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10 Counterclaimant O'KEEFFE'S, INC.

11 UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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

14 Plaintiff,

15 v.

16 TECHNICAL GLASS PRODUCTS,
17 ANEMOSTAT AND PILKINGTON PLC,

18 Defendants.

CASE NO.: 07-3535 JF

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

Date: **March 4, 2011**
Time: **10:30 a.m.**
Dept.: **Courtroom 3, 5th Floor**
The Honorable Jeremy Fogel

19 Plaintiff, O'Keeffe's, Inc. and Defendants Technical Glass Products, Anemostat, and
20 Pilkington PLC (collectively the "Parties") hereby submit this Joint Case Management Statement and
21 Stipulation and Request for Continuance of Case Management Conference.

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

23 In this case, Plaintiff O'Keeffe's asserts that the Defendants infringe U.S. Patent No. 7,090,906
24 (the "'906 patent"). Defendants assert various counterclaims and defenses that they do not infringe the
25 '906 patent and that the '906 patent is invalid and unenforceable. All non-patent-related claims have
26 been dismissed by agreement of the parties.

27 Defendants Anemostat and Technical Glass Products filed three requests for patent
28 reexamination of the '906 patent with the Patent Office. The Patent Office granted the requests, and
Anemostat and Technical Glass Products moved this Court to stay the proceedings on the patent-

1 related claims in view of these reexamination requests. This Court granted the Motion to Stay on
2 November 16, 2007, staying all patent-related claims in this matter pending the outcome of the
3 reexaminations. (Order Granting in Part Defendants' Motion to Stay, dkt. #57.)¹

4 On June 10, 2008, the Patent Office issued a Decision, sua sponte, merging the three
5 reexamination proceedings. On April 27, 2009, the Patent Office issued its first Office Action. On
6 June 26, 2009, O'Keeffe's filed its response to the first Office Action and on July 24, 2009, Technical
7 Glass Products and Anemostat filed responsive comments. O'Keeffe's and Technical Glass Products
8 each filed their Briefs on Appeal, the record is complete, the matter has been submitted to the Board
9 of Patent Appeals and Interferences, and a final decision is now awaited.

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

11 The parties previously requested that the Case Management Conferences scheduled for
12 September 26, 2008, January 30, 2009, May 29, 2009, September 25, 2009, May 21, 2010, and
13 August 27, 2010 be continued due to the merged reexamination proceeding. The Court granted these
14 requests. In order to allow time for the Board of Patent Appeals and Interferences to issue a
15 determination, the parties request that the Case Management Conference be continued until
16 **September 23, 2011** and that counsel be permitted to participate telephonically and not appear in
17 person on that date.

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

19 Dated: February 23, 2011

FREELAND COOPER & FOREMAN LLP

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21 By 


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28 Counterclaimant O'KEEFFE'S, INC.

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.

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Dated: February 23, 2011

KLARQUIST SPARKMAN, LLP

By 
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Attorneys for Defendant and Counterclaimant
TECHNICAL GLASS PRODUCTS


Dated: February 23, 2011

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ANEMOSTAT

Dated: February 23, 2011

SUGHRUE MION, PLLP

By 
JOHN B. SCHERLING
Attorneys for Defendant PILKINGTON PLC

ORDER

It is ordered that:

All dates currently on calendar are vacated; and

The Case Management Conference is continued until September 23, 2011.

Counsel are permitted to participate telephonically at the September 23, 2011 Case

Management Conference.

Dated: 3/1/11


Honorable Jeremy F. Rogel