

ESTTA Tracking number: **ESTTA127886**

Filing date: **03/02/2007**

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

Proceeding.	91160944
Applicant	Plaintiff RED BULL GMBH
Other Party	Defendant Tequila Cuervo La Rojena, S.A. De C.V.

Motion for an Extension of Time to Answer With Consent

RED BULL GMBH's answer is currently due on 05/07/2007, and the close of discovery is currently set for 07/07/2007. RED BULL GMBH requests that its time to answer be extended by 30 days from the current due date, or until 06/06/2007. The grounds for applicant's request are as follows:

- *The parties are discussing settlement*
- *THIS IS A REQUEST FOR AN ADDITIONAL 30 DAYS [60 DAYS JUST REQUESTED] TO ANSWER THE COUNTERCLAIM. THE PARTIES HAVE STIPULATED TO A 90 DAY EXTENSION BUT THE FORMS DO NOT SPECIFICALLY PROVIDE FOR 90 DAYS, SO IT IS BEING SUBMITTED AS 60 + 30 = 90 DAYS REQUEST. SEE BELOW FOR DETAILED REASONS. The Board has asked for a detailed report on the progress of settlement negotiations, including a recitation of issues resolved and remaining and a firm timetable for resolution. In response, the parties report that substantial additional progress has been made since the last extension request, and the parties have identified just a few remaining issues. As to those, they are actively discussing resolutions which would satisfy the mutual concerns of these two major beverage industry entities and allow a global settlement to proceed. In particular, the parties have agreed to resolve the U.S. dispute in conjunction and coordination with similar disputes in Canada and the European Union, as well as in Switzerland (a new addition to the previous agreements). The parties have further identified and agreed on which marks should be included in the settlement agreement, and in doing so have avoided - with near certainty - several additional oppositions which would have been necessary. The parties have continued to exchange formal drafts of settlement terms, not only for the U.S., but now covering multiple non-U.S. jurisdictions. As indicated earlier, the parties prefer that the ultimate terms of settlement remain confidential and for that reason are reluctant to identify specific terms and issues in this communication. However, we can report that they have confirmed the previously reached substantial agreement on certain limitations of goods in the applications, certain class limitations, certain color word limitations and certain trade dress limitations when used with the marks at issue. As to the issues that remained previously, the parties believe they have developed a common, acceptable framework for resolving issues relating to the design features of certain labels, how to deal with the color on the labels (and in particular, the color of the bulls or bovine animals on the labels), certain additional label color limitation issues, letters of consent to additional marks, and use of house marks on the labels to minimize further conflict. The parties would also again note that they are each substantial companies with National fame and reputation, and including widespread U.S. and international interests, that each is represented by experienced legal counsel and are not motivated by any desire to delay these proceedings, that because the settlement now involves multiple jurisdictions the draft settlement terms must be separately reviewed by counsel in multiple jurisdictions, and that the parties themselves are each foreign entities (Mexico and Austria), which factors unfortunately do delay the review and ultimate response. The full settlement, which now appears to be very likely, will avoid additional conflicts both in the U.S. and abroad, and the parties respectfully request and appreciate the Board's indulgence and patience while they finalize this complex settlement. In view of this the parties are jointly requesting a 90 day extension/ resetting of all dates.*

RED BULL GMBH has secured the express consent of all other parties to this proceeding for the extension requested herein.

RED BULL GMBH has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,

/Martin R Greenstein/

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