

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

NEUROS CO., LTD. and AVIATION AND POWER GROUP INC., d/b/a APG-NEUROS, INC.,	)	
	)	
Plaintiffs,	)	Case No. 1:08-cv-05939
	)	
v.	)	District Judge John W. Darrah
	)	
KTURBO, INC.,	)	
	)	
Defendant.	)	

**JOINT MOTION TO ENTER STIPULATED JUDGMENT**

Pursuant to the parties' Settlement Agreement, Fed. R. Civ. P. 54, and Fed. R. Civ. P. 58, Plaintiffs Neuros Co., Ltd. and Aviation and Power Group Inc., d/b/a APG-Neuros, Inc. (collectively, APG-Neuros) and Defendant KTurbo, Inc. jointly ask that the Court enter the Stipulated Judgment attached to this Motion as Exhibit A. In support of this request, the parties state as follows.

1. On May 4, 2011, this Court entered judgment in favor of APG-Neuros on its defamation *per se* claim, awarding APG-Neuros \$10,000 in compensatory damages and \$50,000 in punitive damages. On APG-Neuros's remaining claims, the Court entered judgment for KTurbo. With respect to each of KTurbo's counterclaims, the Court entered judgment for APG-Neuros. *See* DCT Dkt. 245.<sup>1</sup>

2. KTurbo appealed this Court's decision on APG-Neuros's defamation *per se* claim. DCT Dkt. 249; CTA Dkt. 29 at 25-27. APG-Neuros then cross-appealed from the denial

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<sup>1</sup> Citations to "DCT Dkt. \_\_\_" refer by docket number to papers filed and orders entered in this case. Citations to "CTA Dkt. \_\_\_" refer by docket number to papers filed and orders entered in Seventh Circuit appeal no. 11-2260.

of its claims under the Lanham Act and Illinois's Deceptive Trade Practices Act ("DTPA"). *See* DCT Dkt. 255; CTA Dkt. 56 at 19.

3. Meanwhile, on August 25, 2011, this Court awarded APG-Neuros an additional \$23,655.26 for costs incurred during the course of district court proceedings. DCT Dkt. 270. There was no appeal from that order.

4. On October 15, 2012, the Seventh Circuit issued an opinion that (a) affirmed the judgment for APG-Neuros on its defamation *per se* claim, (b) reversed the judgment for KTurbo on APG-Neuros's Lanham Act and DTPA claims, and (c) remanded the Lanham Act and DTPA claims for consideration of attorneys' fees and injunctive relief. CTA Dkt. 61. The Seventh Circuit also awarded costs to APG-Neuros, as the prevailing party on appeal. CTA Dkt. 62.

5. On remand, APG-Neuros asked the Court to enter a revised judgment that made APG-Neuros the prevailing party on its Lanham Act and DTPA claims and granted APG-Neuros attorneys' fees and injunctive relief under those statutes. DCT Dkt. 285.

6. In a Memorandum Opinion and Order dated April 17, 2013 (but entered April 19, 2013), the Court granted all of the requested relief. DCT Dkt. 297.<sup>2</sup> The Court broadly enjoined KTurbo from repeating its false accusations or making similar statements, ordered KTurbo to issue corrective advertising, and determined that APG-Neuros is entitled to attorneys' fees. *Id.* at 10-11.

7. The Court also ordered that certain funds that KTurbo had previously deposited with the Court registry to secure a stay pending appeal be paid to APG-Neuros to satisfy the

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<sup>2</sup> The Court also entered an amended judgment (DCT Dkt. 298), which it subsequently corrected to describe all of the awarded relief (DCT Dkt. 313).

previously entered damages and costs awards, plus interest. *Id.* at 10; DCT Dkt. 316. APG-Neuros received the required payment in July 2013.

8. In accord with the Court's instructions, the parties submitted competing proposals for the required corrective advertising and fully briefed their dispute over the matter. DCT Dkts. 305, 308, 310, 311.

9. The parties also began the process described in Local Rule 54.3 for determining the amount of attorneys' fees. The parties' efforts included extensive settlement discussions pursuant to Local Rule 54.3(d).

10. When those discussions did not timely produce an agreement, APG-Neuros filed a Motion for Attorneys' Fees on August 16, 2013. DCT Dkt. 320.

11. The parties soon thereafter reached a settlement agreement in principle to resolve all outstanding disputes in this case. *See* DCT Dkt. 324.

12. Following further discussions, the parties finalized the following settlement documents: (a) the Settlement Agreement; (b) a Security Agreement, and (c) the Stipulated Judgment.

13. The parties completed the signing of the settlement documents on November 22, 2013.

14. One term of the Settlement Agreement requires the parties to jointly move for entry of the Stipulated Judgment attached as Exhibit A to this Motion. Pursuant to the Settlement Agreement, that Stipulated Judgment will become enforceable if KTurbo fails to make a required settlement payment on or before the required payment date. The first payment was due on September 1, 2013, and KTurbo timely made that payment. The last two payments

are due on November 30, 2013 and December 31, 2013. If APG-Neuros timely receives all required settlement payments, it must promptly execute an appropriate satisfaction of judgment.

15. The Stipulated Judgment is a material, negotiated-for element of the parties' settlement. It allowed APG-Neuros to agree on the settlement amount and payment schedule. If the Stipulated Judgment were not entered as contemplated by the Settlement Agreement, APG-Neuros would be forced to shoulder unbargained-for risk.

16. In other cases—including ones from this District—courts have entered similar judgments in connection with settlements. *See, e.g., Chemtreat, Inc. v. Kinsman*, No. 05-cv-1336, 2007 WL 772778 (C.D. Ill. Mar. 9, 2007); *Pape v. Great Lakes Chem. Co.*, No. 93 C 1585, 1998 WL 574377 (N.D. Ill. Sept. 1, 1998); *Diesel Specialists, Inc. v. Spivey Marine & Harbor Service Co.*, No. 95 C 0778, 1995 WL 593086 (N.D. Ill. Oct. 2, 1995).

WHEREFORE, the parties respectfully ask that the Court grant this motion and enter the attached Stipulated Judgment.

Dated: November 25, 2013

Respectfully submitted,

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# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

NEUROS CO., LTD. and AVIATION AND POWER GROUP INC., d/b/a, APG-NEUROS, INC.,	)	
	)	
Plaintiffs,	)	Case No. 1:08-cv-05939
	)	
v.	)	District Judge John W. Darrah
	)	
KTURBO, INC.,	)	
	)	
Defendant.	)	

**STIPULATED JUDGMENT**

This action was tried and decided by this Court without a jury, appealed to the U.S. Court of Appeals for the Seventh Circuit, and remanded to this Court for further proceedings. Pursuant to the parties’ settlement, the Court hereby enters the following stipulated final judgment resolving all previously undecided matters in the above-captioned suit:

It is ordered that plaintiffs Neuros Co., Ltd. and Aviation and Power Group, Inc. (collectively “APG-Neuros”) recover from defendant KTurbo, Inc. (“KTurbo”) attorneys’ fees in the amount of \$1,063,647.35.

It is further ordered that KTurbo send the following corrective advertising, under its name and at its expense, to the persons and entities listed in the attached Exhibit 1, by first class U.S. Mail at the listed mailing address or, if no mailing address is available, by e-mail at the listed e-mail address:

**Corrective Advertising**

You are receiving this corrective advertising because you received an e-mail or other document from KTurbo, Inc. containing false allegations about Neuros and APG-Neuros or you attended a marketing or sales presentation at which KTurbo presented the false allegations.

On numerous occasions between July 2008 and October 2009, KTurbo stated that Neuros and APG-Neuros supposedly had committed crimes, cheated, and made

untrue claims by allegedly overstating the efficiency of Neuros turbo blowers in bid materials that APG-Neuros submitted to the South Valley, Utah Sewer District and in a CH2MHill report entitled “Factory Test/Trip Report NX300 Turbo Blower.”

KTurbo’s allegations about Neuros and APG-Neuros were false. Neuros and APG-Neuros did not commit crimes, cheat, or make untrue statements in connection with the bid materials that APG-Neuros submitted to the South Valley, Utah Sewer District or the CH2MHill report entitled “Factory Test/Trip Report NX300 Turbo Blower.”

KTurbo apologizes for any confusion created by its false allegations.

KTurbo, Inc.

[signature of officer]

Date: \_\_\_\_\_

\_\_\_\_\_  
JOHN W. DARRAH  
United States District Judge

**Exhibit 1**

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