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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	01/19/2018
Attachments	Consented-To Motion For Extension of Discovery Period.pdf(137614 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

**CONSENTED-TO MOTION FOR EXTENSION OF DISCOVERY PERIOD**

Registrant, Frank Rinn, by and through its attorneys and pursuant to 37 C.F.R. §2.120(a)(2), §2.127, and TBMP §403.04, respectfully files this Consented-to Motion For Extension of Discovery Period. In support of this motion, Registrant states as follows:

1. In accordance with Petitioner, IML - Instrument Mechanic Labor, Inc.'s, Consented-To Motion For Extension of Discovery Period, filed on or about October 20, 2017 with the Trademark Trial and Appeal Board (the "Board") and subsequently granted on October 27, 2017, the period for discovery was reset so as to close on January 22, 2018.

2. In accordance with the Board's October 27, 2017 order, the parties are continuing to work together to resolve various issues arising out of the foregoing activities. Those efforts are being made in good faith and with the shared goal of fulfilling the parties' discovery obligations as efficiently as possible.

3. Since the Board's issuance of its order, the parties have continued apace with their respective discovery activities.

4. In furtherance of the parties' teleconference, Registrant researched the materials required by the U.S. Consulate General in Frankfurt, Germany to process deposition requests. Based on that research, Registrant corresponded with the U.S. Consulate General in Frankfurt, Germany with questions, specifically the process for scheduling multiple back-to-back oral depositions of the Petitioner's designee(s), Mr. Erich Hunger and Mr. Bernd Luell, in accordance with Registrant's Rule 30(b)(6) Notice of Deposition for Petitioner, IML – Instrument Mechanic Labor, Inc., and the appropriate deposition notices required to be filed with the U.S. Consulate General in Frankfurt.

5. On December 13, 2017, the U.S. Consulate General in Frankfurt, Germany, responded with the answers to Registrant's questions. The U.S. Consulate General in Frankfurt, Germany also advised that it already had limited availability for depositions until March, 2018.

6. On December 14, 2017, based on the answers from the U.S. Consulate General in Frankfurt, Germany, Registrant sent a correspondence to Petitioner: (i) advising of the already limited availability for depositions until March, 2018; (ii) requesting subsequent proposed available dates of Petitioner's designee(s), Mr. Erich Hunger and Mr. Bernd Luell, for back-to-back depositions; and (iii) requesting additional information from Petitioner that is required of the designees for Registrant to prepare and file the proper deposition notice(s) with the U.S. Consulate General in Frankfurt, Germany.

7. Additionally, during this time and in furtherance of the parties' teleconference, Registrant likewise discussed the availability of Frank Rinn, individually, and as designee, for Petitioner's Rule 30(b)(6) Notice of Deposition for Rinntech, Inc., for oral deposition at the U.S. Consulate General in Frankfurt, Germany and/or the United States. Mr. Rinn indicated that he is

amenable to having his oral depositions conducted in the United States and provided possible proposed dates in March or April, 2018.

8. In Registrant's correspondence to Petitioner, dated December 14, 2017, Registrant also advised Petitioner, in response to Petitioner's Notice of Deposition for Frank Rinn, individually, and as designee, for Petitioner's Rule 30(b)(6) Notice of Deposition for Rinntech, Inc., that Mr. Rinn is amenable to having these oral depositions conducted in the United States and providing Petitioner with the proposed dates for said deposition(s).

9. On or about January 16, 2018, Petitioner addressed the pending issues in Registrant's correspondence by: (i) advising of mutually agreed dates for the oral deposition of Frank Rinn, individually, and as designee, for Petitioner's Rule 30(b)(6) Notice of Deposition for Rinntech, Inc.; (ii) providing information on Petitioner's designee(s), Mr. Erich Hunger, that is needed to file the appropriate deposition notice with the U.S. Consulate General in Frankfurt, Germany for Registrant's Rule 30(b)(6) Notice of Deposition for Petitioner, IML – Instrument Mechanic Labor, Inc., (iii) providing a status update of the information for Petitioner's designee(s), Mr. Bernd Luell, that is needed to file a deposition notice with the U.S. Consulate General in Frankfurt, Germany for Registrant's Rule 30(b)(6) Notice of Deposition for Petitioner, IML – Instrument Mechanic Labor, Inc.; and (iv) addressing issues relating to other pending oral discovery.

10. As previously advised, these oral discovery logistics are complicated by various facts: the parties' mutual wish to avoid the cumbersome process of depositions upon written questions, the fact that the deponents are located both in Germany and in multiple U.S. states, and the fact that the parties anticipate that it will be necessary to use interpreters for at least some

of the depositions, owing to the fact that multiple deponents do not speak English as a first language.

11. Additionally, counsel for the parties have been continuing to coordinate with their respective local counsels in Germany regarding logistics and scheduling for conducting oral discovery depositions of Rule 30(b)(6) witnesses.

12. The parties also note that 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) Petitioner is a subsidiary of an entity located in the Federal Republic of Germany, and Registrant Frank Rinn is a German citizen residing in the Federal Republic of Germany. Accordingly, both Registrant's and Petitioner's counsels continue to devote significant time to understanding the contents of documents produced in the German language. This process experiences further delays as it is reliant upon individuals with limited availability for telephonic conference due to the time difference between Germany and the United States.

(iii) Oral discovery, and depending upon the results of the activities above and locations in Germany and/or the U.S., could potentially be substantial.

13. Although the parties have made significant progress in the previous months, additional time is needed to arrange for and proceed to conduct oral discovery.

14. In accordance with the Board's October 27, 2017 order, the parties provide the following information regarding the issues to be resolved and anticipated resolution dates:

(i) Further coordination between counsel for the Parties regarding mutually agreed available deposition dates and information for Petitioner's designee(s), Mr. Erich Hunger and Mr. Bernd Luell, in accordance with Registrant's Rule 30(b)(6) Notice of Deposition for Petitioner, IML – Instrument Mechanic Labor, Inc., at the U.S. Consulate General in Frankfurt : to be completed by February 28, 2018;

(ii) Prepare, assemble, and file materials required by the U.S. Consulate General in Frankfurt to process oral deposition requests for Mr. Erich Hunger and Mr. Bernd Luell : to be completed by March 16, 2018;

(iii) Assuming the above activities are completed and the proposed deposition date requests are accommodated by the U.S. Consulate General in Frankfurt or as otherwise made available by the U.S. Consulate General in Frankfurt per mutual agreement with the parties, arrange for court reporters and in-person translation services for depositions;

(iv) Counsel for the parties shall additionally schedule another conference to further discuss the issues related to other pending Notice of Depositions including Petitioner's Rule 30(b)(6) Notice of Deposition for Rinntech e.K: to be completed by March 30, 2018; and

(v) Conduct the oral depositions of Frank Rinn, individually, and as designee, for Petitioner's Rule 30(b)(6) Notice of Deposition for Rinntech, Inc., on April 17-18, 2018, respectively.

12. Based on the foregoing, the parties request a ninety (90) day extension of the discovery period, with one day added due to this date falling on a weekend, up to and including

April 23, 2018. In view thereof, upon the granting of this Consent Motion, the dates would be reset as indicated below:

Fact Discovery Closes	04/23/2018
Plaintiff's Pretrial Disclosures Due (45 days)	06/07/2018
Plaintiff's 30-day Trial Period Ends (45 days)	07/22/2018
Defendant's Pretrial Disclosures Due (15 days)	08/06/2018
Defendant's 30-day Trial Period Ends (45 days)	09/20/2018
Plaintiff's Rebuttal Disclosures Due (15 days)	10/05/2018
Plaintiff's 15-day Rebuttal Period Ends (30 days)	11/04/2018
Plaintiff's Opening Brief Due (60 days)	01/03/2019
Defendant's Brief Due (30 days)	02/02/2019
Plaintiff's Reply Brief Due (15 days)	02/17/2019

13. The Petitioner, - Instrument Mechanic Labor, Inc., through its attorneys, likewise agrees to this extension, the relevant dates set forth herein, and has expressly consented to this motion.

### CONCLUSION

For the foregoing reasons, Registrant, Frank Rinn, acting with the consent of Petitioner, IML – Instrument Mechanic Labor, Inc., respectfully requests that the Trademark Trial and Appeal Board grant this Consented-to Motion For Extension of Discovery Period up to and including April 23, 2018, with all remaining scheduling dates being reset.

Respectfully submitted,

Dated: January 19, 2018

By: /s/ David J. Hurley.

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