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

13 CRYOTECH INTERNATIONAL, INC., a  
 Delaware Corporation, fka VBS  
 14 INDUSTRIES INCORPORATED  
  
 15 Plaintiff,  
  
 16 vs.  
 17 TECHNIFAB PRODUCTS, INC., an Indiana  
 Corporation; and DOES 1-50 inclusive  
  
 18 Defendants.  
 19

Case No. C08 02921 HRL  
 Complaint filed June 12, 2008  
  
**STIPULATION AND REQUEST FOR  
 ORDER MODIFYING SCHEDULING  
 ORDER AND ENLARGING DEADLINES  
 FOR EXPERT WITNESS  
 DESIGNATIONS AND DISPOSITIVE  
 MOTIONS**  
  
 Magistrate Judge Howard R. Lloyd

20 The Parties seek the entry of an Order modifying the current Scheduling Order to  
 21 enlarge the deadlines for designating expert witnesses and for filing dispositive motions, and to  
 22 re-schedule the pre-trial conference and trial in this case. Within the last week, Plaintiff learned  
 23 that its expert witness was seriously ill and because of his medical condition was unable to  
 24 perform as Plaintiff’s expert witness. When apprised of these recent events, Defendant agreed  
 25 to an extension of time to permit Plaintiff to obtain a new expert witness. Because of the time  
 26 needed to do so, and for Plaintiff’s new expert witness to “come up to speed” in the case and to  
 27 render an opinion and to prepare an appropriate report, and because of the present relatively  
 28 tight schedule, the Parties have agreed to this Stipulation and seek the Court’s consent to re-

1 schedule the applicable deadlines and trial schedule.

2 The present Scheduling Order provides as follows: Discovery – September 30, 2009;  
3 Expert Witness Designation and Reports – October 2, 2009; Designation of Rebuttal Experts –  
4 October 16, 2009; Expert Discovery Cutoff – October 30, 2009; last day for hearings on  
5 dispositive motions – December 8, 2009; Pre-Trial Conference – January 5, 2010; Trial –  
6 January 11, 2010. Scheduling Order dated April 20, 2009 [Doc. No. 41], as amended by Joint  
7 Stipulation and Order Extending Deadline for Fact Discovery [Doc. No. 92].

8 The Parties request an enlargement of the October 2, 2009 Expert Witness Designation  
9 deadline to December 4, 2009, an enlargement of the October 16, 2009 Designation of Rebuttal  
10 Experts deadline to December 18, 2009, and an enlargement of the deadline for the last day of  
11 hearings on dispositive motions to January 15, 2010. The requested enlargements would impact  
12 the other deadlines, specifically the January 5, 2010 Pre-Trial Conference and the January 11,  
13 2010 Trial date.

14 Good cause exists for this Court to exercise its discretion and enlarge the time in which the  
15 Parties have to designate their experts, file dispositive motions, and to conduct trial, if necessary.  
16 The parties diligently prepared for and conducted mediation in this case, have conducted  
17 discovery, and have advised each other of their expert witnesses (including seeking the provision  
18 to their expert witnesses of documents obtained in discovery in compliance with the Stipulated  
19 Protective Order [Doc. No. 36]. The parties were diligent in assisting the Court in creating a  
20 workable Rule 16 scheduling order. Their noncompliance with the Scheduling Order’s deadlines  
21 occurred or will occur notwithstanding diligent efforts to comply because of developments that  
22 were not reasonably anticipated at the time of the Rule 16 scheduling conference; and the Parties  
23 are diligent in seeking an amendment of the Scheduling Order once it became apparent it could not  
24 comply with the Order.

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1 If the Court approves, the Parties would propose the following amended schedule:

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3 EVENT	EXISTING DATE	PROPOSED DATE
4 Fact Discovery Cutoff	September 30, 2009 <sup>1</sup>	
5 Designation of Experts With Reports	October 2, 2009	December 4, 2009
6 Designation of Rebuttal Experts With Reports	October 16, 2009	December 18, 2009
7 Expert Discovery Cutoff	October 30, 2009	January 15, 2010
8 Last Day for Hearings on Dispositive Motions	December 8, 2009	February 19, 2010
9 Final Pre-Trial Conference	January 5, 2010	TBD
10 Bench Trial	January 11, 2010	TBD

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13 IT IS HEREBY STIPULATED:

14 Dated: September 30, 2009

Respectfully submitted,

15  
16 By: /s/ Douglas A. Rubel  
DOUGLAS A. RUBEL  
Attorneys for Plaintiff Cryotech  
International, Inc.

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18  
19 Dated: September 30, 2009

HUNT, HASSLER & LORENZ, LLP

20  
21 By: /s/ Mark D. Hassler  
MARK D. HASSLER  
Attorneys for Defendant Technifab  
Products, Inc.

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27 <sup>1</sup> Plaintiff has requested an enlargement of the existing September 30, 2009 deadline for  
conducting fact discovery, however, Defendant does not agree to such an enlargement. Accordingly,  
28 Plaintiff is filing a separate motion for such relief.


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**ORDER**

Good cause thereby appearing, the Scheduling Order is amended as proposed.

A Status Conference is set for January 19, 2010 at 1:30 p.m. in Courtroom 2, 5th Floor, San Jose, to set new pre-trial conference and trial dates.

Dated: October 2, 2009

  
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HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE