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6 Attorneys for Plaintiff, Counterdefendant and
Counterclaimant O'KEEFE'S, INC.

7 UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9

10 O'KEEFE'S, INC. a California corporation,

CASE NO.: 07-3535 JF

11 Plaintiff,

**STIPULATION AND REQUEST FOR
CONTINUANCE OF CASE
MANAGEMENT CONFERENCE**

12 v.

13 TECHNICAL GLASS PRODUCTS,
14 ANEMOSTAT AND PILKINGTON PLC,

15 Defendants.

16
17 Plaintiff, O'Keeffe's, Inc. and Defendants Technical Glass Products, Anemostat, and
18 Pilkington PLC (collectively the "Parties") hereby submit this Joint Case Management Statement.

19 **I. CURRENT STATUS OF CASE - STAYED PENDING REEXAMINATION**

20 In this case, Plaintiff O'Keeffe's asserts that the Defendants infringe U.S. Patent No. 7,090,906
21 (the "'906 patent"). Defendants assert various counterclaims and defenses that they do not infringe the
22 '906 patent and that the '906 patent is invalid and unenforceable. All non-patent-related claims have
23 been dismissed by agreement of the parties.

24 Defendants Anemostat and Technical Glass Products filed three requests for patent
25 reexamination of the '906 patent with the Patent Office. The Patent Office granted the requests, and
26 Anemostat and Technical Glass Products moved this Court to stay the proceedings on the patent-
27 related claims in view of these reexamination requests. This Court granted the Motion to Stay on
28

1 November 16, 2007, staying all patent-related claims in this matter pending the outcome of the
2 reexaminations. (Order Granting in Part Defendants' Motion to Stay, dkt. #57.)¹

3 On June 10, 2008, the Patent Office issued a Decision, sua sponte, merging the three
4 reexamination proceedings. On April 27, 2009, the Patent Office issued its first Office Action. On
5 June 26, 2009, O'Keeffe's filed its response to the first Office Action and on July 24, 2009, Technical
6 Glass Products and Anemostat filed responsive comments. O'Keeffe's Brief on Appeal is due, and
7 will be filed, on or before August 20, 2010; Anemostat and Technical Glass Products anticipate filing
8 timely responsive pleadings thereafter

9 **II. THE PARTIES REQUEST THE CASE MANAGEMENT CONFERENCE BE CONTINUED**

10 On April 1, 2010 an examiner in the U.S. Patent Office issued an Action Closing Prosecution,
11 rejecting original claims 1-6 and new claims 7-28; that determination will be reviewed by the Board of
12 Appeals and Interferences upon the pending appeal by O'Keeffe's. A decision on appeal will likely
13 be made during the first half of 2011. The parties previously requested that the Case Management
14 Conferences scheduled for September 26, 2008, January 30, 2009, May 29, 2009, September 25, 2009
15 and May 21, 2010 be continued due to the merged reexamination proceeding. The Court granted
16 these requests. In order to allow time for the parties to brief the issues and for the Board of Patent
17 Appeals and Interferences to issue a determination, the parties request that the Case Management
18 Conference be continued until March 4, 2011. Alternatively, the parties request that counsel be
19 permitted to participate telephonically and not appear in person.

20 **IT IS SO STIPULATED AND AGREED.**

21 ///

22 ///

23 ///

24 ///

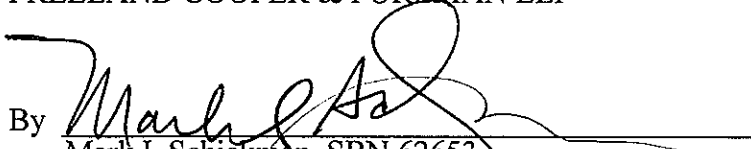
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27 _____
28 ¹ In light of the stay, Pilkington has not yet filed a response to the complaint, but will as appropriate following the
conclusion of the reexamination proceedings.

1 Dated: August 9, 2010

FREELAND COOPER & FOREMAN LLP

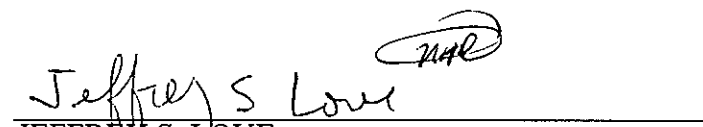
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3 By


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Attorneys for Plaintiff, Counterdefendant and
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8 Dated: August 9, 2010

KLARQUIST SPARKMAN, LLP

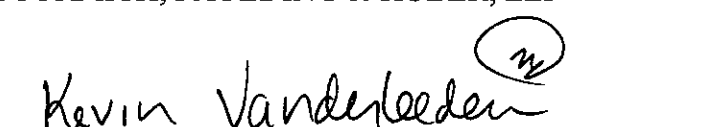
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10 By


JEFFREY S. LOVE
TODD SIEGEL
Attorneys for Defendant and Counterclaimant
TECHNICAL GLASS PRODUCTS

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12
13 Dated: August 9, 2010

MCCORMICK, PAULDING & HUBER, LLP

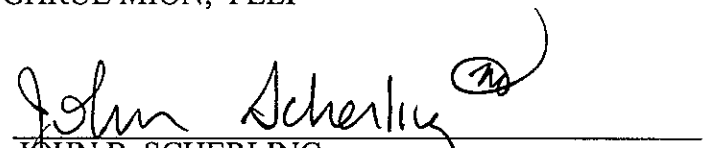
14
15 By


KEVIN H. VANDERLEEDEN
Attorneys for Defendant and Counterclaimant
ANEMOSTAT

16
17
18 Dated: August 9, 2010

SUGHRUE MION, PLLP

19
20 By


JOHN B. SCHERLING
Attorneys for Defendant PILKINGTON PLC

1 **ORDER**

2 It is ordered that:


3 All dates currently on calendar are vacated; and

4 X The Case Management Conference is continued until March 4, 2011.

5 X Counsel are permitted to participate telephonically at the March 4, 2011 Case Management

6 Conference.

7
8 Dated: 8/13/2010

9 
10 _____
11 Honorable Jeremy F. Fogel

1 **PROOF OF SERVICE**

2 I am employed in the City and County of San Francisco, State of California. I am over the age
3 of eighteen and not a party to the within action; my business address is 150 Spear Street, Suite 1800,
4 San Francisco, California 94105.

5 On August 9, 2010, I served the foregoing document described as follows:

6 **STIPULATION AND REQUEST FOR CONTINUANCE OF CASE MANAGEMENT**
7 **CONFERENCE**

8 by placing a true and correct copy thereof enclosed in a sealed envelope addressed to the party(ies) of
9 record whose name(s) and address(es) appear below:

10 John T. Callahan
2100 Pennsylvania Avenue, N.W.
11 Washington, DC 20037

Travis B. Ribar
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

12 X [BY MAIL - CCP § 1013a] I caused such sealed envelope with postage thereon fully
13 prepaid to be placed in the United States mail at San Francisco, California, for collection and
14 mailing to the office of addressee(s) on the date shown herein following ordinary business
practice.

15 _____ [BY FACSIMILE - CCP § 1013(e)] - I caused such document(s) to be transmitted via
16 facsimile electronic equipment transmission on the party(ies), whose name(s), address(es) and fax
number(s) are listed above, on the date stated herein and at the time set forth on the attached
transmission reported indicating that the facsimile transmission was complete and without error.

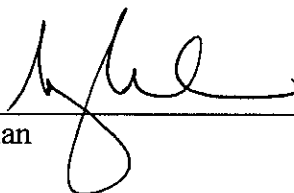
17 _____ [BY FEDEX (Overnight Delivery) - CCP § 1013(c)] I caused such envelope to be
18 delivered to the Federal Express Office in San Francisco, California, with whom we have a direct
billing account, to be delivered on the next business day.

19 _____ [BY E-MAIL or ELECTRONIC TRANSMISSION] Based on a court order or agreement of
20 the parties to accept service by e-mail or electronic transmission, I caused the documents to be
21 sent to the persons at the email addresses listed above. I did not receive within a reasonable time
after the transmission, any electronic message or other indication that the transmission was
unsuccessful.

22 _____ [STATE] I declare under penalty of perjury under the laws of the State of California that
the above is true and correct.

23 X [FEDERAL] Service was made under the direction of a member of the bar of this Court who
24 is admitted to practice and is not a party to this cause.

25 Executed on August 9, 2010, at San Francisco, California.

26 
27 _____
28 Amy Forlan