

ESTTA Tracking number: **ESTTA154899**

Filing date: **08/05/2007**

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 Discovery or Trial Periods With Consent

The Close of Discovery is currently set to close on 09/05/2007. RED BULL GMBH requests that such date be extended for 60 days, or until 11/04/2007, and that all subsequent dates be reset accordingly.

Discovery Period to Close : 11/04/2007
 Thirty-day testimony period for party in position of plaintiff to close : 02/02/2008
 Thirty-day testimony period for party in position of defendant to close : 04/02/2008
 Fifteen-day rebuttal testimony period to close : 05/17/2008

The grounds for this request are as follows:

- *Parties are engaged in settlement discussions*
- *On 4 June 2007 Opposer and Applicant requested, by joint stipulation, a further 60 day extension of time (to 6 August 2007) for Opposer to respond to Applicant's counterclaim and concurrent resetting of all dates. While the Board has not yet responded to that stipulated request, the parties joint request a further 60 day extension of time for Opposer to respond to Applicant's counterclaim, together with a further concurrent resetting of all dates. In keeping with the Board's prior requirement that the parties provide a detailed report on the progress of settlement negotiations, including a recitation of issues resolved and remaining and a firm timetable for resolution, the parties report that it appears that all substantive issues have now been resolved and agreed to, and the parties are in the process of drafting and exchanging a written settlement agreement reflecting those terms. There do not appear to be any remaining substantive issues to be resolved (subject of course to any issues that might arise in the agreement language). The parties mutually believe that the terms which have been discussed and agreed upon in principal will satisfy all outstanding mutual concerns of these two major beverage industry entities and allow a global settlement to proceed. The primary reason for the inability to move forward on the draft settlement agreement over the past 60 days has been the undersigned's unexpected hospitalization and major surgery in July, which resulted in a lengthy absence from the office (including pre-op testing, doctor's visits, in-hospital time and home-bound recovery time) and a sharply cut-back schedule during recuperation. That recuperation is now nearly complete and the undersigned is now returning to the office on a full time basis (The undersigned will certainly provide details of this personal medical situation and surgery on a confidential basis out of the public record should the Board so desire). As noted earlier, the settlement agreement being drafted full resolves the instant U.S. dispute in conjunction and coordination with similar disputes in Canada, Switzerland and all 27 countries of the European Union. In addition, the inclusion of additional marks in the settlement will further avoid - with near certainty - several additional U.S. oppositions which would have otherwise been necessary. The settlement includes, as explained in the prior reports, 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 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 terms, which are now being incorporated in a comprehensive settlement agreement, 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 and for the additional unavoidable reasons for delay explained above, the parties are jointly requesting a further 60 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/

Martin R. Greenstein

MRG@TechMark.com, MPV@TechMark.com, NAP@TechMark.com

MAMastrovito@lawabel.com

08/05/2007