

1 DIANNE L. SWEENEY (187198)  
 dianne.sweeney@pillsburylaw.com  
 2 PILLSBURY WINTHROP SHAW PITTMAN LLP  
 2550 Hanover Street  
 3 Palo Alto, CA 94304-1115  
 Telephone: (650) 233-4500  
 4 Facsimile: (650) 233-4545

5 William P. Atkins (*pro hac vice application to be submitted*)  
 william.atkins@pillsburylaw.com  
 6 Bryan P. Collins (*pro hac vice application to be submitted*)  
 bryan.collins@pillsburylaw.com  
 7 Christopher K. Dorsey (*pro hac vice application to be submitted*)  
 christopher.dorsey@pillsburylaw.com  
 8 PILLSBURY WINTHROP SHAW PITTMAN LLP  
 1650 Tysons Boulevard, 14<sup>th</sup> Floor  
 9 McLean, Virginia 22102  
 Telephone: (703) 770-7900  
 10 Facsimile: (703) 770-7901

11 Attorneys for Defendants  
 FELLOWES INC. and BODY  
 12 GLOVE INTERNATIONAL, LLC

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14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 SAN FRANCISCO DIVISION

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18 19 SPECULATIVE PRODUCT DESIGN, LLC, a Delaware limited liability company, 20 Plaintiff, 21 vs. 22 BODY GLOVE INTERNATIONAL, LLC and FELLOWES INC., 23 Defendants. 24	) Case No. CV12-04998 EMC ) ) <b>STIPULATION AND [PROPOSED]</b> ) <b>ORDER TO STAY THIS MATTER</b> ) <b>IN LIGHT OF PENDING</b> ) <b>INTERNATIONAL TRADE</b> ) <b>COMMISSION INVESTIGATION</b>
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1           Speculative Product Design, LLC (“Speck”), Body Glove International, LLC (“Body  
2 Glove”) and Fellowes Inc. (“Fellowes”), through their respective counsel, hereby stipulate as  
3 follows:

4           On September 25, 2012, plaintiff, Speck sued Body Glove, asserting infringement of  
5 U.S. Patent No. 8,204,561 (the ’561 Patent). (Docket Entry (“D.E.”) 1.) On September 26,  
6 2012, Speck filed a complaint with the International Trade Commission (“ITC”) against  
7 Fellowes, Body Glove and other parties not named in this district court case. The ITC  
8 Complaint also asserts infringement of the ’561 Patent.

9           The ITC instituted an investigation against Fellowes, Body Glove and other parties on  
10 November 9, 2012 entitled “In the Matter of CERTAIN CASES FOR PORTABLE  
11 ELECTRONIC DEVICES,” Inv. No. 337-TA-861 (“ITC Investigation”).

12           On December 14, 2012, Speck amended its complaint in this district court case to add  
13 Fellowes as a defendant. (D.E. 15.) Fellowes answered Speck’s amended complaint on  
14 January 7, 2013. (D.E. 20.) Body Glove has not responded to Speck’s Complaint or  
15 Amended Complaint as of the filing of this stipulation.

16           According to 28 U.S.C. § 1659, the parties agree that the Court should stay the pending  
17 district court case as to Fellowes. Section 1659 provides in relevant part:

18           In a civil action involving parties that are also parties to a proceeding before  
19 the United States International Trade Commission under section 337 of the  
20 Tariff Act of 1930, at the request of a party to the civil action that is also a  
21 respondent in the proceeding before the Commission, the district court **shall**  
22 **stay**, until the determination of the Commission becomes final, proceedings in  
the civil action with respect to any claim that involves the same issues involved  
in the proceeding before the Commission, but only if such request is made  
within—

22           ...

23           (2) 30 days after the district court action is filed, whichever is later.  
24 28 U.S.C. § 1659 (emphasis added).

25           Fellowes is a named respondent in the ITC Investigation. This case was instituted as to  
26 Fellowes on December 14, 2012, which was less than 30 days before the filing of this  
27 stipulation. Thus, Fellowes has satisfied all requirements of 28 U.S.C. § 1659 and this Court  
28 must stay this case as to Fellowes.

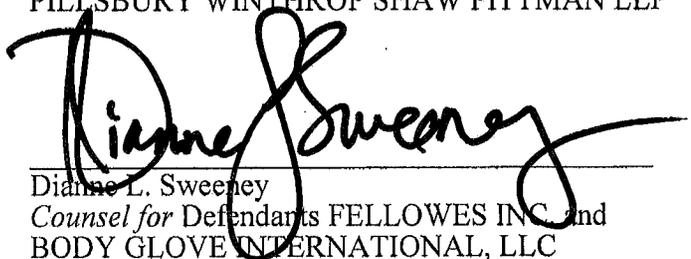
1 With the Court's permission, the parties further agree to extend the same stay right  
2 provided under Section § 1659 to Fellowes to Body Glove. The parties acknowledge that if  
3 Body Glove had timely made such a request, Body Glove would have also been entitled to a  
4 stay as a matter of right and therefore, as a matter of justice and equity, respectfully request the  
5 Court to extend that same right to Body Glove.

6 BASED ON THE FOREGOING, IT IS HEREBY STIPULATED AND AGREED  
7 among all parties that this litigation should be stayed as to defendants Fellowes and Body  
8 Glove provided, however, that (a) if both those parties shall no longer be a party to the ITC  
9 Investigation, then the stay shall be automatically lifted upon notice to the Court, or (b) if one  
10 of those parties shall no longer be a party to the ITC Investigation but the other remains a  
11 party to the ITC Investigation, and only if that non-party to the ITC Investigation also has sued  
12 Speck for any cause of action (including commencing its own ITC Investigation), then Speck  
13 may move this Court to lift the stay as to that non-party and that non-party shall not oppose the  
14 motion. It is also agreed that no further pleadings need be filed pending entry of the stay and  
15 that Body Glove will respond to the Amended Complaint 10 days after the stay is lifted as to  
16 Body Glove.

17 SO STIPULATED.

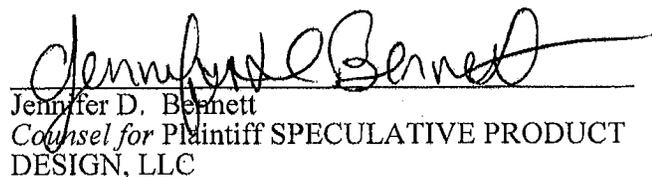
18 DATED: January 9, 2013.

PILLSBURY WINTHROP SHAW PITTMAN LLP

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22 Dianne L. Sweeney  
Counsel for Defendants FELLOWES INC. and  
BODY GLOVE INTERNATIONAL, LLC

23  
24 DATED: January 9, 2013.

SNR DENTON

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27 Jennifer D. Bennett  
Counsel for Plaintiff SPECULATIVE PRODUCT  
DESIGN, LLC

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1 **[PROPOSED] ORDER**

2 PURSUANT TO STIPULATION, IT IS ORDERED that this matter is hereby stayed.

3 IT IS FURTHER ORDERED that the parties shall submit to short joint report to this  
4 Court concerning the status of the above-noted ITC Investigation no later than September 13,  
5 2013. Should this matter be resolved by the ITC prior to September 13, 2013, the parties shall  
6 promptly notify this Court of the same. The CMC is reset from 1/17/13 to 9/19/13 at 9:00 a.m.

7  
8 DATED: January 11, 2013.

