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8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10

11		)	<b>Case No. 3:11-cv-01665-JSW</b>
12	E. I. DU PONT DE NEMOURS AND	)	
	COMPANY,	)	<b><u>JOINT STATUS REPORT AND</u></b>
13	Plaintiff,	)	<b><u><del>PROPOSED</del> ORDER EXTENDING</u></b>
		)	<b><u>STAY OF ACTION</u></b>
14	v.	)	AS MODIFIED HEREIN
		)	Judge: Hon. Jeffrey S. White
15	USA PERFORMANCE TECHNOLOGY,	)	Hearing Date: None
	INC., PERFORMANCE GROUP (USA),	)	
16	INC., WALTER LIEW, and JOHN LIU,	)	
		)	
17	Defendants.	)	
		)	
18		)	
19		)	

20 Pursuant to the Court’s September 23, 2013 Order, Plaintiff E. I. du Pont de Nemours and  
 21 Company (“DuPont”) and defendants Walter Liew and USA Performance Technology, Inc.  
 22 (collectively “USAPT”) submit this Joint Status Report. The parties request that the stay in this  
 23 matter set to expire on December 6, 2013, remain in place for an additional 60 days, through  
 24 February 4, 2014.

25 On April 6, 2011, DuPont filed the instant suit. (Docket # 1.) Defendants filed their  
 26 Substituted Answer and Counterclaim on July 11, 2011. (Docket # 35.) The action was first  
 27 stayed on July 22, 2011. (Docket # 39.)

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1 On August 23, 2011, the United States filed *United States v. Walter Liew and Christina*  
2 *Liew*, No. CR-11-0573-RS. On February 7, 2012, the United States filed a superseding  
3 indictment in said action. (*Id.* at Docket # 64.) On March 12, 2013, the United States filed a  
4 Second Superseding Indictment. (*Id.* at Docket # 269.)

5 DuPont's Position: The second superseding indictment alleges that defendant Walter  
6 Liew, his wife, Christina Liew, and several other individual defendants violated multiple federal  
7 trade secret and economic espionage laws when they stole – and utilized – the trade secrets at  
8 issue in this action. *Inter alia*, Mr. Liew is charged with Conspiracy to Commit Economic  
9 Espionage, Conspiracy to Commit Theft of Trade Secrets, Possession of Trade Secrets,  
10 Conveying Trade Secrets, Witness Tampering, and False Statements. (*See id.* ¶¶ 16-97.) In  
11 addition, the second superseding indictment identifies five DuPont trade secrets relating to its  
12 TiO2 technology at issue in the criminal action. (*Id.* ¶ 14.) The second superseding indictment  
13 also names various of the Pangang Companies and charges them with 1) Conspiracy to Commit  
14 Economic Espionage, 2) Conspiracy to Commit Theft of Trade Secrets, and 3) Attempted  
15 Economic Espionage. (*Id.* ¶¶ 9-10, 17, 22-31, 39-40, 45, 52-54, 57-58.)

16 USAPT's Position: Defendants believe that the second superseding indictment speaks for  
17 itself, and no further explanation or commentary is appropriate or needed.

#### 18 History Relating to the Stay in this Action

19 On September 7, 2011, this Court issued an Order relating the criminal proceeding with  
20 this action, pursuant to its determination that this action and the criminal proceeding are related  
21 within the meaning of Crim. L.R. 8-1(b). (Docket # 42.)<sup>1</sup>

22 On September 23, 2011, the parties filed a joint status report requesting that the stay  
23 initially entered on July 22, 2011 (Docket # 39), be extended for an additional 60 days. (Docket  
24 # 44.) On September 29, 2011, the Court granted the parties' request. (Docket # 45.)

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27 <sup>1</sup> On September 16, 2011, DuPont dismissed without prejudice defendant John Liu pursuant to  
28 Federal Rule of Civil Procedure 41(a)(1). (Docket # 43.) Thus, the only remaining defendants  
in this action are Walter Liew and his companies, USA Performance Technology Inc. and  
Performance Group, Inc.

1           On November 23, 2011, the parties filed an additional joint status report requesting that  
2 the stay be extended for an additional 60 days. (Docket # 46.) The Court granted the parties'  
3 request on November 29, 2011. (Docket # 48.)

4           On January 24, 2012, the parties filed an additional joint status report requesting that the  
5 stay be extended for an additional 60 days. (Docket # 49.) The Court granted the parties'  
6 request on January 31, 2012. (Docket # 50.)

7           On March 26, 2012, the parties filed an additional joint status report requesting that the  
8 stay be extended for an additional 60 days. (Docket # 51.) The Court granted the parties'  
9 request on March 27, 2012. (Docket # 52.)

10           On May 23, 2012, the parties filed an additional joint status report requesting that the  
11 stay be extended for an additional 60 days. (Docket # 53). The Court granted the parties'  
12 request on May 23, 2012. (Docket # 54).

13           On July 23, 2012, the parties filed an additional joint status report requesting that the stay  
14 be extended for an additional 60 days. (Docket # 55). The Court granted the parties' request on  
15 July 24, 2012. (Docket # 56).

16           On September 21, 2012, the parties filed an additional joint status report requesting that  
17 the stay be extended for an additional 60 days. (Docket # 57). The Court granted the parties'  
18 request later that day. (Docket # 58).

19           On November 20, 2012, the parties filed an additional joint status report requesting that  
20 the stay be extended for an additional 60 days. (Docket # 59). The Court granted the parties'  
21 request later that day. (Docket # 60).

22           On January 18, 2013, the parties filed an additional joint status report requesting that the  
23 stay be extended for an additional 60 days. (Docket # 61). The Court granted the parties'  
24 request later that day. (Docket # 62).

25           On March 26, 2013, the parties filed an additional joint status report requesting that the  
26 stay be extended for an additional 60 days. (Docket # 63). The Court granted the parties'  
27 request later that day. (Docket # 64).

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1 On May 20, 2013, the parties filed an additional joint status report requesting that the  
2 stay be extended for an additional 60 days. (Docket # 65). The Court granted the parties'  
3 request on May 21, 2013. (Docket # 66).

4 On July 12, 2013, the parties filed an additional joint status report requesting that the stay  
5 be extended for an additional 60 days. (Docket # 67). The Court granted the parties' request  
6 later that day. (Docket # 68).

7 On September 10, 2013, the parties filed an additional joint status report requesting that  
8 the stay be extended for an additional 60 days. (Docket # 69). The Court extended the stay to  
9 December 6, 2013. (Docket # 70).

10 The undersigned counsel request that the stay remain in place for an additional 60 days,  
11 at which time the parties will update the Court.

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13 Dated: December 2, 2013

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By /s/ Morgan K. Lopez  
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19 Dated: December 2, 2013

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By /s/ Daniel S. Mount  
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Technology, Inc., and Walter Liew

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~~PROPOSED~~ ORDER

Having read and considered the Joint Status Report,

**IT IS ORDERED THAT:**

The parties' request that the stay be extended until February 4, 2014 is hereby GRANTED. Counsel shall submit a joint status report on or before January 28, 2014. In light of the fact that, in the related criminal proceedings, the Government estimates that it will take five weeks to present its case in chief, the Court ORDERS the parties to meet and confer about whether the stay should be extended until February 28, 2014. If the parties cannot agree to stay this matter until that date, they shall file a notice setting forth their respective positions by January 6, 2014.  
December 3<sup>rd</sup>, 2013

Honorable Jeffrey S. White  
UNITED STATES DISTRICT JUDGE

