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MECOTEC GMBH and MECOTECH SALES GMBH

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

REMARK ENTERPRISES LLC and,
US CRYOTHERAPY DIRECT SALES
LLC,
Plaintiffs,

CASE NO. 2:16-cv-00755-JAM-CKD

JOINT STATUS REPORT

v.

Judge Hon. John A. Mendez

MECOTEC GMBH and MECOTEC SALES
GMBH,
Defendants.

Complaint Filed: April 13, 2016
Trial: April 2, 2018

_____ /

Plaintiffs, Remark Enterprises LLC (“**Remark**”), US Cryotherapy Direct Sales LLC
 (“**Direct Sales**” collectively with Remark, “**Plaintiffs**”), and Defendants, Mecotec GMBH, and

1 Mecotec Sales GMBH (collectively, **MecoTec**) (collectively the “**Parties**”), by and through
2 their attorneys of record, hereby stipulate as follows:

3
4 **RECITALS**

5 A. On January 27, 2016, MecoTec instituted arbitration proceedings in the
6 International Chamber of Commerce against Plaintiffs (the “**ICC Arbitration**”).

7 B. On April 13, 2016, Plaintiffs filed their Complaint against Defendants in the
8 United States District Court, Eastern District of California, thereby commencing this Action.

9 C. On September 15, 2016, MecoTec filed its motion to compel Plaintiffs to
10 arbitrate their disputes as part of the ICC Arbitration.

11 D. In opposition to MecoTec’s motion to compel Plaintiffs to arbitrate their claims,
12 Plaintiffs raised the argument that the underlying agreement which contained the arbitration
13 clause at-issue (the “**Exclusive Distribution Agreement**”) was a draft document and not an
14 operative contract.

15 E. On November 23, 2016, the Court entered its Order Re Trial of Issues on
16 Validity of Distribution Agreement (Document No. 30) Scheduling for October 16, 2017, a trial
17 on the issue of whether the Exclusive Distribution Agreement was a draft agreement and
18 binding on Remark. Pretrial conference was scheduled for September 1, 2017, with a joint pre-
19 trial conference statement due on August 25, 2017. This order did not affect Direct Sales as the
20 Court found that Direct Sales was not subject to the arbitration provisions of the Exclusive
21 Distribution Agreement.

22 F. On June 8, 2017, the Final Award was issued in the ICC Arbitration.

23 G. Following issuance of the ICC Arbitration Final Award, Remark has moved to
24 enter its judgment in Germany.

25 H. Remark contends that MecoTec has a payment obligation to Remark related to
26 the ICC judgment in Germany.

27 I. The Parties are continuing to discuss the concept of a global settlement.
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STIPULATION

1. The Parties request that the Court set a status conference to occur in approximately 60 days, on a date that is convenient for the Court, to address the remaining claims of Direct Sales if the Parties' settlement negotiations are unsuccessful.

IT IS SO STIPULATED:

Dated: December 4, 2017

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By: /s/ Martin N. Jensen
Martin N. Jensen
Lauren E. Calnero
Attorneys for Plaintiffs

Dated: December 1, 2017

JEFFER MANGELS BUTLER & MITCHELL LLP

By: /s/ Matthew S. Kenefick
Matthew S. Kenefick
Afua Adjei
Attorneys for Specially Appearing
Defendants MECOTEC GMBH and
MECOTEC SALES GMBH

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ORDER

The Court, having considered the Joint Stipulation, hereby orders as follows:

1. A joint status report shall be filed on or before January 19, 2018 to address the status of Direct Sales' claims in this Action in the event that a global settlement is not reached by such date. The Court will consider at the time of the filing of the joint status report whether a status conference will be set.

IT IS SO ORDERED.

Dated: December 4, 2017

/s/ John A. Mendez
John A. Mendez
United States District Court Judge