

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
SENIOR JUDGE WALKER D. MILLER

Civil Action No. 03-cv-1927-WDM-MJW

ENCAPSULATION TECHNOLOGY, LLC, a California limited liability company,

Plaintiff,

v.

INSTACOTE, INC., an Ohio Corporation;  
THOMAS NACHTMAN, an individual;  
CHARLES SMITH, an individual;  
PMTECH, INC., a Colorado Corporation;  
RICHARD S. HOGUE, an individual;  
ALPHA GROUP & ASSOCIATES, L.L.C., a Colorado limited liability company; and  
ROCK NEVEAU, an individual,

Defendants.

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**ORDER EXTENDING ADMINISTRATIVE CLOSURE**

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Miller, J.

This matter is before me on Plaintiff's Motions to Reopen Case and Extend Administrative Closure (doc nos 193 and 196), which Defendants oppose. On April 6, 2007, I ordered that this case be administratively closed until April 7, 2008 (doc no 177); administrative closure was thereafter extended to April 7, 2009 (doc no 192.) As noted in my original order administratively closing this matter, PMTech requested dismissal without prejudice of the claims asserted by plaintiff Encapsulation Technology, LLC, on the basis of a final office action issued by the United States Patent and Trademark Office, rejecting the patent at issue in this lawsuit. Instead of dismissing the case, I administratively closed it pending Plaintiff's administrative appeal. Plaintiff has lost its appeal to the Patent Office Board of Appeals, but now intends to appeal that decision to the Federal Circuit and seeks

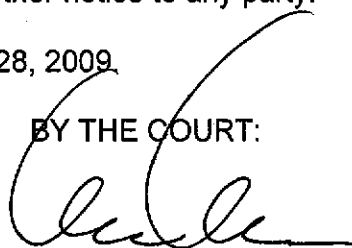
to extend the administrative closure of this case pending that determination. Because the statute of limitations would effectively bar Plaintiff from continuing this case if its appeal is successful, I conclude that it is appropriate to continue the administrative closure in this matter.

Accordingly, it is ordered:

1. Plaintiff's Motions to Reopen Case and Extend Administrative Closure (doc nos 193 and 196) are granted.
2. The administrative closure of this case shall be extended to April 7, 2010.
3. If no action is taken to reopen the case before April 7, 2010, this case shall be dismissed without prejudice without further notice to any party.

DATED at Denver, Colorado, on April 28, 2009.

BY THE COURT:



s/ Walker D. Miller  
United States Senior District Judge