



November 28, 2011

VIA ELECTRONIC COURT FILING

Magistrate Judge Joseph C. Spero
United States District Court
For the Northern District of California
Courtroom G, 15th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Re: In re SPECS, Case No.: CV 10-4250 YGR (DMR/JCS)

Dear Magistrate Judge Spero:

We write on behalf of Plaintiffs SPECS Surface Nano Analysis GmbH and SPECS Surface Nano to request a short continuance of the settlement conference in this matter, which is currently set for January 7, 2013. The request stems from the fact that Judge Rogers recently continued the hearing on the parties' respective summary judgment motions from November 20 until December 7, 2012, and thus Plaintiffs believe that additional time is necessary to ensure that the Court has ruled on those motions prior to the settlement conference. Plaintiffs have spoken to Ms. Hom regarding the Court's availability, and based on those discussions request that the Court re-set the settlement conference for January 28, 2013.

As you will recall, at the last settlement conference in this matter, the Court and the parties agreed that it would make sense to have any summary judgment motions resolved prior to the next settlement conference. In that regard, the Court held a telephonic conference with the parties on September 24, 2012 to discuss the timing of the next settlement conference. At the time, the last day for hearing summary judgment motions was November 12, 2012. Consequently, the Court set the settlement conference for January 7, 2012.

Subsequently, the parties filed their respective motions, and per Judge Roger's Case Management and Pretrial Order, noticed those motions for hearing on November 20, 2012. However, on November 9, 2012, Judge Rogers continued that hearing until December 7, 2012. (ECF Docket 144). In light of that continuance, as well as the intervening holidays, Plaintiffs believe that additional time should be allotted to ensure that Judge Rogers has adequate time to rule on those motions prior to the settlement conference.

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On November 14, 2012, Michael Lisi contacted Ms. Hom to explain Plaintiffs' intention to seek a short continuance and to inquire as to the Court's availability. Ms. Hom indicated that the Court would be available on Monday, January 28, 2013, and asked if the parties would submit a stipulation. Mr. Lisi explained that he did not know if Defendants would agree to the extension, but that he would attempt to obtain a stipulation. Ms. Hom instructed Mr. Lisi that if a stipulation could not be reached, Plaintiffs should submit a letter request to the Court. On November 27, 2012, Defendants' counsel, Brendan Macaulay, responded to our inquiry and stated that he would not agree to the three week continuance. Mr. Macaulay also asked that we inform the Court that he intends to file a short letter in response to this Request by the close of the next court day.

Plaintiffs do not believe that a three week continuance of the settlement conference would prejudice the parties, and to the contrary, that the continuance will ensure that the parties have a final ruling on their motions prior to discussing settlement with the Court. Trial is set for April 15, 2013, with the pretrial conference set for March 29th and pretrial statements due on March 15th. Thus, the parties would have ample time to prepare their pretrial filings in the event that the case is not resolved at the settlement conference.

For these reasons, Plaintiffs respectfully request that the Court continue the settlement conference in this matter from January 7, 2013 until January 28, 2013.

Respectfully Submitted,

_____/s/_____
Kenneth E. Keller
Attorneys for Plaintiffs SPECS SURFACE NANO
ANALYSIS GMBH and SPECS SURFACE NANO
ANALYSIS, INC.

KEK/all
cc: All Counsel (via ECF)

Dated: 12/3/12

