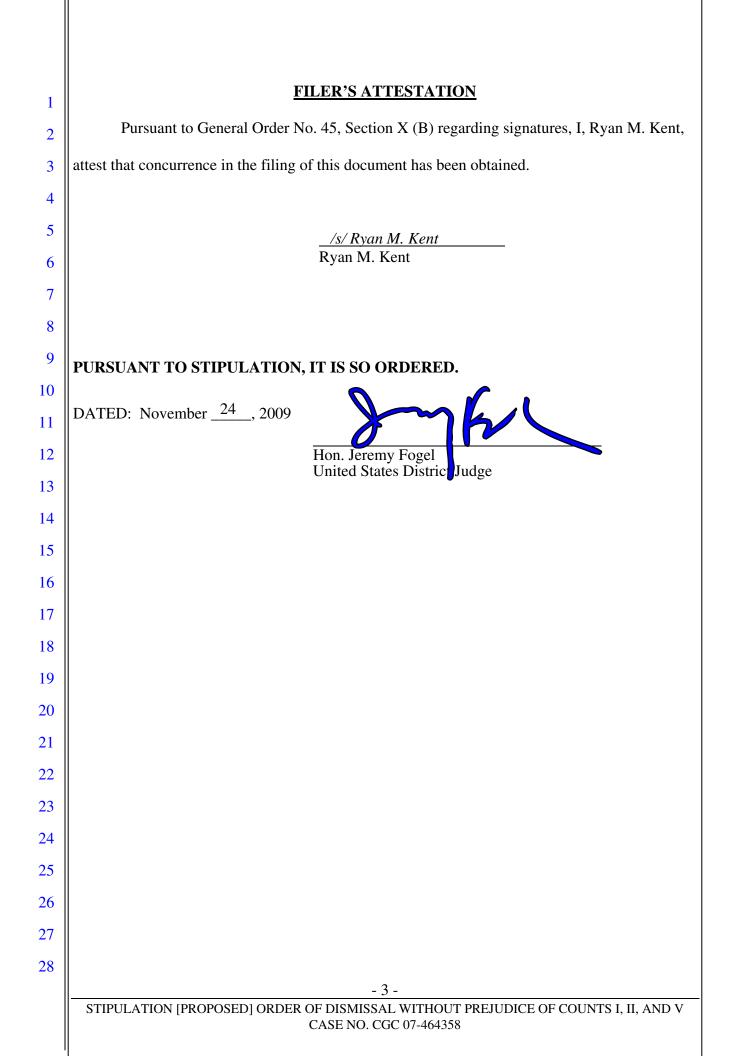
1 2 3 4 5	DURIE TANGRI LLP RYAN M. KENT (SBN 220441) rkent@durietangri.com 332 Pine Street, Suite 200 San Francisco, CA 94104 Telephone: (415) 362-6666 Attorneys for Plaintiff C&C JEWELRY MFG, 1		
6	UNITED STATES DISTRICT COURT		
7	NORTHERN DISTRICT OF CALIFORNIA		
8			
9 10	C&C JEWELRY MFG., INC.,	Case No. 3:09-cv-01303-JF	
11	Plaintiff,	STIPULATION AND [PROPOSED]	
12	v.	ORDER OF DISMISSAL WITHOUT PREJUDICE OF	
13	TRENT WEST,	COUNTS I, II, AND V PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)(A)(ii)	
14	Defendant.	$\mathbf{F}\mathbf{KOCEDUKE}41(\mathbf{a})(1)(\mathbf{A})(\mathbf{II})$	
15	And Related Counterclaims		
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	STIPULATION AND [PROPOSED] OF DISMISSAL WITHOUT PREJUDICE OF COUNTS I, II, AND V CASE NO. 3:09-cv-01303-JF		
		Dockets.Justia.com	

1	WHEREAS Plaintiff C&C Jewelry Manufacturing, Inc. ("C&C") brought suit against		
2	Defendant Trent West ("West") seeking, inter al	<i>lia</i> , declaratory judgment of non-infringement,	
3	invalidity and unenforceability of U.S. Patent No.	o. 6,602,045 ("the '045 patent") (Count I), U.S.	
4	Patent No. 6553,667 ("the '667 patent") (Count II) and U.S. Patent No. 6,993,842 ("the '842		
5	patent") (Count V);		
6	WHEREAS West contends that no actual case or controversy exists as to Counts I, II and		
7	V because West contends that there is no substantial controversy between West and C&C of		
8	sufficient immediacy and reality to warrant the issuance of a declaratory judgment in connection		
9	with the '045, '667 and '842 patents, including no reasonable apprehension of suit on those		
10	patents; and		
11	WHEREAS, based on the above representation by West, C&C agrees to dismiss without		
12	prejudice Counts I, II and V so that the parties can narrow the issues involved in this litigation to		
13	the remaining counts of its Complaint.		
14	IT IS HEREBY STIPULATED by and between C&C and West, through their designated		
15	counsel, that Counts I, II and V of the Complaint are hereby DISMISSED WITHOUT		
16	PREJUDICE pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). Each party shall bear		
17	its own costs and attorneys' fees as to Counts I, II and V.		
18			
19	Respectfully stipulated to by:		
20			
21	DURIE TANGRI LLP	KING & KELLEHER, LLP	
22	By: <u>/s/Ryan M. Kent</u>	By: <u>/s/ Alvin B. Lindsay</u>	
23	Ryan M. Kent	Alvin B. Lindsay	
24	Attorneys for Plaintiff C&C Jewelry Mfg., Inc.	Attorneys for Defendant Trent West	
25	Date: November 17, 2009	Date: November 17, 2009	
26			
27			
28			
		2 - AL WITHOUT PREJUDICE OF COUNTS I, II, AND V	
		GC 07-464358	

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1	CERTIFICATE OF SERVICE		
2			
3	I certify that all counsel of record is being served on November 17, 2009 with a copy of		
4	this document via the Court's CM/ECF system.		
5	Alvin D. Lindson alin door Olin conduction on		
6	Alvin B. Lindsay. alindsay@kingandkelleher.com		
7	Edward Vincent King, Jr. evking@kingandkelleher.com		
8	By: <u>/s/ Daralyn J. Durie</u>		
9	Daralyn J. Durie		
10	Attorneys for Plaintiff and Defendant-Counterclaim		
11	C&C JEWELRY MFG, INC.		
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	- 4 - STIPULATION [PROPOSED] ORDER OF DISMISSAL WITHOUT PREJUDICE OF COUNTS I, II, AND V		
	CASE NO. CGC 07-464358		