

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00192-MSK-KLM

DURST PHOTOTECHNIK AG, a foreign corporation,

Plaintiff,

v.

IMAGING TECHNOLOGY INTERNATIONAL CORPORATION, a Colorado corporation,

Defendant.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Plaintiff's Unopposed Motion for Leave to File Amended Complaint** [Docket No. 41; Filed September 24, 2009] (the "Motion"). Plaintiff seeks to add a new defendant, Bruce Morgan, to its fraud and misrepresentation claims.

Fed.R.Civ.P. 15(a) provides for liberal amendment of pleadings. Leave to amend is discretionary with the court. *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Viernow v. Euripides Devel. Corp.*, 157 F.3d 785, 799 (10th Cir. 1998). Amendment under the rule has been freely granted. *Castleglenn, Inc. v. Resolution Trust Company*, 984 F.2d 1571 (10th Cir. 1993) (internal citations omitted). "Refusing leave to amend is generally only justified upon a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment." *Frank v. U.S. West, Inc.*, 3 F.3d 1357, 1365 (10th Cir. 1993).

Plaintiff has certified that Defendants do not oppose the Motion. The Court finds that there has been no showing of undue delay, prejudice, bad faith or dilatory motive.

Accordingly,

IT IS HEREBY **ORDERED** that the Motion is **GRANTED**. Plaintiff's Amended Complaint [Docket No. 41-2; Filed September 24, 2009] is **accepted for filing** as of the date of this Order.

IT IS FURTHER **ORDERED** that Defendants shall answer or otherwise respond to the Amended Complaint on or before **October 5, 2009**.

Dated: September 25, 2009

BY THE COURT:

— s/ Kristen L. Mix _____
United States Magistrate Judge