

ESTTA Tracking number: **ESTTA320628**

Filing date: **12/07/2009**

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

Proceeding	91171281
Party	Plaintiff PomWonderful LLC
Correspondence Address	Douglas N. Masters Loeb & Loeb LLP 321 North Clark Street, Suite 2300 Chicago, IL 60610 UNITED STATES dcriona@roll.com
Submission	Motion to Consolidate
Filer's Name	Danielle M. Criona
Filer's e-mail	dcriona@roll.com, dprall@roll.com
Signature	/s/ Danielle M Criona /s/
Date	12/07/2009
Attachments	Jarrow Consent to Motion to Consolidate.pdf (4 pages)(278043 bytes)

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

POMWONDERFUL LLC,)	
)	
Opposer,)	Opposition Nos. 91171281 and 91191995
)	
v.)	In the Matter of Applications Ser. Nos.
)	78/741,860 POMAMAZING;
)	78/635,298 POME GREAT;
JARROW FORMULAS, INC.,)	78/727,050 POMESYNERGY;
)	78/829,152 POMOPTIMIZER;
Applicant.)	78/829,128 POMGUARD;
)	77/294,016 POMEZOTIC; and
)	77/651,415 PRICKLYPOM
)	

**OPPOSER'S CONSENTED TO MOTION TO CONSOLIDATE AND
RESCHEDULE PENDING DEADLINES**

PomWonderful LLC (“Opposer”) with the consent of Jarrow Formulas, Inc. (“Applicant”), hereby moves to consolidate Oppositions Nos. 91171281 and 91191995 pursuant to Federal Rule of Civil Procedure 42(a), Trademark Rules 2.116 and 2.104(b) and Section 511 of the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”). Opposer, with Applicant’s consent, further moves to reschedule all pending dates in the consolidated proceeding to allow additional time for continued settlement negotiations and, failing a resolution, for additional time for discovery in light of the newly filed Opposition No. 91191995.

Consolidation

Opposition No. 91171281, originally filed as an opposition to a single application, the POMAMAZING application (Ser. No. 78741860), is now a consolidation of several oppositions involving the same parties, many of the same asserted marks and overlapping goods in International Classes 5 and/or 32. The currently consolidated Opposition No. 91171281

presently includes: Opposition No. 91171283 opposing POME GREAT (Ser. No. 78635298); Opposition No. 91171284 opposing POMESYNERGY (Ser. No. 78727050); Opposition No. 91173117 opposing POMOPTIMIZER (Ser. No. 78829152); Opposition No. 91173118 opposing POMGUARD (Ser. No. 78829128), and Opposition No. 91186414 opposing POMEZOTIC (Ser. No. 77294016) (hereinafter, the “Consolidated Opposition”).

On September 21, 2009, Opposer filed a Notice of Opposition against Applicant’s application to register the mark PRICKLYPOM, Ser. No. 77651415, for use in connection with “dietary and nutritional supplements” in Class 5 which was assigned Opposition No. 91191995 (hereinafter, the “PRICKLYPOM Opposition”). The PRICKLYPOM Opposition involves the same parties, many of the same asserted marks, overlapping goods, and is based on the same or similar grounds as in the Consolidated Opposition.

Since there are questions of law and fact which are common to the Consolidated Oppositions as well as the PRICKLYPOM Opposition, consolidation of these proceedings will facilitate judicial economy without prejudice to either party.

Rescheduling

Opposer and Applicant have been engaging in meaningful settlement discussions, having had a meaningful discussion of possible settlement terms as recently as November 25, 2009 in a telephone conference between counsel for the parties.

In order to further those discussions and to allow additional time in light of the newly filed PRICKLYPOM Opposition, Opposer and Applicant request an extension of all pending deadlines in the Consolidated Opposition be extended by 2 months. Opposer and Applicant acknowledge and agree that if the board allows the PRICKLYPOM Opposition to be consolidated with the Consolidated Opposition, the PRICKLYPOM Opposition will have

shortened deadlines and each party consents to these shortened deadlines.

WHEREFORE, Opposer, with Applicant's consent, respectfully requests that (1) the PRICKLYPOM Opposition No. 91191995 be consolidated with Opposition No. 91171281; and (2) that all pending deadlines in the new consolidated Opposition No. 91171281 be rescheduled as follows:

Close of Discovery	2/08/2010
Thirty-day testimony period for party in position of plaintiff to close	5/09/2010
Thirty-day testimony period for party in position of defendant to close	7/08/2010
Fifteen-day rebuttal testimony period to close	8/22/2010

Applicant's attorney, Mark Giarratana, has stipulated to all the relief requested in this motion.

Respectfully Submitted,

POMWONDERFUL LLC

Date: December 07, 2009

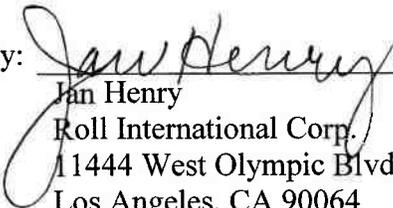
By: Danielle M. Criona
Craig B. Cooper
Danielle M. Criona
11444 West Olympic Blvd., 10th Floor
Los Angeles, California 90064
Tel. (310) 966-5728
Fax (310) 966-5758

CERTIFICATE OF SERVICE

I, Jan Henry, hereby certify that a copy of this OPPOSER'S CONSENTED TO MOTION TO CONSOLIDATE AND RESCHEDULE PENDING DEADLINES has been served, upon:

Mark D. Giarratana
MCCARTER & ENGLISH, LLP
185 Asylum Street, 36th Floor
Harford, CT 06103-3495

by first class mail, postage prepaid, on this 7th day of December, 2009.

By: 
Jan Henry
Roll International Corp.
11444 West Olympic Blvd.
Los Angeles, CA 90064
Tel. (310) 966-5728
Fax (310) 966-5758