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9 Attorneys for Plaintiff,
 10 Lexington Insurance Company

Attorneys for Defendant Schrader-
 Bridgeport International, Inc.

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

14 Lexington Insurance Company, as Subrogee)
 of B-G Western, Inc.,)
 15 Plaintiff,)
 16 vs.)
 17 Schrader-Bridgeport International, Inc.,)
 18 Defendant.)

Case No.: 3:09-cv-01509
 Judge: Samuel Conti
**AMENDED JOINT
 STIPULATION FOR
 ENLARGEMENT OF TIME FOR
 PLAINTIFF TO FILE
 OPPOSITION TO
 DEFENDANT'S MOTION FOR
 SUMMARY JUDGMENT**

20
 21 **PLAINTIFF LEXINGTON INSURANCE COMPANY, AS SUBROGEE OF B-G
 WESTERN, INC. AND DEFENDANT SCHRADER-BRIDGEPORT
 22 INTERNATIONAL, INC. HEREBY STIPULATE AS FOLLOWS:**

23 1. This is a contribution action, arising out of a previous action filed in the
 24 United States District, Northern District of California styled as *Feliciano Reyes v. The*
 25 *Home Dept and Erwin Industrial Tool Company* (erroneously sued as "BenzOmatic"),
 26 Case No. C-06-04863 SC (hereinafter "the underlying litigation").

27 2. In the underlying action, the Plaintiff, Feliciano Reyes, alleged that a
 28 BernzOmatic T-4000 torch, which is hand-held torch attached to a MAPP gas canister,

1 ignited, causing him to sustain burn injuries. The underlying litigation was settled
2 following a mediation and pursuant to a Settlement Agreement and General Release
3 entered into between Mr. Reyes and the defendants in the underlying litigation.

4 3. Plaintiff in this action, Lexington Insurance Company, has alleged that
5 the cause of the ignition of the fire that caused Mr. Reyes' burn injuries was a leak
6 with the valve on the canister, provided by Defendant, Schrader-Bridgeport
7 International, Inc., when the torch was removed from the canister.

8 4. At approximately 4:14 p.m. CDT on Friday, April 30, 2010, Defendant,
9 Schrader-Bridgeport International, Inc., filed its Motion for Summary Judgment (See,
10 ECF No. 42).

11 5. Pursuant to Local Rule 7-3(a), entitled Opposition, "[a]ny opposition to a
12 motion must be served and filed not less than 21 days before the hearing date." In
13 addition, Local Rule 7-3(a) provides that, "[t]he opposition may include a proposed
14 order, affidavits or declarations, as well as a brief or memorandum under Civil L.R. 7-
15 4"

16 6. At the time Defendant's Motion for Summary Judgment was
17 electronically filed, a hearing date on the motion was set for May 28, 2010 (See, ECF
18 No. 42). As such, pursuant to Local Rule 7-3(a), Plaintiff's opposition and
19 accompanying or supporting affidavits were to be served and filed on May 7, 2010.¹

20 7. Due to the hearing date that was set for the motion and in light of the
21 requirements of Local Rule 7-3, Plaintiff was provided a period of only seven (7) days
22 to submit its opposition to Defendant's dispositive motion.

23 8. Pursuant to Local Rule 6-1, Plaintiff is seeking an extension of time, by
24 stipulation, of seven (7) days, up to and including May 14, 2010, to file its
25 memorandum in opposition to Defendant's Motion for Summary Judgment. Defense
26 counsel has agreed to this request for an enlargement of time of seven (7) days in

27 ¹ The parties previously filed a joint stipulation for an enlargement of time for Plaintiff to file its opposition to
28 Defendant's Motion for Summary Judgment on May 7, 2010. This amended stipulation provides further clarification
and detail per the request of the Court.

1 order for Plaintiff to file and serve its opposition to the Motion for Summary
2 Judgment. Defendant's Reply in Support of its Motion for Summary Judgment will
3 then be due seven (7) days thereafter, on or by May 21, 2010.

4 9. Pursuant to Local Rule 6-2(a)(2), no previous time modifications have
5 been granted by Court order.

6 10. Pursuant to Local Rule 6-2(a)(3), there are no known effects that the
7 requested time modification would have on the schedule for the case. Specifically, the
8 entry of an order enlarging the time for the filing of Plaintiff's opposition to
9 Defendant's Motion for Summary Judgment will not impact any further or future
10 dates in this action, including the pre-trial conference, the trial, or any deadlines for
11 the submission of pre-trial materials.

12 11. Moreover, Plaintiff would incur substantial harm and prejudice if not
13 allowed to file an opposition to the pending motion for summary judgment pursuant to
14 Local and Federal Rules, insofar as Plaintiff would not be permitted to provide
15 pertinent information for the Court's consideration prior to disposition of this action.
16 In addition, while Plaintiff would incur severe prejudice absent a nominal enlargement
17 of time to file its opposition and accompanying affidavit to the pending motion, no
18 such harm or prejudice would result from the entry of the Order sought.

19 12. This stipulation is not filed to unnecessarily delay the progress and
20 resolution of this litigation.

21 13. Defendant's Motion for Summary Judgment is being submitted on the
22 papers only, and no oral argument is requested. As such, the hearing previously set on
23 the Motion for Summary Judgment on May 28, 2010 (See, ECF No. 42) can be
24 stricken from the Court's calendar.

25 WHEREFORE Plaintiff, Lexington Insurance Company, as Subrogee of B-G
26 Western, Inc., and Defendant, Schrader-Bridgeport International, Inc., respectfully
27 request that this Court enter an Order, extending the date for the filing and service of
28 Plaintiff's Opposition to Defendant's Motion for Summary Judgment by a period of

1 seven (7) days, up to and including May 14, 2010, and extending the date for the filing
2 and service of Defendant's Reply in Support of its Motion for Summary Judgment up
3 to and including May 21, 2010, and striking the hearing on Defendant's Motion for
4 Summary Judgment set for May 28, 2010, and for any other relief this Court deems
5 just and appropriate.

6 DATE: 5/12/2010

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8 By: s/S. Ellyn Farley

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16 ***Attorneys for Plaintiff, Lexington
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18 DATE: 05/12/2010

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27 ***Attorneys for Defendant Schrader-
Bridgeport International, Inc.***

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following attorneys and I hereby certify that the above and foregoing was delivered, via email on this 12th day of May, 2010, to:

Todd M. Murphy (*Admitted PHV*)
Paul Bozych (*Admitted PHV*)\
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13 Lexington Insurance Company, as Subrogee)
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15 Plaintiff,)

16 vs.)

17 Schrader-Bridgeport International, Inc.,)

18 Defendant.)

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STIPULATION FOR
ENLARGEMENT OF TIME FOR
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2 and service of Defendant's Reply in Support of its Motion for Summary Judgment up
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6 DATE: 5/12/2010

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16 ***Attorneys for Plaintiff, Lexington
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18 DATE: 05/12/2010

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10 Lexington Insurance Company

Attorneys for Defendant
Schrader-Bridgeport International, Inc.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

13 Lexington Insurance Company, as Subrogee)
14 of B-G Western, Inc.,)

Case No.: 3:09-cv-01509

15 Plaintiff,)

Judge: Samuel Conti

16 vs.)

17 Schrader-Bridgeport International, Inc.,)
18)
19 Defendant.)

20 _____
21 **ORDER**

22 THIS CAUSE coming to be heard on the Parties' Joint Stipulation for
23 Enlargement of Time for Plaintiff to File its Opposition to Defendant's Motion for
24 Summary Judgment, due notice having been given and the Court being fully advised:

25 IT IS HEREBY ORDERED that: 1) said Joint Stipulation is approved and the
26 date for the filing and service of Plaintiff's Opposition to Defendant's Motion for
27 Summary Judgment shall be extended by a period of seven (7) days, up to and
28 including May 14, 2010; 2) the date for the filing and service of Defendant's Reply in
Support of its Motion for Summary Judgment up to and including May 21, 2010; and

1 3) the hearing on Defendant's Motion for Summary Judgment set for May 28, 2010
2 shall be stricken.

3
4 DATED: 6/3, 2010

5 ENTERED: _____



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