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[Counsel listed on page 2]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AI-DAIWA, LTD.,

Plaintiff,

v.

APPARENT, INC., a Delaware Corporation;
APPARENT ENERGY, INC., a Delaware
Corporation; APPARENT SOLAR, INC., a
Delaware Corporation; APPARENT SOLAR
INVESTMENTS, LLC, a Hawaii limited
liability company; XSLENT, LLC, a Delaware
limited liability company; XSLENT ENERGY
TECHNOLOGIES, LLC, a Delaware limited
liability company; and DOES 1-10 inclusive,

Defendants

Case No.: CV13-4156 EDL

JOINT STIPULATION AND REQUEST
TO CONTINUE DATE OF CASE
MANAGEMENT CONFERENCE AND
MOTION TO DISMISS HEARING;
DECLARATION OF JAMES PARTON
III; AND ~~(PROPOSED)~~ ORDER

(LOCAL RULE 6-2, 7-12)

Case Filed: 9/9/13

Trial Date: N/A

AND RELATED CROSS-ACTION

PARTON | SELL | RHOADES
A Professional Corporation

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PARTON | SELL | RHOADES
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9
10 Attorneys for Defendants, APPARENT, INC.;
APPARENT ENERGY, INC.; APPARENT
SOLAR, INC., XSLENT ENERGY
11 TECHNOLOGIES, LLC; and APPARENT SOLAR
INVESTMENTS (II), LLC (erroneously sued
12 herein as Apparent Solar Investments, LLC) and
Counter Claimants, APPARENT, INC. and
13 APPARENT ENERGY, INC

14 CHI-HUNG A. CHAN (SBN 104289)
LAEL D. ANDARA (SBN 215416)
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20 Attorneys for Plaintiff
AI-DAIWA, LTD.
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1 **TO THE COURT:**

2 Pursuant to Local Rules 6-1, 6-2, and 7-12, Plaintiff AI-Daiwa, Ltd. (AI-Daiwa) and
3 Defendants Apparent, Inc., Apparent Energy Inc., Apparent Solar Inc., Xslent Energy Technologies,
4 LLC; Apparent Solar Investments (Ii), LLC erroneously sued herein as Apparent Solar Investments,
5 LLC (collectively “Defendants”) and Apparent Inc. and Apparent Energy Inc. (collectively
6 Counterclaimants) (all collectively, the “Parties”), by and through their undersigned counsel, submit
7 this Stipulated Joint Request to Continue the Case Management Conference and hearing on Motion
8 to Dismiss Defendants’ Amended Counterclaims for one week, from July 31, 2014 to August 7,
9 2014, in order to accommodate the unavailability of new defense counsel that associated into this
10 case on July 14, 2014.

11 WHEREAS, the hearing on Plaintiff’s Motion to Dismiss Defendants’ Amended
12 Counterclaims, and the Case Management Conference, is presently scheduled for July 31, 2014 at
13 10:00 AM in Courtroom 10, 19th Floor, San Francisco before Hon. Vince Chhabria;

14 WHEREAS, on July 14, 2014, James Parton III of Parton | Sell | Rhoades, PC associated
15 into this case as counsel for Defendants, APPARENT, INC.; APPARENT ENERGY, INC.;;
16 APPARENT SOLAR, INC., XSLENT ENERGY TECHNOLOGIES, LLC; and APPARENT
17 SOLAR INVESTMENTS (II), LLC (erroneously sued herein as Apparent Solar Investments, LLC)
18 and Counter Claimants, APPARENT, INC. and APPARENT ENERGY, INC. (Docket No. 71);

19 WHEREAS, Mr. Parton is unavailable during the week of July 31, 2014 due to a pre-
20 planned vacation that preceded his involvement in this case and will be returning from vacation on
21 August 4, 2014;

22 WHEREAS, Mr. Parton, and Defendants and Counterclaimants, wish Mr. Parton to attend
23 the upcoming hearing on Plaintiff’s Motion to Dismiss Defendants’ Amended Counterclaims, and
24 the Case Management Conference;

25 WHEREAS, plaintiff’s counsel stipulates to Defendants’ request for a one week continuance
26 of the hearing on Plaintiff’s Motion to Dismiss Defendants’ Amended Counterclaims, and the Case
27 Management Conference, from July 31, 2014 to August 7, 2014, in order to accommodate Mr.
28 Parton’s unavailability on July 31 due to a pre-planned vacation;

1 WHEREAS, Civil L.R. 6-1 and 6-2 permits the parties to file a stipulation, conforming to
2 Civil L.R. 7-12, requesting an order changing time that would affect the date of an event or deadline
3 already fixed by Court order, or that would accelerate or extend time frames set in the Local Rules
4 or in the Federal Rules. The stipulated request must be accompanied by a declaration that: (1) Sets
5 forth with particularity, the reasons for the requested enlargement or shortening of time; (2)
6 Discloses all previous time modifications in the case, whether by stipulation or Court order; and (3)
7 Describes the effect the requested time modification would have on the schedule for the case.
8 N.D.C.A. Local Rule 6-2; and

9 WHEREAS, the Declaration of James Parton III fulfills the requirements of Civil L.R. 6-2
10 and presents good cause for a one-week continuance of Plaintiff's Motion to Dismiss Defendants'
11 Amended Counterclaims, which is already fully briefed, and the Case Management Conference,
12 from July 31, 2014 to August 7, 2014,

13 **NOW THEREFORE, THE PARTIES STIPULATE AND JOINTLY REQUEST AN**
14 **ORDER STATING:**

15 1. The case management conference (Docket No. 60 & 68) set for July 31, 2014 at
16 10:00 AM in Courtroom 10, be rescheduled to August 7, 2014 at 10:00 AM in Courtroom 10; and

17 2. Plaintiff's Motion to Dismiss Defendants' Amended Counterclaims (Docket No. 59,
18 60, 68), set for hearing on July 31, 2014 at 10:00 AM in Courtroom 10, be rescheduled to August 7,
19 2014 at 10:00 AM in Courtroom 10.

20 **IT IS SO STIPULATED.**

21
22 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

23 DATED: 7/15/2014 /Lael D. Andara/
24 Attorneys for AI-Daiwa

25 DATED: 7/15/2014 /Jacqueline deSouza/
26 Attorneys for Defendants and Counterclaimants

27 DATED: 7/15/2014 /James Parton III/
28 Attorneys for Defendants and Counterclaimants

DECLARATION OF JAMES PARTON III

I, James Parton III, declare:

1. I am an attorney at law licensed to practice before the Courts of this State and am a shareholder of Parton | Sell | Rhoades, PC, which associated in on July 14, 2014 as attorneys of record for Defendants Apparent Inc., Apparent Energy Inc., Apparent Solar Inc., Xslent Energy Technologies, LLC, Apparent Solar Investments (II), LLC erroneously sued as “Apparent Solar Investments, LLC” (collectively for purposes of this declaration, “Apparent”).

2. I make this declaration based on my personal knowledge and if called as a witness could and would so testify.

3. The reasons for the stipulated requested enlargement of time are the following, pursuant to Local Rule 6-2: my firm associated into this case as defense counsel on July 14, 2014. Since May 2014, I have had a pre-paid vacation planned to the State of Washington (specifically, Mt. Saint Helens, Orcas Island, Mt. Rainier, and the Oregon coast) beginning July 19 and ending August 3. I was first contacted regarding this matter on July 7.

4. As trial counsel in this matter, I believe it is important that I personally be present at the upcoming case management conference and hearing on Plaintiff’s Motion To Dismiss Defendants’ Amended Counterclaims, presently set for July 31, 2014 at 10:00 AM in Courtroom 10 of the above-captioned Court. My clients also want me to attend these hearings.

5. On July 14, 2014, after filing the notice of association of Parton | Sell | Rhoades, PC as defense counsel, I contacted counsel for plaintiff and explained that, due to a preplanned vacation, I would be out of town during the week of July 31, 2014 but would be returning on August 4, 2014. Therefore, I asked plaintiff’s counsel to stipulate to a brief, one week continuance, of the July 31 case management conference and motion to dismiss hearing, so that I could attend both appearances. Plaintiff’s counsel extended me the requested professional courtesy of stipulating to the present request to a one-week continuance of the case management conference and motion to dismiss hearing to August 7, 2014.

6. All previous time modifications in the case, whether by stipulation or Court order, are the following:

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- a. On September 9, 2013, the Court set an initial case management conference was set for December 10, 2013 (Docket No. 2);
- b. On October 15, 2013, this case was reassigned to the Hon. Yvonne Gonzalez Rogers for all further proceedings. (Docket No. 11);
- c. On November 19, 2013, the Court rescheduled the initial case management conference to March 31, 2014. (Docket No. 25);
- d. On March 18, 2013, the Court vacated the March 31, 2014 case management conference and set a status conference for April 7, 2014. (Docket No.36);
- e. On April 1, 2014, the Court set an initial case management conference for August 11, 2014. (Docket No. 39);
- f. On April 7, 2014, the Court held a status conference and set another status conference for April 11, 2014. (Docket No. 41);
- g. On April 10, 2014, the Court vacated the April 11, 2014 status conference. (Docket No. 45);
- h. On April 17, 2014, this case was reassigned to Hon. Honorable Vince Chhabria, for all further proceedings and the parties were ordered to file a case management statement by May 1, 2014. (Docket No. 45);
- i. On June 4, 2014, Plaintiff filed a Motion to Dismiss Defendants’ Amended Counterclaims, set for hearing on July 10, 2014. (Docket No. 59);
- j. On June 11, 2014, the Court reset the time and location of the July 10, 2014 hearing on Plaintiff’s Motion to Dismiss Defendants’ Amended Counterclaims, and set a Case Management Conference the same day, time, and location. (Docket No. 60);
- k. On July 3, 2014, the Court rescheduled the hearing on Plaintiff’s Motion to Dismiss Defendants’ Amended Counterclaims, and the Case Management Conference, from July 10, 2014 to July 31, 2014. (Docket No. 68)

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7. The effect of the time modification, requested by this stipulation, on the schedule for this case would be to delay for one week the hearing of Plaintiff's Motion to Dismiss Defendants' Amended Counterclaims, and the Case Management Conference. I do not believe it would have any materially adverse effect on the schedule for this case because the motion to dismiss is already fully briefed and the initial notice setting the case management conference (Docket No. 60) suggests that the Court prefers to hold the case management conference at the same time as the motion to dismiss hearing.

I swear under penalty of perjury that the following is true and correct to the best of my knowledge by the law of the United States and that this declaration was executed on July 15, 2014, at San Rafael, CA.

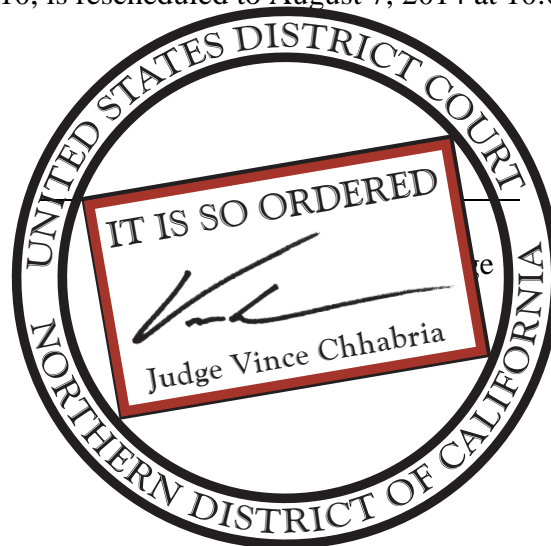
/James Parton III/
JAMES PARTON, III, ESQ.

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

The case management conference (Docket No. 60 & 68) set for July 31, 2014 at 10:00 AM in Courtroom 10, is rescheduled to August 7, 2014 at 10:00 AM in Courtroom 10; and Plaintiff's Motion to Dismiss Defendants' Amended Counterclaims (Docket No. 59, 60, 68), set for hearing on July 31, 2014 at 10:00 AM in Courtroom 10, is rescheduled to August 7, 2014 at 10:00 AM in Courtroom 10.

Dated: July 17, 2014

STIP AND ORDER CONTG CMC FINAL



1 STATE OF CALIFORNIA, COUNTY OF MARIN

2 I am over the age of 18 years, and not a party to this action. My business address is 750
Lindaro, Suite 140, San Rafael, CA 94901, which is located in Marin County, California.

3 On 7/15/14, I served the documents named below on the parties in this action as follows:

4 **DOCUMENT(S) SERVED: JOINT STIPULATION AND REQUEST TO**
5 **CONTINUE DATE OF CASE MANAGEMENT**
6 **CONFERENCE AND MOTION TO DISMISS**
7 **HEARING; DECLARATION OF JAMES**
8 **PARTON III; AND (PROPOSED) ORDER**

9 **SERVED UPON: SEE ATTACHED LIST**

10 _____ (By Mail) I verify that each such envelope, with postage thereon fully prepaid, has been or
11 will be placed in the United States mail at Marin, California. I am readily familiar with the
12 practice of Parton Sell Rhoades, for collection and processing of correspondence and/or
13 documents for mailing, said practice being that in the ordinary course of business, mail is
14 deposited in the United States Postal Service the same day as it is placed for collection. I
15 am aware that on motion of the party served, service is presumed invalid if postal
16 cancellation date or postage meter date is more than one day after date of deposit for mailing
17 in affidavit.

18 _____ (By Personal Service) I verify that the above referenced document(s) have been or will be
19 personally served on _____ to the recipients attached to this document.

20 _____ (By Overnight Delivery) I am readily familiar with the practice of Parton Sell Rhoades, for
21 collection and processing of correspondence for overnight delivery and know that the
22 document(s) described herein will be deposited in a box or other facility regularly
23 maintained by the delivery service chosen for overnight delivery.

24 _____ (By Facsimile Where Indicated) The above-referenced document was transmitted by
25 facsimile transmission and the transmission was reported as complete and without error.
26 Pursuant to C.R.C. 2009(1), I caused the transmitting facsimile machine to issue properly a
27 transmission report, a copy of which is available upon request.

28 _____ (By Electronic Mail) The above-referenced document was transmitted via electronic service
and transmission was reported as complete and without error. Pursuant to C.R.C. 2.260, I
verify that the documents have been electronically transmitted with my registered email
address provided by my employer, Parton Sell Rhoades, and was sent on _____.

_____ (By Electronic Filing with the U.S. District Court) I certify that on 7/15/14, I electronically
transmitted the attached document to the United States District Court and/or the U.S.
District Clerk's Office using the ECF System for filing and transmittal of a Notice of
Electronic Filing to the ECF registrants/recipients registered with the United States District
Court according to Federal District Court Rules Requirements.

_____ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court,
at whose direction this service was made.

Executed on 7/15/14 at San Rafael, California.

Juliet Kelly
By Juliet Kelly

Ai-Daiwa, Ltd. v. Apparent, Inc.
USDC Case No.: CV13-4156 EDL
SERVICE LIST

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