

ESTTA Tracking number: **ESTTA674132**

Filing date: **05/26/2015**

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

|                        |  |
|------------------------|--|
| Proceeding             | 77505597   |
| Applicant              | DRHORSEPOWER, INC.   |
| Applied for Mark       | DRHORSEPOWER YOUR PRESCRIPTION FOR WINNING!  |
| Correspondence Address | ANDREW D SKALE<br>MINTZ LEVIN<br>3580 CARMEL MOUNTAIN RD, STE 300<br>SAN DIEGO, CA 92130-6766<br>UNITED STATES<br>askale@mintz.com, cbaker@mintz.com |
| Submission             | Motion for Extension for Appeal Brief  |
| Attachments            | MOTION FOR EXTENSION.pdf(8355 bytes )  |
| Filer's Name           | BEN L. WAGNER  |
| Filer's e-mail         | bwagner@mintz.com, adskale@mintz.com, jddib@mintz.com  |
| Signature              | /BEN L. WAGNER/  |
| Date                   | 05/26/2015   |

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

**In the matter of Application Serial No. 85/262893 for the mark: DRHORSEPOWER YOUR  
PRESCRIPTION FOR WINNING! (& Design)  
Filed**

**DRHORSEPOWER YOUR  
PRESCRIPTION FOR WINNING! (&  
Design)**

**Serial No. 85/262893**

Trademark Assistance Center  
Madison East, Concourse Level Room C 55  
600 Dulany Street  
Alexandria, VA 22314

**MOTION FOR EXTENSION FOR APPEAL BRIEF**

Applicant requests as 60 day extension pursuant to TMEP 1203.02(d), or such other extension at the Board may grant. This Appeal was stayed due to Cancellation No. 92055154, which sought cancellation of the Registration cited in the Final Office Action appealed herein. The Cancellation was dismissed due to procedural reasons, even though two summary judgments had been filed already by the Applicant in that case and the parties had reached a settlement agreement but had not yet formalized that agreement in a written settlement agreement.

Applicant requests the 60-day extension because it is seeking to formalize that settlement agreement with the Registrant of the cited Registration, absent which it is evaluating the institution of an infringement action in District Court which would also seek injunctive and declaratory relief concerning the cited registration. Either of such actions would obviate the need for the filing of a brief on this Appeal at this time, and therefore Applicant requests the extension to allow it this time without the incurring of additional expense and burden in an Appeal which may otherwise be stayed in due course.

Respectfully submitted,

By: \_\_\_/BW/\_\_\_

Ben Wagner  
Andrew D. Skale  
Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C.  
3580 Carmel Mountain Road  
Ste 300  
San Diego, CA. 92130  
Tel: 858-314-1506  
Fax: 858-314-1501  
E-mail: bwagner@mintz.com / adskale@mintz.com

Attorneys for Opposer  
DrHorsepower, Inc.

Dated: May 26, 2015