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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92056206
Party	Defendant Frank Rinn
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Submission	Stipulated/Consent Motion to Extend
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Date	12/16/2014
Attachments	Agreed Motion For Extension of Discovery Period.pdf(107984 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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IML - INSTRUMENT MECHANIC LABOR, INC.	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No.: 92056206
	)	
FRANK RINN	)	
	)	
Registrant.	)	

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Trademark	:	RESISTOGRAPH
Registration No.	:	3,752,461
Registration Date	:	February 23, 2010

**AGREED MOTION FOR EXTENSION OF DISCOVERY PERIOD**

Registrant, FRANK RINN, by and through its attorneys of Knechtel, Demeur & Samlan, and pursuant to 37 C.F.R. §2.120(a)(2), §2.127, and TBMP §403.04, respectfully files this Agreed Motion For Extension of Discovery Period. In support of this motion, Registrant states as follows:

**I. INTRODUCTION**

1. In accordance with the parties' Motion For Suspension for Settlement Negotiations With Consent filed on or about June 11, 2014, with the Trademark Trial and Appeal Board ("TTAB"), and granted by the TTAB, the period for discovery was reset to close on December 19, 2014.

2. As this matter has not been settled, the parties are continuing with their pending written discovery. By way of history relating to the written discovery, on or about September 4, 2013, Petitioner served its First Requests For Admission, First Set of Interrogatories and First Request For Production of Documents upon Registrant.

3. On or about October 3, 2013, Registrant served Registrant's Answer to Petitioner's First Requests For Admission on Petitioner.

4. On or about December 3, 2013, Registrant served its First Set of Interrogatories and First Request For Production of Documents upon Petitioner.

5. On or about December 10, 2013, Registrant served Registrant's Answers to Petitioner's First Set of Interrogatories.

6. The parties are in the process of working on, and making diligent efforts, to complete this pending written discovery. However, as this matter has not been settled, both parties are in need of extending the discovery period. The reasons supporting this motion include, but are not limited to, the following:

(i) This is an extensive proceeding as it includes four grounds for cancellation, specifically, fraud, genericness, priority and likelihood of confusion, and mere descriptiveness;

(ii) The written discovery that remains pending is extensive. Petitioner's First Request For Production of Documents upon Registrant consists of thirty-one (31) requests for production, and Registrant's First Set of Interrogatories consists of thirty-five (35) interrogatories (not counting subparts) and First Request For Production of Documents consists of forty-three (43) requests for production;

(iii) As the Registrant, Frank Rinn, is a German citizen residing in the Federal Republic of Germany, a significant number of document(s) being provided by Mr. Rinn are written in German. Accordingly, Registrant's counsel, not fluent in the German language, is having to go through the painstaking process of working with the Registrant, and for each

document, having to determine what type of document has been provided by the Registrant, understanding the contents of the document and/or how the document translates from the German language into the English language, and then determining whether or not this particular document is responsive to any of the Petitioner's request(s) for production. This process experiences further delays as it is reliant upon the Registrant's availability and telephonic conferences are limited due to the time difference between Registrant and Registrant's counsel's geographic locations; and

(iv) the same considerations concerning language, translation, and distance apply to the Registrant's requests of Petitioner, which is a subsidiary of an entity located in the Federal Republic of Germany.

7. Additionally, as the parties' Rule 26(a)(1) Initial Disclosures identify individual(s) and/or potential witness(es) likely to have information that may be used to support or defend their positions in this cancellation proceeding, and these individuals and/or potential witness(es) reside in the Federal Republic of Germany, unless the parties are able to mutually agree on another alternative, the discovery depositions of any or all of these individual(s) or potential witness(es) may be required to be conducted upon written questions in accordance with 37 C.F.R. §2.124.

8. Based on the foregoing, the parties request a one hundred and eighty (180) day extension of the discovery period up to and including June 20, 2015.

9. The Petitioner, IML - INSTRUMENT MECHANIC LABOR, INC., through its attorneys, likewise agrees to this extension and has expressly consented to this motion.

## II. CONCLUSION

For the foregoing reasons, the Registrant, FRANK RINN, respectfully requests that the Trademark Trial and Appeal Board grant this Agreed Motion For Extension of Discovery Period up to and including June 20, 2015.

Respectfully submitted,

Dated: December 16, 2014

By: /s/ David J. Hurley.

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**CERTIFICATE OF SERVICE**

I, the undersigned attorney, hereby certify that I caused to be served a true and correct copy of the foregoing **AGREED MOTION FOR EXTENSION OF DISCOVERY PERIOD** upon the following parties and in the manner indicated on 16th day of December, 2014:

Via E-mail: [sploen@ploen.com](mailto:sploen@ploen.com)

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By:

- U.S. Postal Service, ordinary first class mail
- U.S. Postal Service, certified or registered mail,
- Return receipt requested
- Hand delivery
- Facsimile
- Electronic service via the Court's CM/ECF system
- Other (specify) E-mail

By: /s/ David J. Hurley .  
David J. Hurley  
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**CERTIFICATE OF ESTTA FILING**

I hereby certify that this Motion is being filed with the U.S. Patent and Trademark Office Trademark Trial and Appeal Board, PO Box 1451, Alexandria, VA 22313 via ESTTA filing, this 16th day of December, 2014.

By: /s/ David J. Hurley .  
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