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Attorneys for Plaintiff Bongo Burger, Inc.

8 **IN THE UNITED STATES DISTRICT COURT**  
 9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
 10 **SAN FRANCISCO DIVISION**

13 BONGO BURGER, INC., on behalf of itself and all  
 14 others similarly situated,

Plaintiff.

v.

17 TECUMSEH PRODUCTS COMPANY; TECUMSEH  
 18 COMPRESSOR COMPANY; TECUMSEH DO  
 19 BRASIL, LTDA.; TECUMSEH DO BRASIL  
 20 USA,LLC; DANFOSS A/S; DANFOSS, INC.;  
 21 DANFOSS COMMERCIAL COMPRESSORS, LTD.;  
 22 DANFOSS SCROLL TECHNOLOGIES, LLC;  
 23 DANFOSS TURBOCOR COMPRESSORS, INC.;  
 24 DANFOSS COMPRESSOR, LLC; WHIRLPOOL  
 25 CORPORATION; WHIRLPOOL, S.A.; EMBRACO  
 26 NORTH AMERICA, INC.; PANASONIC  
 27 CORPORATION; PANASONIC CORPORATION OF  
 28 NORTH AMERICA; APPLIANCES COMPONENTS  
 COMPANIES, SpA., ACC USA, LLC, EMERSON  
 CLIMATE TECHNOLOGIES, INC.; COPELAND  
 CORPORATION, LLC; CR COMPRESSORS LLC;  
 AND SCROLL COMPRESSORS LLC,

Defendants.

Case No. 3:09-cv-01836-MMC

ORDER APPROVING  
**STIPULATION AND**  
**~~PROPOSED~~ ORDER FOR**  
**EXTENSION OF TIME TO**  
**RESPOND TO CLASS**  
**ACTION COMPLAINT**

1           **STIPULATION AND [PROPOSED] ORDER FOR EXTENSION OF TIME TO RESPOND**  
2           **TO CLASS ACTION COMPLAINT**

3           Currently pending before the United States Judicial Panel on Multidistrict Litigation  
4           (“JPML”) are motions filed pursuant to 28 U.S.C. § 1407 to consolidate related civil actions for  
5           pretrial proceedings (the “Related Actions”). In light of the proceedings before the JPML, and  
6           subject to the Court’s approval, plaintiff Bongo Burger, Inc. (“Plaintiff”) and defendants Tecumseh  
7           Products Company, Tecumseh Compressors Company, Danfoss Commercial Compressors, Ltd.,  
8           Danfoss, Inc., Danfoss Scroll Technologies, LLC, Danfoss Turbocor Compressors, Inc., Danfoss  
9           Compressors, LLC, Whirlpool Corporation, Embraco North America, Inc., ACC USA LLC,  
10          Panasonic Corporation of North America, Emerson Climate Technologies, Inc., Copeland  
11          Corporation, LLC, CR Compressors, LLC, and Scroll Compressors LLC (collectively “Stipulating  
12          Defendants”), by and through their undersigned counsel, stipulate:

14           (1)     If the JPML transfers all related civil actions to a single district for coordinated or  
15           consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407, the Stipulating Defendants shall, as  
16           permitted by Federal Rule 12, answer, move or otherwise plead in response to the complaint in the  
17           above captioned action (the “Complaint”) within 45 days after: (a) the plaintiffs in the consolidated  
18           actions serve a consolidated amended complaint on behalf of the putative class of plaintiffs included  
19           in this action, or (b) the plaintiffs in the consolidated actions, filed on behalf of the putative class of  
20           plaintiffs included in this action, serve notice that they will not file a consolidated amended  
21           complaint.  
22

23           (2)     If the JPML denies the motions to transfer all related civil actions to a single district  
24           for coordinated or consolidated pretrial proceedings, the Stipulating Defendants shall, as permitted by  
25           Federal Rule 12, answer, move or otherwise plead in response to the Complaint within 45 days after  
26           service of the JPML ruling.  
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1 (3) If all plaintiffs in the Related Actions agree to consolidate all related civil actions in a  
2 single district and withdraw the pending motions before the JPML, and the Stipulating Defendants, or  
3 any of them, have not and do not file their own motions to transfer the Related Actions to a single  
4 district for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407, the  
5 Stipulating Defendants shall, as permitted by Rule 12, answer, move or otherwise plead in response  
6 to the Complaint within 45 days after: (a) the plaintiffs in the consolidated actions file a consolidated  
7 amended complaint on behalf of the putative class of plaintiffs included in this action, or (b) the  
8 plaintiffs in the consolidated actions, filed on behalf of the putative class of plaintiffs included in this  
9 action, serve notice that they will not file a consolidated amended complaint.  
10

11 (4) Notwithstanding paragraphs (1), (2), or (3), if any Stipulating Defendant files an  
12 answer or other responsive pleading in any of the Related Actions before the date required by this  
13 stipulation, such Stipulating Defendant will concurrently file its answer or responsive pleading in this  
14 matter.  
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16 (5) The defense counsel identified below agree to accept service on behalf of the  
17 Stipulating Defendants they represent of the summons and the complaint in this matter, and  
18 Stipulating Defendants shall not contest the sufficiency of process or service of process. Plaintiff and  
19 the Stipulating Defendants further stipulate and agree that the entry into this stipulation by the  
20 Stipulating Defendants shall not constitute a waiver of any jurisdictional defenses that may be  
21 available under Rule 12 of the Federal Rules of Civil Procedure, a waiver of any affirmative defenses  
22 under Rule 8 of the Federal Rules of Civil Procedure, or a waiver of any other statutory or common  
23 law defenses that may be available to the Stipulating Defendants in this and the other Related  
24 Actions. The Stipulating Defendants expressly reserve their rights to raise any such defenses in  
25 response to either the current Complaint or any amended complaint that may be filed relating to this  
26 action.  
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1 (6) Plaintiff further agrees that this extension is available, without further stipulation with  
2 counsel for Plaintiff, to all named defendants who notify Plaintiff in writing of their intention to join  
3 this Stipulation.

4 **IT IS SO STIPULATED**

5 Dated: May 21st, 2009  
6

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Compressors, LLC, and Scroll Compressors, LLC*

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15 **ATTESTATION PURSUANT TO GENERAL ORDER 45**

16 I, Clement L. Glynn, attest that concurrence in the filing of this document has been properly  
17 obtained from the above signatories. I declare under penalty of perjury under the laws of the United  
18 States of America that the foregoing is true and correct. Executed this 21st day of May, 2009, in  
19 Walnut Creek, California.


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21 /s/ Clement L. Glynn

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PROPOSED ORDER

PURSUANT TO STIPULATION, , AND GOOD CAUSE THEREFOR APPEARING, IT IS  
SO ORDERED:

Date: May 22, 2009

  
Honorable Maxine M. Chesney  
United States District Court Judge