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Via Email

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**Case: *Buergofol GmbH v. Omega Liner Company, Inc.*, Case No. 4:22-CV-04112-KES
(D.S.D.)**

Dear Counsel:

I write regarding the above-captioned litigation (the “District Court Case”), and the related petition for inter partes review (IPR) in IPR2023-01402 that was filed today against certain claims of U.S. Patent No. 8,794,269. Petitioner Omega Liner Company, Inc. (“Omega”) hereby stipulates that if the Patent Trial and Appeal Board (PTAB) institutes an IPR based on the grounds identified below, then it will (i) not pursue the grounds identified below in the District Court Case, and (ii) not pursue any other ground that reasonably could have been raised during the IPR (should it be instituted) in the District Court Case.

The grounds presented in the IPR petition are reproduced below for convenience:

Ground	Prior Art	Statutory Basis	Claims Challenged from U.S. Patent No. 8,794,269
1	EP0267742A2 (Glover) + US6,679,966 (Brandenburger)	Pre-AIA 35 U.S.C. § 103	1-10
2	RU2182999C1 (Khramenkov) + EP0342897A2 (Jones)	Pre-AIA 35 U.S.C. § 103	1-10

In so stipulating, Omega seeks to avoid multiple proceedings challenging the same claims on the same grounds. Consistent with Congressional intent, through this stipulation, Omega expresses its intentions to have only the PTAB address the patentability of the challenged claims identified above on the grounds identified above. However, if the PTAB declines institution as to any grounds, then Omega reserves the right to pursue any non-instituted

grounds in the District Court Case.

This stipulation is not intended, and should not be construed, to limit Omega's abilities to assert invalidity or unenforceability of U.S. Patent No. 8,794,269 in the District Court Case on any other ground not covered by this stipulation (e.g., indefiniteness, written-description issues, enablement, unenforceability issues, invalidity on grounds that reasonably could not have been raised during the IPR if instituted).

Sincerely,



Michael Neustel