

1 Robert A. McFarlane, No. 172650
 2 S. Mark Varney, No. 121129
 3 **CARROLL, BURDICK & McDONOUGH LLP**
 Attorneys at Law
 4 44 Montgomery Street, Suite 400
 San Francisco, CA 94104
 Telephone: 415.989.5900
 Facsimile: 415.989.0932
 5 Email: rmcfarlane@cbmlaw.com
 mvarney@cbmlaw.com

6 Attorneys for Defendant
 7 BRK BRANDS INC.

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION

12 SAN FRANCISCO TECHNOLOGY INC.,

No. 5:10-cv-02994 JF

13 PLAINTIFF,

**STIPULATION AND [PROPOSED] ORDER
 REGARDING SEVERANCE OF CLAIMS
 AGAINST BRK BRANDS, INC.**

14 v.

Judge: Hon. Jeremy Fogel

15 AERO PRODUCTS INTERNATIONAL
 INC., BP LUBRICANTS USA INC., BRK
 16 BRANDS INC., CALICO BRANDS INC.,
 COOPER LIGHTING LLC, DAREX LLC,
 17 DEXAS INTERNATIONAL LTD., DYNA-
 GRO NUTRITION SOLUTIONS, FISKARS
 18 BRANDS INC., GLOBAL CONCEPTS
 INC., HOMAX PRODUCTS INC.,
 19 KIMBERLY-CLARK CORPORATION,
 KRACO ENTERPRISES LLC, LIXIT
 20 CORPORATION, MEAD WESTVACO
 CORPORATION, NUTRITION 21 INC.,
 21 OATEY Co., OPTIMUM TECHNOLOGIES
 INC., NEWELL RUBBERMAID INC.,
 22 SCHICK MANUFACTURING INC., THE
 SCOTTS COMPANY LLC, STERLING
 23 INTERNATIONAL INC., VITAMIN
 POWER INCORPORATED,
 24 WOODSTREAM CORPORATION, 4-D
 DESIGN INC.,

Complaint Filed: July 8, 2010

25 DEFENDANTS.
 26

27
 28 CBM-SFISF487964

1 Plaintiff San Francisco Technology Inc. and Defendant BRK Brands Inc. ("BRK"),
2 by and through their undersigned counsel, agree and stipulate as follows:

3 WHEREAS San Francisco Technology, Inc. brought the instant action against 25
4 defendants, including defendant BRK, alleging that the defendants falsely marked their products
5 with expired patents and seeking recovery pursuant to 35 U.S.C. § 292;

6 WHEREAS this Court has previously been assigned the action San Francisco
7 Technology, Inc., brought against some 20 other defendants, which case was originally styled *San*
8 *Francisco Technology, Inc. v. The Glad Products Company et al.* Case No. 10-CV-00966 JF (the
9 "Glad Products Action");

10 WHEREAS this Court ordered each individual defendant named in the Glad Products
11 Action who had not requested transfer severed into a separate action pursuant to Federal Rule of
12 Civil Procedure 21, and, further, ordered the Clerk to open new case numbers for each such action
13 and assign such action to Judge Fogel (*San Francisco Technology, Inc. v. The Glad Products*
14 *Company et al.* Case No. 10-CV-00966 JF, Order re: Pending Motions, July 19, 2010 (Docket
15 No. 315)),

16 WHEREAS San Francisco Technology, Inc. and BRK agree that San Francisco
17 Technology Inc.'s claims against BRK should be severed into a separate action pursuant to
18 Federal Rule of Civil Procedure 21, that such action should be assigned a new case number, and
19 that such action should remain assigned to the Honorable Judge Jeremy Fogel;

20 The Parties respectfully request that the Court issue an order providing that

21 (1) San Francisco Technology Inc.'s action against BRK shall be severed from the
22 claims pending against other parties herein pursuant to Federal Rule of Civil Procedure 21;

23 (2) The Clerk shall open a new case number for an action styled *San Francisco*
24 *Technology, Inc. v. BRK Brands, Inc.*;

25 (3) Such new case shall be assigned to the undersigned judge, the Honorable Jeremy
26 Fogel.

27 **IT IS SO STIPULATED.**

1 Dated: September 9, 2010

2 CARROLL, BURDICK & McDONOUGH LLP

3
4 By /s/ Robert A. McFarlane
5 Robert A. McFarlane
6 Attorneys for Defendant
7 BRK Brands Inc.

8 Dated: September 9, 2010

9 MOUNT & STOELKER, P.C.

10
11 By /s/Dan Fingerman
12 Dan Fingerman
13 Attorneys for Plaintiff
14 San Francisco Technology Inc.

15 In accordance with General Order No. 45, Rule X, the above signatory attests that
16 concurrence in the filing of this document has been obtained from the signatory below.


17 Dated: September 9, 2010

18 CARROLL, BURDICK & McDONOUGH LLP

19
20 By /s/ Robert A. McFarlane
21 Robert A. McFarlane
22 Attorneys for Defendant
23 BRK Brands Inc.

24 **PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING THEREFOR,**
25 **IT IS SO ORDERED**

26 

27 By 
28 The Honorable Jeremy Fogel