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

17 KARL STORZ ENDOSCOPY-)
 AMERICA, INC.,)
 18)
 19 Plaintiff,)
 20)
 v.)
 21)
 STRYKER CORPORATION and)
 22 STRYKER COMMUNICATIONS, INC.,)
 23)
 Defendants.)

Case No. CV 14-00876 RS

STIPULATION AND ~~[PROPOSED]~~
ORDER FOR EXTENSION OF TIME TO
ANSWER OR OTHERWISE RESPOND
TO AMENDED COMPLAINT AND
RESPOND TO PLAINTIFF'S SECOND
MOTION TO STRIKE AND DISMISS

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1 Pursuant to Civil Local Rules 6-1(b) and 7-12, Plaintiff Karl Storz Endoscopy-America, Inc.
2 (“KSEA”) and Defendants Stryker Corporation and Stryker Communications, Inc. (collectively,
3 “Stryker”), by and through their respective undersigned counsel, hereby stipulate to and jointly
4 request an extension of time until July 18, 2014, for Stryker to answer the Amended Complaint and
5 an extension of time until July 25, 2014, for Stryker to respond to Plaintiff’s Second Motion to Strike
6 and Dismiss with Prejudice Affirmative Defenses and Counterclaims, as follows:

7 1. On April 25, 2014, Stryker filed its Answer and Counterclaims (Dkt. No. 40) after a
8 stipulated one-month extension of time (Dkt. No. 24). On May 16, 2014, KSEA filed a Motion to
9 Strike and Dismiss with Prejudice certain of Stryker’s Affirmative Defenses and Counterclaims.
10 (Dkt. Nos. 45, 46.)

11 2. On May 23, 2014, the Parties filed a Stipulation and Proposed Order to extend
12 Stryker’s time to respond to KSEA’s Motion to Strike and Dismiss by one week and to extend
13 KSEA’s time to file a reply in support of its Motion to Strike and Dismiss by one week. (Dkt. No.
14 51.) The Court entered the Stipulation and Order on May 28, 2014. (Dkt. No. 52.)

15 3. On June 6, 2014, Stryker filed its First Amended Answer and Counterclaims. (Dkt.
16 No. 55.) On June 17, 2014, the Parties filed a Stipulation and Proposed Order to extend KSEA’s time
17 to respond to Stryker’s Amended Counterclaims by one week. (Dkt. No. 65.) The Court entered the
18 Stipulation and Order on June 17, 2014. (Dkt. No. 66.)

19 4. On June 27, 2014, KSEA filed both an Amended Complaint (Dkt. No. 67) and a
20 Second Motion to Strike and Dismiss with Prejudice Affirmative Defenses and Counterclaims (Dkt.
21 No. 68). In its Amended Complaint, KSEA has asserted new claims for infringement under a fifth
22 patent, namely U.S. Patent No. 8,439,821. (Dkt. No. 67 at ¶¶ 40–45.)

23 5. Pursuant to Federal Rule of Civil Procedure 15(a)(1)(3), Stryker would have 14 days,
24 or until July 11, 2014, to respond to KSEA’s Amended Complaint. Pursuant to Civil Local Rule 7-
25 3(a), Stryker would also have 14 days, or until July 11, 2014, to respond to KSEA’s Second Motion
26 to Strike and Dismiss.

27 6. In order to give Stryker a full and fair opportunity to respond to the new allegations
28 raised in KSEA’s Amended Complaint and to respond to the arguments raised in KSEA’s Second

1 Motion to Strike and Dismiss, the Parties have stipulated to give Stryker a one-week extension of
2 time to respond to the Amended Complaint and a two-week extension of time to respond to the
3 Second Motion to Strike and Dismiss. Specifically, the Parties have stipulated to give Stryker until
4 July 18, 2014, to answer or otherwise respond to the Amended Complaint and until July 25, 2014, to
5 respond to the Second Motion to Strike and Dismiss.

6 7. Neither extension will change or alter any other deadlines currently set by the Court.¹

7 8. Pursuant to Civil Local Rule 6-2(a), this stipulation is accompanied by the Declaration
8 of Robert A. Surrette setting forth (1) the reasons for the requested enlargement of time; (2) all
9 previous time modifications in this case; and (3) the effect of the requested enlargement of time.

10 Respectfully submitted,

11 Dated: July 8, 2014

12 REED SMITH LLP

13
14 /s/ William R. Overend²
15 William R. Overend (SBN 180209)
16 Attorneys for Defendants,
17 STRYKER CORPORATION and
18 STRYKER COMMUNICATIONS, INC.

19 Dated: July 8, 2014

20 BECK, BISMONTE & FINLEY, LLP

21
22 /s/ Alfredo A. Bismonte
23 Alfredo A. Bismonte (SBN 136154)
24 Attorneys for Plaintiff,
25 KARL-STORZ ENDOSCOPY AMERICA, INC.

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27 ¹ KSEA has agreed to withdraw its pending Second Motion to Strike and Dismiss (Dkt. No. 68) after
28 Stryker files its response to the Amended Complaint. KSEA's withdrawal of the pending Second
Motion to Strike and Dismiss would be without prejudice to KSEA's ability to file a new motion
responsive to any amended answer or any counterclaim filed by Stryker. The Parties have agreed that
KSEA shall have 14 days after Stryker files its response to the Amended Complaint to respond to
Stryker's response. Because KSEA has agreed to withdraw its pending Second Motion to Strike and
Dismiss, the Parties have not formally stipulated to extended dates for KSEA's Reply Brief in
Support of the motion or the hearing. If, however, the Court is inclined to set those dates at this time,
the Parties propose August 8, 2014, as the deadline for KSEA to file its Reply and Thursday, August
28, 2014, at 1:30 PM, as the date for the hearing on KSEA's Motion.

² In compliance with Civil Local Rule 5-1(i), I hereby attest that concurrence in the filing of this
document has been obtained from each of the other signatories hereto.

1 ~~PROPOSED~~ ORDER

2 PURSUANT TO STIPULATION, IT IS SO ORDERED:

- 3
- 4 • Stryker has until July 18, 2014, to answer or otherwise respond to the Amended
 - 5 Complaint (Dkt. No. 67); and
 - 6 • Stryker has until July 25, 2014, to respond to KSEA's Second Motion to Strike and
 - 7 Dismiss with Prejudice Affirmative Defenses and Counterclaims (Dkt. No. 68).

8

9 Dated: 7/10, 2014

10 
11 Honorable Richard G. Seeborg
12 United States District Judge