

RICHARD S. SCHURIN
STEVEN STERN
PENINA GREEN
MOSHE ALLWEISS



595 STEWART AVENUE
SUITE 510
GARDEN CITY, NY 11530
TEL. (516) 248-0300
FAX (516) 283-0277
WWW.STERNSCHURIN.COM

STERN & SCHURIN LLP
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August 25, 2022

Via ECF

Hon. Jose R. Almonte, U.S.M.J.
U.S. District court for the District of New Jersey
Martin Luther King Building and U.S. Courthouse
50 Walnut Street
Newark, N.J. 07102

Re: *Frei Enterprises, Inc. dba Ink Genie v. HP, Inc.*
21-cv-14209 (JXN)(JRA)

Dear Judge Almonte:

This firm is counsel to Plaintiff/Counterclaim Defendant Frei Enterprises, Inc. dba Ink Genie (“Ink Genie”). We write this letter jointly with counsel for Defendant/Counterclaim Plaintiff HP, Inc. (“HP”) in accordance with the Court’s Text Order of August 9, 2022 to advise the Court of the status of settlement discussions.

Since the parties submitted their previous joint letter of August 8, 2022, the parties, through their counsel, have continued to negotiate their final positions on settlement. A draft Settlement Agreement had been previously created and was extensively revised and edited as negotiations continued. Although the parties came close to settlement, counsel for the parties have been unable to reach a final settlement and several points remain unresolved.

At this point Ink Genie respectfully believes that there is still a reasonable chance to reach a final settlement thru mediation, even if conducted via zoom as counsel has previously discussed. In particular, Ink Genie would be amenable to any type of mediation with Your Honor or with a mutually agreeable private mediator. In particular, given the disparity in resources between Ink Genie and HP, Ink Genie believes that it would be beneficial to make a final effort at settlement before spending significant sums on discovery, especially considering how close the parties have already come to a final resolution. Accordingly, Ink Genie asks the Court to order that the parties participate in a mediation session at this time. See, F.R.C.P. 16 (a)(1), (a) (5). A federal court is authorized to “order the attorneys and unrepresented parties to appear for one or more pretrial conferences for such purposes as ... expediting disposition of the action [or] facilitating settlement.” Ink Genie does not object to proceeding with preliminary discovery, such as submitting a discovery plan and exchanging paper discovery requests while mediation is

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ongoing, but does object to expediting or proceeding with substantial discovery such as paper discovery responses while mediation is ongoing.

HP is not optimistic that mediation would be productive because the Parties have attempted to negotiate a settlement for months and the outstanding issues are significant. In the interest of cooperation, however, HP is willing to participate in a settlement conference before the Court but believes that litigation, including discovery, should move forward without any further delay unless and until a resolution is reached. HP has engaged in good-faith settlement negotiations with Ink Genie for many months and this case has largely been on hold since Ink Genie, as plaintiff, filed it in July 2021. Accordingly, HP respectfully requests that the Court order the Parties to submit a joint proposed scheduling order for further litigation by September 2, 2022.

Respectfully submitted,
STERN & SCHURIN LLP

Penina Green
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