

HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MMMT Holdings Corporation, a
Minnesota corporation,

Plaintiff,

v.

NSGI Holdings, Inc., a Delaware
corporation,

Defendant.

No. 2:12-cv-01570 RSL

STIPULATED MOTION AND [PROPOSED]
ORDER MODIFYING SCHEDULING
ORDER

Note on Motion Calendar:

September 6, 2013

Pursuant to Federal Rule of Civil Procedure 16(b)(4) and Local Rules 7(d)(1), 10(g) and 16(b)(4), and for good cause shown, Plaintiff MMMT Holdings Corporation and Defendant NSGI Holdings, Inc. jointly move the Court to modify the Scheduling Order dated November 29, 2012.

On April 4, 2013, Plaintiff filed a Motion to File a Second Amended Complaint. On April 11, 2013, Defendant filed a Motion for a Protective Order. On May 23, 2013, Plaintiff filed a Motion to Compel Discovery Responses. On July 10, 2013, Plaintiff filed a Motion to File a Supplemental Complaint. Each of these motions related to the claims and/or the scope of discovery in this case. Thus, although the parties continued to proceed with discovery while

STIPULATION AND [PROPOSED] ORDER
(No. 2:12-cv-01570 RSL) – 1



12-CV-01570-CLM

1 these motions were pending, the parties could not complete discovery without decisions from the
2
3 Court on these motions.
4

5 On August 12, 2013, the Court issued an Order granting Plaintiff's Motion to File a
6
7 Second Amended Complaint and Plaintiff's Motion to File a Supplemental Complaint.
8

9 Accordingly, on August 21, 2013, Plaintiff filed a Second Amended Complaint that incorporated
10
11 the claims in its proposed Second Amended Complaint and proposed Supplemental Complaint.
12

13 On September 4, 2013, Defendant filed its Answer, Affirmative Defenses and Counterclaims to
14
15 Plaintiff's Second Amended Complaint.
16
17

18 The Court has not yet issued a decision on Defendant's Motion for a Protective Order or
19
20 Plaintiff's Motion to Compel Discovery Responses (collectively, the "pending motions").
21
22

23 Good cause exists to modify the Scheduling Order because (1) Plaintiff's Second
24
25 Amended Complaint asserts additional claims against Defendant, at least some of which may
26
27 require additional discovery; (2) Defendant has recently asserted Counterclaims against Plaintiff,
28
29 which may require additional discovery; and (3) the parties have not yet received decisions from
30
31 the Court on the pending motions.
32
33

34 The parties agree that the Scheduling Order should be modified to extend the current
35
36 deadlines. To that end, the parties have engaged in negotiations during the past month to attempt
37
38 to agree on a proposed schedule for the Court's consideration. As a part of these negotiations,
39
40 the parties have considered issues such as the timing of depositions, and whether such
41
42 depositions will take place in the United States or in Japan.
43
44

45 The parties have reached an agreement to extend the deadline for Plaintiff to serve its
46
47 Response to Defendant's Expert Rebuttal Report pursuant to Federal Rule of Civil Procedure
48
49
50
51

1 26(a)(2)(D)(ii) from September 9, 2013 until October 7, 2013. However, the parties have not yet
2
3 reached an agreement regarding the amount of time by which the other upcoming deadlines in
4
5 the Scheduling Order should be extended. The parties are continuing to engage in negotiations
6
7 to attempt to reach an agreement. Therefore, in the meantime, the parties respectfully request
8
9 that the Court:
10

11
12 1. Order that the deadline for Plaintiff to serve its Response to Defendant's Expert
13
14 Rebuttal Report pursuant to Federal Rule of Civil Procedure 26(a)(2)(D)(ii) is extended until
15
16 October 7, 2013;
17

18
19 2. Vacate all upcoming dates in the November 29, 2012 Scheduling Order; and
20

21 3. Allow the parties to continue their negotiations and to submit a joint status report
22
23 by September 20, 2013 setting forth for the Court's consideration any agreed-upon proposed
24
25 deadlines, or if the parties are unable to reach agreement, the parties' alternative proposed
26
27 deadlines.
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

DATED: September 6, 2013

DAVIS WRIGHT TREMAINE LLP

By: s/Robert J. Maguire
Douglas C. Ross, WSBA #12811
Robert J. Maguire, WSBA #29909
Jonathan M. Lloyd, WSBA #37413
1201 Third Avenue, Suite 2200
Seattle, WA 98101
Telephone: 206-622-3150
Facsimile: 206-757-7700
Email: douglasross@dwt.com
robertmaguire@dwt.com
jonathanlloyd@dwt.com

Attorneys for Defendant

PERKINS COIE LLP

By: s/Kevin J. Hamilton
Kevin J. Hamilton #15648
William B. Stafford #39849
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206-359-8000
Facsimile: 206-359-9000
Email: KHamilton@perkinscoie.com
WStafford@perkinscoie.com

Attorneys for Plaintiff

**MASLON EDELMAN BORMAN
& BRAND, LLP**

By: s/Sarah A. Horstmann
William Z. Pentelovitch MN #85078
Sarah A. Horstmann MN #0387823
3300 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-4140
Telephone: 612-672-8200
Facsimile: 612-672-8397
Email: bill.pentelovitch@maslon.com
sarah.horstmann@maslon.com

Attorneys for Plaintiff

[PROPOSED] ORDER

Based upon the foregoing Stipulation,

IT IS HEREBY ORDERED that

1. The deadline for Plaintiff to serve its Response to Defendant's Expert Rebuttal Report pursuant to Federal Rule of Civil Procedure 26(a)(2)(D)(ii) is extended until October 7, 2013;

2. All upcoming dates in the November 29, 2012 Scheduling Order are vacated; and

3. The parties may continue their negotiations and submit a joint status report by September 20, 2013 setting forth for the Court's consideration any agreed-upon proposed deadlines, or if the parties are unable to reach agreement, the parties' alternative proposed deadlines.

Dated: Sept. 10, 2013

BY THE COURT:



Robert S. Lasnik
Judge of District Court