UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CASIO INC.

Plaintiff,

v.

PAPST LICENSING GMBH & CO. KG,
Defendant.

Civil Action No. 1:06 CV 01751

Judge: Gladys Kessler

PAPST LICENSING GMBH & CO. KG,
Counter-Plaintiff

v.

CASIO INC. and
CASIO COMPUTER CO., LTD.

Counter-Defendants

PAPST'S MOTION TO STAY PROCEEDINGS PENDING A CONSOLIDATION DETERMINATION BY THE MDL PANEL AND REQUEST FOR A STATUS CONFERENCE

Papst Licensing GmbH & Co. KG ("Papst") respectfully seeks a stay of all proceedings in this case pending a determination by the Judicial Panel on Multidistrict Litigation ("MDL Panel") whether to consolidate this case with five other cases for pre-trial purposes.

This case is one of six pending cases that concern whether the respectively accused digital cameras infringe the same two United States patents (the Tasler patents) owned by Papst, and that concern the validity of those two patents. Papst previously notified this Court of its July 9, 2007 motion before the MDL Panel to consolidate five of the six actions for pre-trial proceedings as permitted by 28 U.S.C. §1407(a). [Docket No. 65] After filing the July 9, 2007 motion before the MDL Panel, counsel for Papst learned of the Matsushita action that had been

filed in this Court on July 6, 2007, and Papst will notify the MDL panel of that sixth action. At this time, Papst expects that its July 9, 2007 motion will be considered and decided by the MDL Panel when the Panel meets in September.

Papst respectfully requests a status conference before Judge Kessler to resolve these case management issues, preferably on July 23, 2007, when counsel for all of the parties already had arranged to come from out of town to appear before Magistrate Judge Robinson on discovery motions.

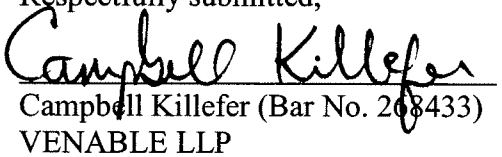
In accordance with Local Rule 7(m), counsel for Papst conferred with opposing counsel concerning this motion on July 13, 2007. No agreement was reached.

A memorandum in support of this motion is being filed concurrently. A proposed order is attached to this motion.

For the foregoing reasons and those stated in the accompanying memorandum, Papst requests that the Court grant this motion to stay all proceedings pending a determination by the MDL Panel whether to consolidate this case with five other cases for pre-trial purposes, and requests a status conference before Judge Kessler.

Date: July 13, 2007

Respectfully submitted,



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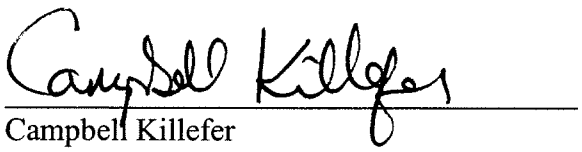
CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Papst's Motion To Stay Proceedings Pending A Consolidation Determination By The MDL Panel And Request For A Status Conference** was served upon the following counsel for Plaintiff and Counterclaim Defendant Casio Inc. and Counterclaim Defendant Casio Computer Co., Ltd. through the Court's ECF electronic service and by regular U.S. mail, postage prepaid, this 13th day of July 2007:

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Campbell Killefer

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PAPST'S MEMORANDUM IN SUPPORT OF ITS MOTION TO STAY PROCEEDINGS PENDING A CONSOLIDATION DETERMINATION BY THE MDL PANEL AND REQUEST FOR A STATUS CONFERENCE

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I. PAPST'S REQUESTED STAY WILL PROMOTE JUDICIAL ECONOMY AND ELIMINATE THE POTENTIAL FOR INCONSISTENT RULINGS

Papst Licensing GmbH & Co. KG ("Papst") seeks a stay of all proceedings in this case pending a determination by the Judicial Panel on Multidistrict Litigation ("MDL Panel") whether to consolidate this case with five other cases for pre-trial purposes.

This case is one of six pending cases that concern whether the respectively accused digital cameras infringe the same two United States patents (the Tasler patents) owned by Papst, and that concern the validity of those two patents. Three of the six cases are pending before this Court:

District of Columbia
Casio Inc. v. Papst Licensing GmbH & Co. KG, Case Action No. 1:06cv1751, Judge Kessler

District of Columbia
Fujifilm Corp., Fujifilm U.S.A., Inc. v. Papst Licensing GmbH & Co. KG, Case Action No. 1:07cv01118, Judge Kessler

District of Columbia
Matsushita Electric Industrial Co., Ltd., Victor Company of Japan, Ltd. v. Papst Licensing; Civil Action No. 07cv01222, Judge Kessler

Three of the six cases are pending before other courts:

Northern District of Illinois
Papst Licensing GmbH & Co. KG v. Fujifilm Corp., Fujifilm U.S.A. Inc., Case No. 07cv3401, Judge Holderman

Central District of California, Western Division
Papst Licensing GmbH & Co. KG v. Samsung Techwin Co., Samsung Opto-Electronics American, Inc.; Civil Action No. 07cv4249, Judge Anderson Assigned

District of Delaware
Papst Licensing GmbH & Co., KG v. Olympus Corp., Olympus Imaging America Inc., Civil Action No. 07cv0415, Vacant Judgeship

Papst previously notified this Court of its July 9, 2007 motion before the MDL Panel to consolidate five of the six cases for pre-trial proceedings as permitted by 28 U.S.C. §1407(a)

[Docket No. 65]. After filing the July 9, 2007 motion before the MDL Panel, counsel for Papst learned of the Matsushita case that had been filed in this Court on July 6, 2007, and Papst will notify the MDL panel of that sixth action. At this time, Papst expects that its July 9, 2007 motion will be considered and decided by the MDL Panel when the Panel meets in September 2007.

The purpose of seeking consolidation for pre-trial proceedings is to minimize duplicative litigation and inconsistent rulings. *See e.g. In re Triax Co. Patent Litigation*, 385 F.Supp. 590, 591 (J.P.M.L. 1974). In furtherance of that purpose, Papst timely will be seeking a stay in each of the six cases pending the MDL Panel's decision on Papst's motion to consolidate. At a hearing in the Fujifilm action in the Northern District of Illinois on July 10, 2007, Judge Holderman effectively stayed all proceedings in that action until a status conference on October 2, 2007. He did so specifically because that October date is shortly after the expected time of a decision by the MDL Panel. (**Ex. 1**, transcript of 7/10/07 hearing).

"[A] majority of courts have concluded that it is often appropriate to stay preliminary pretrial proceedings while a motion to transfer and consolidate is pending with the MDL Panel because of the judicial resources that are conserved." *Rivers v. Walt Disney Co.*, 980 F.Supp. 1358, 1362 (C.D.Calif. 1997) (citations omitted) (granting motion to stay pending decision by MDL Panel). The court in *Rivers* stated that the factors to be considered are "(1) potential prejudice to the non-moving party; (2) hardship and inequity to the moving party if the action is not stayed; and (3) the judicial resources that would be saved by avoiding duplicative litigation if the cases are in fact consolidated." *Id.* at 1360 (citation omitted).

In this case, there is no potential prejudice to Casio if this action is stayed for several months. First, Papst's patents are being infringed, not Casio's patents. Second, if this case is not

stayed, either or both parties may face the inequity of rulings by this Court that are inconsistent with future rulings on similar issues by an MDL court. These issues potentially include discovery, privilege, protective orders, and bifurcation. Third, the avoidance of duplicative litigation saves both judicial and private resources. There are six discovery motions currently pending, including Casio's refusal to produce relevant documents and to answer relevant interrogatories or to timely seek a protective order. The following motions are pending before Magistrate Judge Robinson:

1. Casio's Motion for Sanctions under Fed.R.Civ.P. 37 [Docket # 47] (Briefing is complete);

2. Casio's Motion to Strike Papst's Discovery Requests [Docket #48] (Briefing is complete);

3. Papst's Motion for Entry of a Protective Order [Docket # 49] (Briefing will be complete on July 16, 2007);

4. Papst's Motion to Compel the Production of Documents [Docket # 52] (Briefing will be complete on July 16, 2007);

5. Casio's Motion to Bifurcate Damages and Willfulness Issues [Docket # 54] (Briefing will be complete on July 16, 2007); and

6. Papst's Motion to Compel Interrogatory Answers [Docket # 63] (Briefing will be complete on July 30, 2007).

In addition to the above motions, Papst's Objections to and Motion for Reconsideration of the Magistrate's May 31, 2007 Order [Docket #43] (Briefing is complete) also is pending before this Court.

If the MDL Panel consolidates the different cases as is likely given the similar claims and common issues, this Court may have needlessly expended time and energy familiarizing itself with intricacies of this case, when this case may be assigned elsewhere for pretrial proceedings. In addition, an MDL court would have to replicate the effort of familiarizing itself with the

details of this case. Furthermore, an MDL court might revisit and modify some of the very issues that this Court had decided (i.e., the pending discovery, privilege, protective order, and bifurcation issues), possibly rendering this Court's efforts for naught. *See Rivers*, 980 F.Supp. at 1360-61. As the court stated in *Aetna U.S. Healthcare, Inc. v. Hoechst Aktiengesellschaft*, 48 F.Supp.2d 37 (D.D.C. 1999) (granting stay pending resolution by MDL Panel of motion to consolidate), "a stay would further judicial economy and eliminate the potential for conflicting pretrial rulings were the case ultimately transferred." *Id.* at 43.

II. PAPST REQUESTS A STATUS CONFERENCE

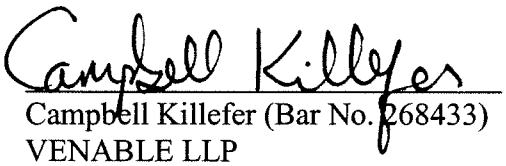
Papst respectfully requests a status conference before Judge Kessler, preferably on July 23, 2007, when counsel for all of the parties already had arranged to come from out of town to appear before Magistrate Judge Robinson in connection with two of the above motions. Concurrent with filing this motion to stay, Papst is filing a parallel motion to reset the July 23 hearing on the two motions, so that all of the six pending discovery motions that are intertwined could be heard at the same time, in the event that this motion to stay all proceedings were denied. Therefore, a status conference is requested to resolve how to handle the likely transfer of this case to an MDL court, or otherwise how to proceed efficiently considering the three cases pending before this Court that have many issues in common .

CONCLUSION

For the foregoing reasons, Papst respectfully requests that the Court grant this motion to stay all proceedings pending a determination by the MDL Panel whether to consolidate this case with five other cases for pre-trial purposes, and Papst requests a status conference before Judge Kessler.

Date: July 13, 2007

Respectfully submitted,



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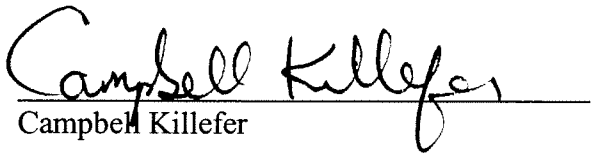
CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Papst's Memorandum In Support Of Its Motion To Stay Proceedings Pending A Consolidation Determination By The MDL Panel And Request For A Status Conference** was served upon the following counsel for Plaintiff and Counterclaim Defendant Casio Inc. and Counterclaim Defendant Casio Computer Co., Ltd. through the Court's ECF electronic service and by regular U.S. mail, postage prepaid, this 13th day of July 2007:

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Counsel for Casio Inc.



Campbell Killefer

EXHIBIT 1

PAPST'S MEMO IN SUPPORT OF
ITS MOTION TO STAY PROCEEDINGS
PENDING CONSOLIDATION
DETERMINATION BY MDL PANEL
AND REQUEST FOR STATUS CONFERENCE

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PABST LICENSING GmbH & Co. KG, Plaintiff, vs. FUJIFILM Corportion, and FUJIFILM U.S.A., Inc., Defendants.	Docket No. 07 C 3401 Chicago, Illinois July 10, 2007 10:00 a.m.

TRANSCRIPT OF PROCEEDINGS - Motion
BEFORE THE HONORABLE JAMES F. HOLDERMAN

APPEARANCES:

For the Plaintiff: WELSH & KATZ, LTD.
BY: MR. RICHARD W. McLAREN, JR.
MR. JEROLD B. SCHNAYER
MR. JOHN ARON CARNAHAN
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Chicago, Illinois 60606

For the Defendants: McDERMOTT, WILL & EMERY, LLP
BY: MR. MATTHEW JOSEPH GRYZLO
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Court Reporter: FRANCES WARD, CSR, RPR, FCRR
Official Court Reporter
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Chicago, Illinois 60604
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frances_ward@ilnd.uscourts.gov

THE CLERK: 07 C 3401, Papst v. Fujifilm. Motion to dismiss.

MR. McLAREN: Your Honor, Richard McLaren, Jerold Schmayer, and Aron Carnahan on behalf of Papst Licensing.

THE COURT: Good morning.

MR. GRYZLO: Good morning, your Honor. Matthew Gryzlo on behalf of defendants Fujifilm Corporation and Fujifilm U.S.A.

THE COURT: Good morning.

This is up on defendants' motion to dismiss or, in the alternative, to transfer the action to the United States District Court for the District of Columbia.

How much time is desired by plaintiff to respond?

MR. McLAREN: Well, your Honor, we would ask that you reset it for a status on October 2nd for exactly the reason that you just discussed with the prior case.

Yesterday afternoon we filed a motion with the MDL panel as a result of five pending cases, five around the country -- L.A., Chicago, DC, et cetera -- all involving the same patents, different defendants, including this one, your Honor. The MDL panel oral schedule is set for July, as you just heard. There is none in August. And there will be one in September. It hasn't been scheduled yet.

THE COURT: So you are hoping to make the September date.

MR. McLAREN: Yes. We would expect we would. Where the MDL panel has been presented with multiple patent cases involving the same patent all over the country, they have very routinely granted multidistrict treatment.

I should add, your Honor, that our office had one of these a couple years ago, and the multidistrict panel sent it to New Orleans because their docket was smaller. There was no case pending in New Orleans. So I don't think anyone can predict where it will go, in answer to your Honor's question.

THE COURT: Okay.

MR. McLAREN: I have a copy for your Honor's chambers, if you want it, of the MDL filing.

THE COURT: If you do, if you could just -- you need not file it in the record, but I would like to review it.

MR. McLAREN: We overnighted it last night to the Clerk of Courts for the Northern District of Illinois as we did with all the other districts. So the Clerk of Court has got it downstairs already, but we didn't try to get it to you yesterday at 4:30.

THE COURT: That's all right.

What's the other side's position?

MR. GRYZLO: Well, your Honor, obviously it's entirely up to you. We would like to see this matter

resolved, but we know that something is going to happen with the MDL panel.

THE COURT: Why don't we do this then. I am going to take the motion to dismiss or, in the alternative, to transfer the action to the District of Columbia under advisement, and we will set the case for further status on October 2. Hopefully we will have a determination by the MDL panel.

Where are they sitting in September? Does anybody know?

MR. McLAREN: I don't know, your Honor.

THE COURT: They always like to pick locations that are --

MR. McLAREN: Do you know?

MR. GRYZLO: I have no idea.

THE COURT: -- that are comfortable.

(Laughter.)

THE COURT: All right. Well, come in on October 2 even if we don't get a ruling or haven't gotten a ruling and we can take things from there. But at least you will be able to apprise me, and I appreciate your keeping me attuned as to what's going on.

MR. McLAREN: We fullly expect it will be consolidated.

If it isn't, your Honor, we are going to need

preliminary discovery into the jurisdictional issue, but you don't need to do anything now. We can do that in October.

THE COURT: Okay.

MR. McLAREN: Thank you, your Honor.

MR. GRYZLO: Thank you, your Honor.

THE COURT: Thank you.

* * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

F Frances Ward July 10, 2007.
Official Court Reporter

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v.

CASIO INC. and
CASIO COMPUTER CO., LTD.

Counter-Defendants

[PROPOSED] ORDER GRANTING PAPST MOTION FOR STAY

Upon consideration of the motion of Defendant and Counter-Plaintiff Papst Licensing Gmbh & Co. Kg for a stay of all proceedings in this action pending a determination by the Judicial Panel on Multidistrict Litigation ("MDL Panel") whether to consolidate this action with several other cases for pre-trial purposes, it is hereby

ORDERED that all proceedings are stayed pending a determination by the MDL Panel of Papst's motion for consolidation that is currently pending before the MDL Panel.

Dated:_____

_____
Gladys Kessler
United States District Judge