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9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**

11 CONTINENTAL D.I.A. DIAMOND
 PRODUCTS, INC., a California corporation,
 12

13 Plaintiff,

14 vs.

15 DONG YOUNG DIAMOND INDUSTRIAL
 CO., LTD., a South Korean company,
 16 DONGSOO LEE, an individual, and DOES 1-
 17 10, inclusive,

18 Defendants.
 19

Case No. CV 08-2136 SI

**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: November 9, 2009

20 AND RELATED COUNTERCLAIMS

21 **STIPULATION**

22 Plaintiff Continental D.I.A. Diamond Products, Inc. (“Continental”) and Defendants Dong
 23 Young Diamond Industrial Co., Ltd. and DongSoo Lee (collectively “Defendants”), through their
 24 respective counsel of record, submit this Joint Stipulation and [Proposed] Order for Modification of
 25 Case Management Schedule and Trial Date as follows:

- 26 1. On September 3, 2008, the Court entered a pre-trial scheduling order setting various
 27 deadlines, including a fact discovery cut-off set for May 15, 2009, and a trial date for November 9,
 28 2009. (Docket No. 44). The Court also set a case management conference for January 9, 2009.

1 2. On December 30, 2008, the Clerk of the Court issued a notice continuing the case
2 management conference to February 20, 2009. *See* Docket No. 75.

3 3. Continental and the Defendants (collectively the “Parties”) previously agreed to
4 participate in non-binding private mediation through JAMS. *See* Docket No. 25. Per the Court's
5 August 5, 2008 ADR Order, the Parties were to complete mediation within 120 days from the date
6 of that order. *See* Docket No. 28. Due to several discovery disputes between the Parties, the Court
7 extended the ADR deadline until January 16, 2009. *See* Docket No. 62.

8 4. On January 8, 2009, the Parties participated in a full-day mediation before the
9 Honorable Charles A. Legge (Ret.) at JAMS. The Parties were unable to resolve their dispute. At
10 the conclusion of the mediation, however, the Parties agreed to undertake a process that they believe
11 will enable them to articulate and test certain factual assertions that are critical to their respective
12 cases, and will enable them to conduct a serious evaluation of the size and quantification of the
13 respective claims, while conserving the resources of the Parties and the Court.

14 5. The Parties further agreed that this evaluation process would be pursued in the
15 context of settlement and mediation discussions, that Judge Legge would continue to oversee this
16 process, and that the Parties’ respective efforts would be most fruitful and cost-effective if the
17 balance of the case is stayed for ninety (90) days. Judge Legge agreed with this approach and
18 authorized the Parties’ counsel to so represent this to the Court.

19 6. Due to the impact of the stay on the current pre-trial schedule, and to facilitate this
20 evaluation process without prejudicing the Parties’ discovery efforts and trial preparations should
21 no settlement be reached, the Parties agree and respectfully request that the current pre-trial
22 scheduling order and November 9, 2009 trial date be vacated.

23 7. The Parties further agree and respectfully request that the Court continue the
24 February 20, 2009 case management conference to April 17, 2009 where the Parties will report to
25 the Court on whether they were able to informally resolve their dispute and advise the Court on
26 whether there is a need to set a new pre-trial schedule and trial date.

27 8. This is the first request by the Parties to modify the pretrial schedule and trial date.

28 9. This is the second request by the Parties to move a case management conference.

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ORDER

- 1. This action is HEREBY STAYED until April 16, 2009.
- 2. The February 20, 2009 case management conference is HEREBY CONTINUED to April 17, 2009.
- 3. All dates on the current pre-trial schedule (Docket No. 44) are continued 90 days. ~~HEREBY VACATED~~
- 4. The November 9, 2009 trial date is ~~HEREBY VACATED~~ continued to 2/15/10

PURSUANT TO STIPLUATION, IT IS SO ORDERED. The pretrial conference is continued to 2/2/10.

Dated:



THE HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT COURT JUDGE

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