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9 Attorneys for Defendant  
10 F.W. SPENCER & SON, INC.

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

13 ADVANCED MICROTHERM, INC.; HVAC )  
14 SALES, INC., )

15 Plaintiffs,

16 vs.

17 NORMAN WRIGHT MECHANICAL )  
18 EQUIPMENT CORPORATION; et al., )

19 Defendants. )

Case No.: C04-02266 JW

20 **STIPULATION AND [PROPOSED]**  
21 **ORDER RE EXTENSION OF TIME FOR**  
22 **HEARING DATE FOR DISPOSITIVE**  
23 **MOTIONS**

24 Judge: Hon. James Ware  
25 Magistrate Judge: Hon. Patricia Trumbull  
26 Courtroom: 5, 4<sup>th</sup> Floor

27 Original Complaint Filed: April 30, 2002

28 AND RELATED CROSS-ACTION.

The Parties, by and through their counsel, in accordance with the stipulation concurrently submitted to Judge Trumbull regarding extension of various discovery deadlines and other matters, (attached herewith as Exhibit A) stipulate:

The last date for hearing dispositive motions shall be continued from April 12, 2010 to May 24, 2010, or as soon thereafter as Judge Ware's calendar will allow.

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**SO STIPULATED**

DATED: January 15, 2010

BARTKO, ZANKEL, TARRANT & MILLER  
A Professional Corporation

LEONIDOU & ROSIN,  
A Professional Corporation

By: /S/  
John F. McLean  
Attorneys for Defendant NORMAN S. WRIGHT  
MECHANICAL EQUIPMENT CORPORATION

DATED: January 15, 2010

ALIOTO LAW FIRM  
LAW FIRM OF ZANE D. NEGRYCH  
FOREMAN & BRASSO

By: /S/  
Russell F. Brasso  
Attorneys for ADVANCED MICROTHERM, INC. AND  
HVAC SALES, INC.

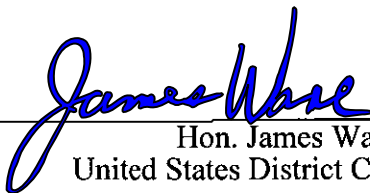
DATED: January 15, 2010

McINERNEY & DILLON, P.C.  
FLYNN/WILLIAMS LLP

By: /S/  
Sloan C. Bailey  
Attorneys for F.W. SPENCER & SON, INC.

**IT IS SO ORDERED.**

DATED: January 15, 2010

  
\_\_\_\_\_  
Hon. James Ware  
United States District Court Judge

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# EXHIBIT A

1 FLYNN / WILLIAMS LLP  
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3 Gary Sloboda (No. 209581)  
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5 San Rafael, CA 94901  
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8 Attorneys for Defendant  
9 F.W. SPENCER & SON, INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

12 ADVANCED MICROTHERM, INC.; HVAC )  
13 SALES, INC., )  
14 Plaintiffs, )  
15 vs. )  
16 NORMAN WRIGHT MECHANICAL )  
17 EQUIPMENT CORPORATION; et al., )  
18 Defendants. )

Case No.: C04-02266 JW

**STIPULATION AND [PROPOSED]  
ORDER RE EXTENSION OF TIME FOR  
NSW TO COMPLY WITH COURT'S  
ORDER (DKT. 1207), EXTENDING  
CERTAIN PRE-TRIAL DATES, AND  
WAIVER OF WRITTEN REPORTS AS  
TO NON-RETAINED EXPERTS**

Judge: Hon. James Ware  
Magistrate Judge: Hon. Patricia Trumbull  
Courtroom: 5, 4<sup>th</sup> Floor

19 AND RELATED CROSS-ACTION.  
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Original Complaint Filed: April 30, 2002

22 Subject to the condition that the Court issue an Order approving the extended dates, and  
23 without limitation to the parties' right to seek relief regarding the extension of the hearing date  
24 for dispositive motions, the Parties, by and through their counsel, stipulate:

- 25 1. The time for defendant Norman Wright Mechanical Corporation to produce  
26 documents responsive to the Court's Order (Docket 1207) concerning Document  
27 Request No. 114 shall be extended to January 29, 2010;  
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- 2. The deadline for designating experts and serving expert reports shall be extended to February 5, 2010; and the deadline for designating rebuttal experts and serving rebuttal expert reports shall be extended to February 19, 2010;
- 3. As to non-retained experts, the parties stipulate that party representatives disclosed as “non-retained” experts (if any) will not be required to provide Rule 26(b)(2)(B) reports so long as they are produced for deposition together with their notes, if any, in lieu of a report.
- 4. The close of expert discovery shall be extended to March 26, 2010; and
- 5. The parties mutually agree that the extension agreed in in paras. 2 and 4 above is contingent upon the attached stipulation (Exhibit A) that is concurrently being submitted to Judge Ware extending the dates for dispositive motions to be filed. In the event that Exhibit A is **not** ordered by Judge Ware, the instant stipulation regarding extension of discovery deadlines is **not** agreed among the parties.

**SO STIPULATED**

DATED: January 15, 2010

BARTKO, ZANKEL, TARRANT & MILLER  
A Professional Corporation

LEONIDOU & ROSIN,  
A Professional Corporation

By: /S/  
John F. McLean  
Attorneys for Defendant NORMAN S. WRIGHT  
MECHANICAL EQUIPMENT CORPORATION

1 DATED: January 15, 2010

ALIOTO LAW FIRM

2

LAW FIRM OF ZANE D. NEGRYCH

3

FOREMAN & BRASSO

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By: /S/  
Russell F. Brasso

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Attorneys for ADVANCED MICROTHERM, INC. AND  
HVAC SALES, INC.

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8 DATED: January 15, 2010

McINERNEY & DILLON, P.C.

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FLYNN/WILLIAMS LLP

10

By: /S/  
Sloan C. Bailey  
Attorneys for F.W. SPENCER & SON, INC.

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15 **IT IS SO ORDERED.**

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17 DATED: \_\_\_\_\_, 2010

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PATRICIA V. TRUMBULL  
United States Magistrate Judge

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