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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

CONTINENTAL D.I.A. DIAMOND PRODUCTS, INC., a California corporation,

Plaintiff,

vs.

DONG YOUNG DIAMOND INDUSTRIAL CO., LTD., a South Korean company, DONGSOO LEE, an individual, and DOES 1-10, inclusive,

Defendants.

Case No. CV 08-2136 SI

**FIFTH JOINT STIPULATION AND [PROPOSED] ORDER FOR MODIFICATION OF CASE MANAGEMENT SCHEDULE AND TRIAL DATE**

Judge: Honorable Susan Illston

Complaint Filed: April 24, 2008  
Trial Date: July 1, 2010

AND RELATED COUNTERCLAIMS.

**STIPULATION**

WHEREAS, Continental D.I.A. Diamond Products, Inc. (“Continental” or “Plaintiff”) and Defendants Dong Young Diamond Industrial Co., Ltd. and DongSoo Lee (collectively “Defendants”) continue to engage in settlement discussions, which respective counsel believe have lead to a final resolution of this matter;

WHEREAS, the parties have reached near final agreement on terms of settlement and have taken steps to assure settlement once reached will be effected;

1 WHEREAS, respective counsel for the parties have been and continue to be in frequent  
2 contact to attempt to resolve the differences between the parties;

3 WHEREAS, the parties, mindful of this Court's interest in having this case resolved, and  
4 confident of the parties' ability to resolve this highly complex matter, are diligently working to  
5 finalize the settlement agreement. However, given the complicated nature of some of the  
6 intellectual property at issue and due to the continuing time-zone and communication, multi-lingual  
7 and multi-cultural challenges faced by counsel for Defendants, the parties require a small amount of  
8 additional time;

9 WHEREAS, counsel for the parties believe that an additional fifteen (15) day suspension of  
10 applicable deadlines in this case will allow the parties and counsel to continue to devote their  
11 attention and resources to a final resolution of this matter;

12 WHEREAS, the agreed upon extension of the fact and expert discovery deadlines, and  
13 dispositive motion deadlines is not for the purpose of delay, and the parties believe that this  
14 reasonable extension of time may well obviate the need for trial in this matter, and is in the interests  
15 of fairness and judicial economy.

16 ACCORDINGLY, the parties, by and through their undersigned counsel, HEREBY  
17 STIPULATE as follows:

18 In order to avoid prejudicing the parties' discovery efforts and trial preparations, and to  
19 allow the parties to focus on settlement negotiations, the parties agree and respectfully request that  
20 the current pre-trial schedule be modified as follows:

21 1. The fact discovery cut-off, which is currently set for February 22, 2010, is extended  
22 to March 9, 2010;

23 2. The deadline to designate experts, which is currently set for March 31, 2010, is  
24 extended to April 15, 2010;

25 3. The deadline to designate rebuttal experts, which is currently set for April 26, 2010,  
26 is extended to May 11, 2010; and

27 4. The expert discovery cut-off, which is currently set for May 12, 2010, is extended to  
28 May 27, 2010.

1 5. The dates for dispositive motions are extended for fifteen (15) days, to the following  
2 schedule:

- 3 • Dispositive Motions Due: April 1, 2010
- 4 • Oppositions Due: April 13, 2010
- 5 • Replies Due: April 22, 2010

6 6. The hearing on dispositive motions, which is currently set for May 3, 2010, is reset  
7 for May <sup>21</sup>~~18~~, 2010, or as soon thereafter as the Court's schedule permits.

8 7. All other deadlines are tolled for fifteen (15) days as of the date of this stipulation.

9 **IT IS SO STIPULATED BY THE PARTIES.**

10 Dated: January 15, 2010 MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO P.C.

11  
12 /s/ Jeffrey M. Ratinoff  
13 By: JEFFREY M. RATINOFF

14 Attorneys for Plaintiff/Counter-Defendant,  
15 Continental D.I.A. Diamond Products, Inc.

16 Dated: January 15, 2010 PRETI FLAHERTY BELIVEAU & PACHIOS, LLP

17  
18 /s/ Alfred C. Frawley  
19 By: ALFRED C. FRAWLEY

20 Attorneys for Defendants/Counterclaimants,  
21 Dong Young Diamond Industrial Co., Ltd., and DongSoo Lee

22 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

23 Dated:

24  
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26  
27 THE HONORABLE SUSAN ILLSTON  
28 UNITED STATES DISTRICT COURT JUDGE

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