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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 GRUNDFOS PUMPS
PUMPS MANUFACTURING CORP.,

18 Plaintiff,

19 v.

20 LAING THERMOTECH, INC.,

21 Defendant.

Case No. C-07-4033 JSW

22 **STIPULATION AND**
[PROPOSED] ORDER (1)
ENTERING CONSENT
JUDGMENT and (2)
PERMANENT INJUNCTION

23 Hon. Jeffrey S. White

1 Pursuant to Northern District Civil Local Rules 7-1(a)(5) and 7-12, as well as
2 Fed.R.Civ.P. 58 and 65, Plaintiff, Grundfos Pumps Manufacturing Corporation
3 (“GRUNDFOS”), and defendant, Laing Thermotech, Inc. (“LAING”), jointly submit
4 this stipulation requesting an Order from this Court (1) entering a final consent
5 judgment in this action and (2) a permanent injunction against any further infringement
6 by defendant of plaintiff’s patent rights.

7 **BACKGROUND**

8 This is a patent infringement action commenced on August 6, 2007 by
9 GRUNDFOS against defendant LAING involving two patents. The patents-in-suit
10 relate generally to water control valves and pumps for use in home or industrial water
11 distribution systems that supply water to various fixtures at different temperatures
12 through different pipe systems. More specifically, the patented technology relates to
13 such water control valves that are adaptable for use with a pump and bypass valve so
14 as to bypass cold or tepid water away from the associated fixture until it reaches the
15 desired temperature.

16 LAING has manufactured, used, sold, and offered for sale in the United States
17 its AUTOCIRC2 SYSTEM which incorporates a water pump and bypass valve
18 combination, and provided installation and operating instructions to purchasers of that
19 system. GRUNDFOS alleges that the LAING AUTOCIRC2 SYSTEM infringes the
20 patents in suit.

21 LAING has answered the complaint and served a counterclaim. GRUNDFOS
22 has replied to the LAING counterclaim.

1 On October 26, 2007, the Court entered a preliminary injunction order by
2 stipulation and stayed this litigation for ninety (90) days while the parties pursued
3 further settlement discussions (Doc. 21).

4 GRUNDFOS and LAING have now reached an agreement to resolve this matter
5 by the entry of a consent final judgment and permanent injunction. A stipulation to
6 that effect and proposed order are set out below.

7 **STIPULATION REGARDING CONSENT JUDGMENT**
8 **AND PERMANENT INJUNCTION**

9 **IT IS HEREBY STIPULATED**, by and between the parties, and through their
10 respective attorneys of record that:

11 (1) this Court should enter a consent final judgment incorporating the following:

12 a) This Court has jurisdiction over GRUNDFOS and LAING, as well as
13 over the subject matter of this patent infringement action.

14 b) Venue is proper in this Court.

15 c) LAING acknowledges and admits that U.S. Patent Nos. 6,536,464 and
16 7,073,528 are owned by GRUNDFOS and are valid and enforceable in all respects,
17 including with respect to any future litigation, with regard to any products or parties
18 and for all purposes.

19 d) LAING acknowledges and admits that its manufacture, use, sale, and
20 offer for sale in the United States of its AUTOCIRC2 SYSTEM infringed claims of
21 U.S. Patent Nos. 6,536,464 and 7,073,528.

22 e) Final Judgment is therefore entered in favor of GRUNDFOS and
23 against LAING. LAING'S Counterclaim is dismissed with prejudice. LAING
24 acknowledges and agrees that the Final Judgment is binding upon and constitutes *res*

1 *judicata* between the parties. LAING further waives all right to appeal from this Final
2 Judgment. GRUNDFOS waives all right to recover damages against LAING or
3 LAING's customers for infringement of the patents in suit which occurred prior to the
4 effective date of the permanent injunction.

5 f) Each party shall bear is own costs and attorney's fees.

6 (2) the Court shall also enter a permanent injunction consistent with the
7 following provisions:

8 a) Defendant LAING along with its directors, officers, employees,
9 successors, and assigns, are permanently restrained, enjoined and prohibited from
10 further infringement of the patents in suit including manufacturing, importing, using,
11 selling, and/or offering for sale the AUTOCIRC2 water pump and bypass valve system
12 in the United States for the duration of time that U.S. Patent Nos. 6,536,464 and
13 7,073,528 remain in force and in effect. However, LAING's wholesalers, distributors,
14 resellers, and other entities in the distribution chain are allowed to resell and otherwise
15 dispose of the AUTOCIRC2 products which had already left LAING's possession
16 prior to the effective date of the preliminary injunction (November 2, 2007).

17 b) Defendant LAING is enjoined from directly or indirectly aiding or
18 participating in any action contesting the validity or enforceability of U.S. Patent Nos.
19 6,536,464 and 7,073,528 in any tribunal or forum.

20 c) The permanent injunction shall be effective seven (7) calendar days
21 following the date of the order entered by this Court.

1 Dated: January 9, 2008

Dated: January 9, 2008

2 Respectfully submitted,

Respectfully submitted,

3 /s/ Stephen F. Sherry

/s/ G. Peter Albert, Jr.

4 _____
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13 Attorneys for Plaintiff
14 Grundfos Pumps Mfg. Corp.

Attorney for Defendant
Laing Thermotech, Inc.

[PROPOSED] ORDER

Pursuant to Stipulation and Fed.R.Civ.P. 58 and 65,

1. This Court has jurisdiction over GRUNDFOS and LAING, as well as over the subject matter of this patent infringement action.

2. Venue is proper in this Court.

3. LAING has acknowledged and admitted that U.S. Patent Nos. 6,536,464 and 7,073,528 are owned by GRUNDFOS and are valid and enforceable in all respects, including with respect to any future litigation, with regard to any products or parties and for all purposes.

4. LAING has acknowledged and admitted that its manufacture, use, sale, and offer for sale in the United States of its AUTOCIRC2 SYSTEM infringed claims of U.S. Patent Nos. 6,536,464 and 7,073,528.

5. Final Judgment is therefore entered in favor of GRUNDFOS and against LAING. LAING'S Counterclaim is dismissed with prejudice. LAING has acknowledged and agreed that this Final Judgment is binding upon and constitutes *res judicata* between the parties. LAING has further waived all right to appeal from this Final Judgment. GRUNDFOS waives all right to recover damages against LAING or LAING's customers for infringement of the patents in suit which occurred prior to the effective date of the permanent injunction.

6. Each party shall bear its own costs and attorney's fees.

7. Defendant LAING along with its directors, officers, employees, successors, and assigns, are permanently restrained, enjoined and prohibited from further infringement of the patents in suit including manufacturing, importing, using, selling, and/or offering for sale the AUTOCIRC2 water pump and bypass valve system

1 in the United States for the duration of time that U.S. Patent Nos. 6,536,464 and
2 7,073,528 remain in force and in effect. However, LAING's wholesalers, distributors,
3 resellers, and other entities in the distribution chain are allowed to resell and otherwise
4 dispose of the AUTOCIRC2 products which had already left LAING's possession
5 prior to the effective date of the preliminary injunction (November 2, 2007).

6 8. Defendant LAING is enjoined from directly or indirectly aiding or
7 participating in any action contesting the validity or enforceability of U.S. Patent Nos.
8 6,536,464 and 7,073,528 in any tribunal or forum.

9 9. The permanent injunction shall be effective seven (7) calendar days
10 following the date of the order entered by this Court.

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12 IT IS SO ORDERED,

13 Dated: January 10, 2008

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16 JEFFERY S. WHITE
17 UNITED STATES DISTRICT JUDGE
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