

ESTTA Tracking number: **ESTTA891305**

Filing date: **04/20/2018**

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

Proceeding	92056206
Party	Plaintiff IML - Instrument Mechanic Labor, Inc.
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Submission	Stipulated/Consent Motion to Extend
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Date	04/20/2018
Attachments	RESISTOGRAPH Consented-To Motion For Extension of Discovery Period.pdf(81918 bytes)

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

In the Matter of Registration No. 3,752,461
For the mark RESISTOGRAPH

IML – INSTRUMENT MECHANIC
LABOR, INC.

Petitioner,

v.

FRANK RINN

Registrant.

Cancellation No.: 92056206

CONSENTED-TO MOTION FOR EXTENSION OF DISCOVERY PERIOD

Petitioner, IML - Instrument Mechanic Labor, Inc., 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, Petitioner states as follows:

1. In accordance with Registrant, Frank Rinn’s, Consented-To Motion For Extension of Discovery Period, filed on or about January 19, 2018 with the Trademark Trial and Appeal Board (the “Board”) and subsequently granted on January 24, 2018, the period for discovery was reset so as to close on April 23, 2018.

2. In accordance with the Board’s January 24, 2018 order, the parties are continuing to work together to resolve various issues arising out of the foregoing discovery 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. On or about January 29, 2018, Registrant's counsel contacted Petitioner's counsel to reschedule the taking of oral deposition of Registrant in his individual capacity and as Rule 30(b)(6) designee for Rinntech, Inc. The depositions now are scheduled for April 25 - 26, 2018.

5. On or about January 29, 2018, Petitioner's counsel provided Registrant with certain information for one of Petitioner's Rule 30(b)(6) designees, as required by the U.S. Consulate General in Frankfurt, Germany.

6. Through ongoing communications with the U.S. Consulate General in Frankfurt, Germany, counsel for Registrant was advised of limited availability at the Consulate to accommodate Registrant's Rule 30(b)(6) depositions of Petitioner through May of 2018.

7. On or about February 28, 2018, Registrant's counsel informed Petitioner of the limited availability at the Consulate and inquired as to the availability of Petitioner's designees in June and subsequent months.

8. Since that time, 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 Petitioner's Rule 30(b)(6) designees in Germany.

9. On or about March 22, 2018, Petitioner's counsel produced and served a supplemental set of documents responsive to certain document production requests from Registrant. Additionally, counsel for the parties have committed to another teleconference to

further discuss and resolve the logistical challenges associated with conducting certain depositions in Germany.

10. The parties also note that the reasons supporting this motion continue to 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.

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

12. In accordance with the Board's January 24, 2018 order, the parties provide the following information regarding the issues to be resolved and anticipated resolution dates:

(i) 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 25-26, 2018, respectively;

(ii) Finalize schedule for the taking of oral depositions for Mr. Erich Hunger and Mr. Bernd Luell at the U.S. Consulate General in Frankfurt: to be completed by April 26, 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.

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

Fact Discovery Closes	07/23/2018
Plaintiff's Pretrial Disclosures Due (45 days)	09/06/2018
Plaintiff's 30-day Trial Period Ends (45 days)	10/21/2018
Defendant's Pretrial Disclosures Due (15 days)	11/05/2018
Defendant's 30-day Trial Period Ends (45 days)	12/20/2018
Plaintiff's Rebuttal Disclosures Due (15 days)	01/04/2019
Plaintiff's 15-day Rebuttal Period Ends (30 days)	02/03/2019
Plaintiff's Opening Brief Due (60 days)	04/04/2019
Defendant's Brief Due (30 days)	05/04/2019
Plaintiff's Reply Brief Due (15 days)	05/19/2019

14. The Registrant, Frank Rinn, through his attorneys, likewise agrees to this extension, the relevant dates set forth herein, and has expressly consented to this motion.

CONCLUSION

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

Respectfully submitted,

Dated: April 20, 2017

By: /s/ Sean Ploen.

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ATTORNEYS FOR PETITIONER

Certificate of Service

I, the undersigned attorney, hereby certify that I caused to be served a true and correct copy of the foregoing document upon the following parties in the manner indicated on this 20th day of April, 2018:

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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
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- Other

By: /s/ Sean Ploen
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