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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	Stipulated/Consent Motion to Extend
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Date	07/28/2013
Attachments	Consented Motion to Extend (redacted).pdf(39614 bytes )

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

PomWonderful LLC	)	Opposition (Parent) No.: 91171281
	)	
Opposer,	)	
	)	<b>***FILED UNDER SEAL***</b>
v.	)	<b>HIGHLY CONFIDENTIAL CONSENT</b>
	)	<b>MOTION FOR EXTENSION OF ALL</b>
Jarrow Formulas, Inc.,	)	<b>DEADLINES FOR TWO MONTHS AND</b>
	)	<b>DETAILED PROGRESS REPORT</b>
	)	
Applicant.	)	Marks and Related (Consolidated) Proceedings:
	)	Opp. No. 91171281 (Parent) re
	)	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 POM and

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Opposer Jarrow Formulas, Inc. (“JFI”), with the consent of PomWonderful LLC (“Pom”), moves to extend all deadlines in this proceeding by two (2) months. 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 and pretrial disclosures 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.

Since the proceedings resumed from the last granted suspension on April 14, 2013, the parties have been focused on finalizing a lengthy written settlement agreement.

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 JFI; (b) actual use in commerce of many of the marks at issue by both Pom and JFI; 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 last suspension was filed on April 10, 2013, counsel for the Parties and the Parties themselves have tried diligently to focus their energy in this case on settlement and, for Pom's counsel to walk her client through the particulars of drafts of the agreement as outlined below. Note that the settlement being discussed has [REDACTED] [REDACTED] implications on the parties' businesses and trademark rights and therefore the negotiating, drafting and client counseling involved in this has been extensive.

- During the April – June 2013 period, particularly in late April and early May, Pom was also focused on the launch of three new beverage products which became very time consuming, involving not only Pom but Pom's counsel (*see* <http://www.bevnet.com/news/2013/pom-wonderful-launches-three-fruit-juice-blends> and <http://www.pomwonderful.com/pomegranate-products/pom-juice-blends>);
- On April 10, 2013 and surrounding dates, counsel for Pom communicated with counsel for JFI regarding a [REDACTED]  
[REDACTED]
- On April 17, 2013, counsel for JFI advised counsel for Pom that [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- On April 18, 2013, counsel for JFI forwarded to counsel for Pom a copy of the settlement agreement [REDACTED]

[REDACTED]

- On April 18, 2013, counsel for Pom [REDACTED]

[REDACTED]

- On May 18, 2013, counsel for JFI followed up on its April 18, 2013 email which enclosed the settlement agreement signed by JFI, and asked counsel for Pom about the status of Pom's review of the settlement agreement;

- On May 23, 2013, counsel for Pom conferred with the client [REDACTED]

[REDACTED]

[REDACTED]

- On May 27, 2013 and surrounding dates, counsel for Pom conferred with the client

[REDACTED]

- On May 27, 2013 and surrounding dates, counsel for Pom conferred with [REDACTED]

[REDACTED]

[REDACTED]

- On May 30, 2013, counsel for Pom and counsel for JFI conferred by telephone regarding certain issues raised by Pom's counsel during that call regarding the draft settlement agreement;

- On May 31, 2013, counsel for Pom met with the client in person to discuss [REDACTED]  
[REDACTED];
- On June 3, 2013, counsel for Pom conferred [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- On June 9, 2013, counsel for JFI sent a revised draft settlement agreement which  
[REDACTED]  
[REDACTED]
- On June 10, 2013, counsel for JFI sent a revised draft settlement agreement correcting a typographical error;
- On June 12, 2013, counsel for Pom found out that the client would be unavailable to discuss the draft settlement agreement for at least a week;
- On June 18, 2013, counsel for Pom met with the client in person [REDACTED]  
[REDACTED]
- On June 28, 2013 and surrounding dates, counsel for Pom conferred several times with [REDACTED]  
[REDACTED]
- On July 11, 2013 and surrounding dates, counsel for Pom [REDACTED]  
[REDACTED]  
[REDACTED]

- On July 15, 2013, counsel for JFI re-sent the June 9<sup>th</sup> revised draft settlement agreement to inquire of Pom's counsel whether Pom had signed the agreement, or if not, when JFI would receive a signed copy;
- On July 16, 2013 and surrounding dates, Pom's local counsel [REDACTED]  
[REDACTED]  
[REDACTED]
- On July 16, 2013, counsel for Pom met with the client in person [REDACTED]  
[REDACTED]
- On July 18, 2013, counsel for Pom met with the client in person [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- On July 18, 2013, counsel for Pom and counsel for JFI conferred by telephone regarding the status of the draft settlement agreement and the upcoming deadlines in the instant proceeding;
- On July 19, 2013, [REDACTED]  
[REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED]
- On July 19, 2013 counsel for Pom [REDACTED]  
[REDACTED]  
[REDACTED]

- On July 21 and the dates surrounding it, counsel for Pom [REDACTED]  
[REDACTED]  
[REDACTED]
- On July 22, 2013 counsel for Pom conferred [REDACTED]  
[REDACTED]
- On July 22, 2013 and surrounding dates, local counsel for Pom [REDACTED]  
[REDACTED]
- On July 23, 2013, counsel for Pom and counsel for JFI conferred by telephone regarding the status of the draft settlement agreement and the upcoming deadlines in the instant proceeding.

As further required by the Board's December 7, 2010 order, the parties have made the following progress toward resolving this matter. Since at least November 2012 the parties have been negotiating [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

As the Board can see, the Parties have been diligently trying to finalize this settlement agreement. The Parties therefore believe that their time, energy and resources remain better spent finalizing the agreement and not tending to the many discovery and pretrial 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 two (2) months (with an additional one month between the end of plaintiff’s trial period and defendant’s pretrial

disclosures to avoid setting the next trial period during the late December – early January holiday period), as set forth below:

Discovery Closes	August 11, 2013
Plaintiff's Pretrial Disclosures Due	September 26, 2013
Plaintiff's 30-day Trial Period Ends	November 9, 2013
Defendant's Pretrial Disclosures Due	December 24, 2013
Defendant's 30-day Trial Period Ends	February 8, 2014
Plaintiff's Rebuttal Disclosures Due	February 23, 2014
Plaintiff's 15-day Rebuttal Period Ends	March 23, 2014

Counsel for JFI has discussed this Motion with counsel for Pom, and Pom consents to the requested extension as set forth above.

DATED: July 28, 2013

Respectfully submitted:

MCCARTER & ENGLISH, LLP

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**CERTIFICATE OF SERVICE**

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

Danielle M. Criona, Esq.  
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Date: July 28, 2013

By: */David Ewen/*

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