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

17 KARL STORZ ENDOSCOPY-)
 18 AMERICA, INC.,)
)
 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
RESPOND TO PLAINTIFF’S TWO
PENDING MOTIONS TO STRIKE AND
DISMISS (DKT. NOS. 76, 77)

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 August 29, 2014, for Stryker to respond to KSEA’s two pending
5 Motions to Strike and Dismiss (Dkt. Nos. 76, 77), as follows:

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

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

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

18 4. On June 27, 2014, KSEA filed both an Amended Complaint (Dkt. No. 67) and a
19 Second Motion to Strike and Dismiss with Prejudice Affirmative Defenses and Counterclaims
20 (“Second Motion to Strike and Dismiss”) (Dkt. No. 68). On July 8, 2014, the Parties filed a
21 Stipulation and Proposed Order to extend Stryker’s time to answer or otherwise respond to the
22 Amended Complaint until July 18, 2014, and to extend Stryker’s time to respond to KSEA’s Second
23 Motion to Strike and Dismiss until July 25, 2014. (Dkt. No. 70.) The Court entered that Stipulation
24 and Order on July 10, 2014. (Dkt. No. 71.)

25 5. On July 18, 2014, Stryker filed its Answer and Counterclaims to the Amended
26 Complaint. (Dkt. No. 73.) As a result, KSEA’s Second Motion to Strike and Dismiss was rendered
27 moot because it was no longer directed to Stryker’s operative pleading. Consequently, on July 24,
28 2014, KSEA filed a Notice of Withdrawal of its Second Motion to Strike and Dismiss. (Dkt. No. 75.)

1 6. On August 1, 2014, KSEA filed two motions: (a) a Motion to Strike and Dismiss with
2 Prejudice Defendant’s Affirmative Defenses and Counterclaims to Amended Complaint Based on
3 Alleged Violation of a Protective Order (Dkt. No. 76); and (b) a Motion to Strike and Dismiss with
4 Prejudice Defendant’s Affirmative Defenses and Counterclaims to Amended Complaint Based on
5 Settlement Agreement (Dkt. No. 77) (collectively, “KSEA’s Pending Motions to Strike and
6 Dismiss”). Pursuant to Civil Local Rule 7-3(a), Stryker would have 14 days, or until August 15,
7 2014, to respond to KSEA’s Pending Motions to Strike and Dismiss.

8 7. In order for Stryker to have a full and fair opportunity to respond to the allegations
9 raised in KSEA’s Pending Motions to Strike and Dismiss, the Parties have stipulated to give Stryker
10 a two-week extension of time to respond to the motions. Specifically, the Parties have stipulated to
11 give Stryker until August 29, 2014, to respond to KSEA’s Pending Motions to Strike and Dismiss.
12 This two-week extension is necessitated by the fact that Stryker counsel Merle S. Elliott is presently
13 on maternity leave with limited availability, and Stryker counsel Robert A. Surrette is on vacation
14 until August 11, 2014.

15 8. The Parties have further stipulated to give KSEA until September 11, 2014, to reply to
16 Stryker’s responses to KSEA’s Pending Motions to Strike and Dismiss.

17 9. Finally, the Parties have stipulated that the hearing on KSEA’s Pending Motions to
18 Strike and Dismiss, which is presently scheduled for Thursday, September 11, 2014, at 1:30 PM, will
19 be postponed until Thursday, September 25, 2014, at 1:30 PM.

20 10. These stipulated extensions will not change or alter any other deadlines currently set
21 by the Court.

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

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Respectfully submitted,

Dated: August 11, 2014

REED SMITH LLP

/s/ William R. Overend¹
William R. Overend (SBN 180209)
Attorneys for Defendants,
STRYKER CORPORATION and
STRYKER COMMUNICATIONS, INC.

Dated: August 11, 2014

BECK, BISMONTE & FINLEY, LLP

/s/ Alfredo A. Bismonte
Alfredo A. Bismonte
Attorneys for Plaintiff,
KARL-STORZ ENDOSCOPY AMERICA, INC.


¹ 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.

~~[PROPOSED]~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED:

- Stryker has until August 29, 2014, to respond to KSEA's Pending Motions to Strike and Dismiss (Dkt. Nos. 76, 77);
- KSEA has until September 11, 2014, to reply to Stryker's responses to KSEA's Pending Motions to Strike and Dismiss; and
- The hearing on KSEA's Pending Motions to Strike and Dismiss will be postponed until September 25, 2014, at 1:30 PM.

Dated: 8/11, 2014


Honorable Richard G. Seeborg
United States District Judge