

ESTTA Tracking number: **ESTTA531582**

Filing date: **04/10/2013**

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

Proceeding	91171281
Party	Plaintiff PomWonderful LLC
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Submission	Stipulated/Consent Motion to Extend
Filer's Name	Danielle M. Criona
Filer's e-mail	dcriona@roll.com, takerman@roll.com, mrivera@roll.com
Signature	/s/ Danielle M. Criona /s/
Date	04/10/2013
Attachments	Consent motion to Extend Deadlines redacted 4-10.pdf (7 pages)(43604 bytes)

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

PomWonderful LLC	)	Opposition (Parent) No.: 91171281
)	
Opposer,	)	*****ORIGINAL FILED UNDER SEAL***
	)	HIGHLY CONFIDENTIAL CONSENT
v.	)	MOTION FOR EXTENSION OF ALL
	)	DEADLINES FOR 60 DAYS AND
Jarrow Formulas, Inc.,	)	DETAILED PROGRESS REPORT
)	
Applicant.	)	Marks and Related (Consolidated) Proceedings:
	)	Opp. No. 91171281 (Parent) re POMAMAZING
	)	Opp. No. 91191283 re POME GREAT
	)	Opp. No. 91171284 re POMESYNERGY
	)	Opp. No. 91173117 re POMOPTIMIZER
	)	Opp. No. 91173118 re POMGUARD
	)	Opp. No. 91186414 re POMEZOTIC
	)	Opp. No. 91191995 re PRICKLYPOM
	)	Opp. No. 91194226 re re POM and POM

Opposer PomWonderful LLC (“Pom”), with the consent of Jarrow Formulas, Inc. (“Jarrow”) moves to extend all deadlines in this proceeding by 60 days. The Parties recognize that the Board may be hesitant to extend this proceeding further, but also do not want either party prejudiced by focusing on settlement instead of discovery when they are so close to resolving this matter completely without any further Board involvement. This extension is requested solely for purposes of focusing the parties’ time, energy and resources to finalizing the final settlement documents in this matter and not for purposes of delay.

The parties recognize that this proceeding has been suspended and deadlines have been extended multiple times but the parties have been working very diligently toward settlement and have come to the point of negotiating, literally, the final wording of just 4 sentences.

Since the proceedings resumed from the last granted suspension on August 25, 2012, the parties have negotiated and sought help from the Board in getting a Protective Order in place and have engaged in written discovery while keeping their primary focus on working toward settlement.

In the Board's last grant of a suspension on March 14, 2012, the Board stated:

From this point forward, any motion for suspension or extension must be supported by a progress report which also include a recitation of the following activity since the expiration of the previous period of suspension: 1) each date on which counsel communicated regarding settlement of the proceedings by telephone, email, facsimile or other means; and 2) the general nature or subject matter, and conclusion if any, of each communication. The parties are reminded that they may submit confidential information under seal in accordance with prevailing rules of procedure.

As a reminder to the Board, the issues between the Parties in this proceeding are complicated because this proceeding involves (a) multiple trademark applications applied for and owned by both Pom and Jarrow; (b) actual use in commerce of many of the marks at issue by both Pom and Jarrow; and (c) a number of related opposition proceedings in Canada involving similar issues, some of the same marks, actual use in commerce of some of the marks, and where a third-party is also involved.

Since the expiration of the previous period of suspension, counsel for the Parties have communicated at many times regarding settlement as follows:

- September 28, 2012: Exchange of draft settlement agreement changing the majority of the agreement as an intervening ruling in an unrelated matter had wholly altered the substance of the previous agreement;

- November 14, 2012 Email communication regarding draft settlement agreement [REDACTED]
[REDACTED]
[REDACTED];
- November 19, 2012: Multiple email communications [REDACTED]
[REDACTED];
- November 27, 2012: Exchange of draft settlement agreement with revisions [REDACTED]
[REDACTED]
[REDACTED];
- November 28, 2012: Email communication regarding draft settlement agreement regarding the same as above;
- December 5, 2012: Multiple email communications and exchange of draft settlement agreement with revisions focused on [REDACTED]
[REDACTED]
[REDACTED];
- December 13, 2012: Exchange of draft settlement agreement with revisions focused on [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED];
- December 19, 2012: Multiple email communications regarding draft settlement agreement and exchange of draft settlement agreement with revisions focused on [REDACTED]
[REDACTED]
[REDACTED];

- December 27, 2012: Email communications and exchange of draft settlement agreement with revisions focused on [REDACTED]
[REDACTED]
[REDACTED];
- January 17, 2013: Exchange of draft settlement agreement with revisions focused on [REDACTED]
[REDACTED];
- February 4, 2013: Phone call between counsel and exchange of draft settlement agreement with revisions focused on [REDACTED]
[REDACTED];
- [From February 5th to March 14th the parties themselves were reviewing the agreement drafts]
- February 25, 2013: Exchange of draft settlement agreement with revisions focused on [REDACTED]
[REDACTED]
[REDACTED];
- March 14, 2013: Multiple communications and exchange of draft settlement agreement with revisions focused on [REDACTED]
[REDACTED]
[REDACTED];
- April 1, 2013: Phone call between counsel, regarding current draft settlement agreement and language that may be acceptable [REDACTED]
[REDACTED]
[REDACTED];

- April 3, 2013: Exchange of draft settlement agreement with revisions focused on [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

As the Board can see, the Parties have been diligently negotiating and are on the verge of finalizing this very detailed agreement. At this point, the remaining issues are in 4 sentences in an 8-page agreement (12 pages, if you count the exhibits). The Parties therefore believe that their time, energy and resources remain better spent finalizing the agreement and not tending to the many discovery issues that would be raised should the deadlines in this proceeding not be extended.

In view of their progress in settlement, as detailed above, the Parties respectfully request that the Board extend all remaining discovery and trial dates by sixty (60) days, as set forth below:

Discovery Closes	June 11, 2013
Plaintiff's Pretrial Disclosures Due	July 26, 2013
Plaintiff's 30-day Trial Period Ends	September 9, 2013
Defendant's Pretrial Disclosures Due	September 24, 2013
Defendant's 30-day Trial Period Ends	November 8, 2013
Plaintiff's Rebuttal Disclosures Due	November 23, 2013
Plaintiff's 15-day Rebuttal Period Ends	December 23, 2013

Counsel for Pom has discussed this Motion with counsel for Jarrow Formulas, Inc., who has reviewed the substance of this Motion, and Jarrow Formulas, Inc. consents to this Motion for extension of the proceeding for 60 days.

Respectfully submitted:

DATED: April 10, 2013

ROLL LAW GROUP P.C.

By: /s/ Danielle M. Criona /s/
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CERTIFICATE OF SERVICE

I, Danielle Criona, hereby certify that a copy of *****ORIGINAL FILED UNDER SEAL*** HIGHLY CONFIDENTIAL CONSENT MOTION FOR EXTENSION OF ALL DEADLINES FOR 60 DAYS AND DETAILED PROGRESS REPORT** has been served upon attorneys for Applicant via email, as agreed to by the parties:

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Date: April 10, 2013

By: */s/ Danielle M. Criona /s/*

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