

ESTTA Tracking number: **ESTTA348214**

Filing date: **05/18/2010**

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

Proceeding	91171281
Party	Defendant Jarrow Formulas, Inc.
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Submission	Motion to Consolidate
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Date	05/18/2010
Attachments	Consented Motion to Consolidate.pdf ( 4 pages )(111016 bytes )



“pomegranate” in this field and has not acquired distinctiveness with respect to PomWonderful’s nutritional supplements.

4. The asserted scope of PomWonderful’s rights to the term POM with respect to goods in Class 5 is the basis for each of its claims against JFI’s applications in Class 5 in the ‘281 Opposition. In the present Opposition No. 91194266, JFI challenges the scope of PomWonderful’s rights to the term POM with respect to goods in Class 5 asserted in the opposed applications. Therefore, there are common questions of law and fact and consolidation of these proceedings will facilitate judicial economy without prejudice to either party.

JFI requests that the instant proceedings be consolidated under the earliest filed and consolidated matter, Opposition Proceeding No. 91171281, and that trial dates be rescheduled for the new consolidated matter consistent with 37 CFR § 2.121(b)(2), as follows:

Deadline for Discovery Conference	May 29, 2010
Initial Disclosures Due	June 28, 2010
Expert Disclosures Due	October 26, 2010
Discovery Period to Close:	November 25, 2010
PomWonderful’s Pretrial Disclosures Due: (in position of plaintiff in ‘281 opposition)	January 9, 2011
30-day testimony period for PomWonderful (in position of plaintiff in ‘281 opposition) to close:	February 23, 2011
JFI’s Pretrial Disclosures Due (in position of defendant in ‘281 opposition and plaintiff in ‘266 opposition)	March 10, 2011
30-day testimony period for JFI (in position of defendant in ‘281 opposition and plaintiff in ‘266 opposition) to close:	April 24, 2011

Pom Wonderful's Disclosures Due  
(in position of defendant in '266 opposition,  
and rebuttal plaintiff in '281 opposition) May 9, 2011

30-day testimony period for Pom Wonderful  
(in position of defendant in '980 opposition,  
and rebuttal plaintiff in '397 opposition) to close: June 23, 2011

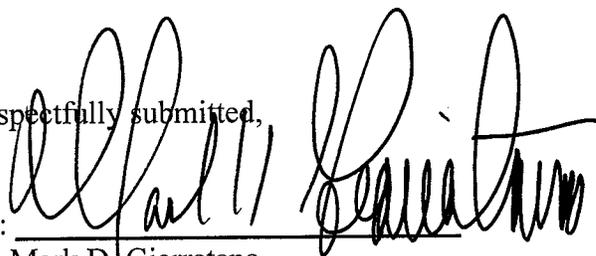
JFI's Rebuttal Disclosures Due (in position  
of plaintiff in '281 opposition) July 8, 2011

15-day testimony period for JFI (in position  
of rebuttal plaintiff in '281 opposition) to close: August 7, 2011

Pom Wonderful's attorney, Danielle Criona, Esq., has stipulated to all the relief  
requested in this motion.

WHEREFORE, it is respectfully requested that the present Oppositions be  
consolidated.

Date: May 18, 2010

Respectfully submitted,  


By: \_\_\_\_\_  
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Attorneys for Applicant  
Jarrow Formulas, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing CONSENTED TO MOTION TO CONSOLIDATE was sent via e-mail, with consent, on this 18<sup>th</sup> day of May, 2010, to:

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