9 this Order.

10 5. The Parties shall file a Joint Status Report and Discovery Plan no later than fourteen
11 (14) days after the Rule 26 conference.

12 6. The Status Pretrial Scheduling Conference scheduled for **November 2, 2011, at**
13 **10:00 a.m.**, be continued to at least thirty (30) days after the expiration of the ninety-day stay, which
14 stay will become effective from the date of the entry of this Order, to allow the Parties sufficient
15 time to engage in their Rule 26 conference and to file the Joint Status Report and Discovery Plan as
16 stated above.

17 7. The termination date of this stay shall be the date that any party to this stipulation
18 provides written notice to the other parties and the court that the agreement to defer further litigation
19 of this action is terminated. Such notice may be given without cause. The parties shall then have 30
20 days from the termination date of the stay in which to object or otherwise respond to all discovery
21 and/or pleadings pending on the date this stipulation for stay was approved and ordered by the court.

22 8. No failure to undertake any act including, without limitation, the filing of a pleading
23 or any response thereto and the commencement of discovery or any response thereto, during the
24 period of stay will be construed as a waiver by any party hereto against any other party hereto. No
25 party will assert that such failure to act gives rise to any time-based defense or claim including the
26 applicable statute of limitations or laches or demonstrates a lack of promptness or diligence on the
27 part of any party.
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9. By agreeing to stay this action, Plaintiff and Defendant do not intend to waive any substantive claims or defenses available to them in this action.

10. This stipulation may be executed in counterparts.

Dated: 8/11/11

LOCKE LORD BISSELL & LIDDELL LLP

By: /s/ Krista J. Dunzweiler

M. Taylor Florence
Krista J. Dunzweiler

Attorneys for Defendant
THERMAL TECHNOLOGIES, INC.,
a Utah corporation

Dated: 8/10/11

STERN, VAN VLECK & MCCARRON LLP

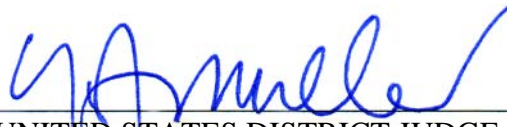
By: /s/ John C. McCarron

John C. McCarron

Attorneys for Plaintiff
BYLIN HEATING SYSTEMS, INC., a California
corporation, doing business as BYLIN
ENGINEERED SYSTEMS

IT IS SO ORDERED. This case is stayed for ninety (90) days from the filed date of this order.

DATED: August 22, 2011.


UNITED STATES DISTRICT JUDGE