UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA (Alexandria Division)

TRIANTAFYLLOS TAFAS,

Plaintiff,

v.

CIVIL ACTION: 1:07-CV-00846-JCC-TRJ

JON W. DUDAS, in his official capacity as Under-Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, *et al.*,

Defendants.

THE PARTIES AMENDED JOINT STIPULATION AND CONSENT ORDER REGARDING BRIEFING SCHEDULE

WHEREAS, counsel for Plaintiff Triantafyllos Tafas ("Plaintiff") and counsel for

Defendant Jon W. Dudas ("Defendant") and Defendant United States Patent and Trademark Office ("Defendants;" Plaintiff and Defendants are collectively referenced as the "Parties") have conferred and agreed upon an amended briefing schedule, to be entered as an amendment to and/or in substitution for the previously submitted Joint Stipulation that was entered by the Court by Order dated September 21, 2007, concerning motions to dismiss and motions for summary judgment the Parties anticipate being filed in this action in order to expeditiously progress the above-captioned action to a final hearing on the merits and to obviate the need for Plaintiff to prosecute a preliminary injunction motion;

NOW THEREFORE, the Parties stipulate as follows, and respectfully request that the

Court enter the following stipulation as an Order in the above-captioned action:

1. Plaintiff will file his opposition to Defendants' motion to dismiss dated October

4, 2007 on or before Thursday, October 25, 2007.

2. Defendants will file their reply to any opposition by Plaintiff to Defendants' motion to dismiss on or before <u>Tuesday</u>, November 6, 2007.

3. Defendants will notice <u>Friday</u>, November 9, 2007 as the date on which their motion to dismiss will be heard, or, if the Court is not available to hear the motion on that date, for the next date thereafter on which the Court is so available that is mutually agreeable to counsel for both Plaintiff and Defendants.

4. Defendants provided Plaintiff with the administrative record for the rule making of the United States Patent and Trademark Office on October 5, 2007. Subject to a possible extension in the event that there should be litigation over the adequacy or completeness of the record, Plaintiff will file any motion for summary judgment on or before <u>Wednesday</u>, November 7, 2007.

Defendants will submit any cross-motion for summary judgment, as well as any opposition to the summary judgment motion Plaintiff might file, on or before <u>Tuesday</u>, December 4, 2007.

6. Plaintiff will file his reply in support of its motion for summary judgment, as well as its opposition to any cross-motion for summary judgment that Defendants might file, on or before <u>Wednesday</u>, December 12, 2007.

7. Defendants will file their reply in support of their cross-motion for summary judgment on or before <u>Wednesday</u>, December 19, 2007.

8. The Parties will notice the hearing on any summary judgment filed by Plaintiff and any cross-motion for summary judgment filed by Defendants for <u>Friday</u>, December 21, 2007, or, if the Court is not available to hear the motions on that date, for the next date thereafter on which the Court is so available that is mutually agreeable to both counsel for Plaintiff and Defendants.

9. In the event the Final Rules published by Defendants at 72 Fed. Reg. 46716 (Aug. 21, 2007) are preliminarily enjoined by this or any other Court, the parties have agreed to consult and to negotiate modifications to the deadlines in the summary judgment briefing schedule described herein in light of any preliminary injunction order that might be issued. If the parties are unable to reach agreement, this Joint Stipulation and Consent Order is without prejudice to either party requesting the Court to modify the summary judgment briefing schedule.

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10. The Parties will endeavor to negotiate a mutually agreed upon expansion of the

page limitations for briefs provided for under the Local Rules with respect to the summary judgment

motions for submission to the Court.

Dated: October 17, 2007

THE DEFENDANTS

THE PLAINTIFF

TRIANTAFYLLOS TAFAS

JON W. DUDAS and THE UNITED STATES PATENT AND TRADEMARK OFFICE

CHUCK ROSENBERG UNITED STATES ATTORNEY

By:

Lauren A. Wetzler Assistant United States Attorney Justin W. Williams United States Attorney's Building 2100 Jamieson Avenue Alexandria, Virginia 22314 Telephone: (703) 299-3752 Facsimile: (703) 299-3983 lauren.wetzler@usdoj.gov

٢ By:

Joseph D. Wilson (VSB # 43693) KELLEY DRYE & WARREN LLP Washington Harbour, Suite 400 3050 K Street, NW Washington, DC 20007 Telephone: (202) 342-8400 Facsimile: (202) 342-8451 E-mail: jwilson@kelleydrye.com

Counsel for Defendant Jon Dudas and The United States Patent and Trademark Office

Counsel for Plaintiff Triantafyllos Tafas

SO ORDERED thisday of October, 2007:

/s/ James C. Cacheris

United States District Judge