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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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Date	04/09/2014
Attachments	PUBLIC Stipulated Motion to Extend (04.09.2014) [Final].PDF(206672 bytes)

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

PomWonderful LLC Opposer, v. Jarrow Formulas, Inc., Applicant.	Opposition (Parent) No.: 91171281 *****FILED UNDER SEAL***** **HIGHLY CONFIDENTIAL STIPULATED MOTION FOR EXTENSION OF ALL DEADLINES BY NINETY (90) DAYS AND DETAILED PROGRESS REPORT** Marks and Related (Consolidated) Proceedings: Opp. No. 91171281 (Parent) re Opp. No. 91191283 re POMEGREAT 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

Jarrow Formulas, Inc. ("JFI") and PomWonderful LLC ("PW") respectfully submit this Stipulated Motion to extend all deadlines in this proceeding by ninety (90) days. This extension is requested solely for purposes of focusing the Parties' time, energy and resources on attempting to negotiate mutually agreeable terms and finalize settlement documents in this matter, not for purposes of delay.

Since the proceedings resumed from the last granted suspension, the Parties have continued negotiating the terms of a potential settlement, and exchanged several revised drafts of the written agreement. As noted in their last Progress Report, filed December 23, 2013, the Parties maintain that the issues between them in this proceeding [redacted]

[redacted].

Since the last extension request was filed on December 23, 2013, the Parties each, on behalf of themselves and their respective counsel, represent that they have continued to diligently focus their energy in this case on settlement. The Parties further represent that both counsel and clients continue to try to resolve issues relating to the scope and wording of the particular provisions in the draft settlement agreement as identified below. As noted previously, [redacted].

The Parties' settlement activities since the last extension request can be summarized as follows:

- On December 23, 2013, counsel for JFI and counsel for PW held a phone conference to discuss PW's position concerning [redacted]; counsel for PW summarized her client's position by email following the phone conference;
- On January 2, 2014, counsel for PW held a meeting with her client, and afterwards forwarded for JFI's review revised language concerning [redacted];
- On January 7, 2014, counsel for JFI and counsel for PW held a phone conference to discuss [redacted];
- On January 10, 2014, counsel for PW filed and served evidence in connection with its ongoing appeal in the Canadian Opposition;

- On March 10, 2014 counsel for PW sent an email to counsel for JFI inquiring as to the status of negotiations and to advise that her client would be out of the country after March 22, 2014 and unavailable for 2 weeks;
- On March 14, 2014, counsel for JFI and counsel for PW held a phone conference to further discuss the provisions implicated by, and their respective positions on the scope of, PW's outstanding proposal;
- On March 18, 2014, counsel for JFI provided for PW's review a revised draft of the agreement addressing the issues raised by counsel for PW;
- On March 19, 2014, counsel for PW provided for JFI's review a further revised draft [redacted];
- On March 24, 2014, counsel for PW served a Notice of Testimonial Deposition for April 8, 2014; counsel for JFI advised later that day that he was unavailable on that date due to a previously scheduled oral argument before the Federal Circuit, and proposed extending the deadlines in these proceedings to allow the Parties additional time to discuss settlement and to preserve their rights if settlement negotiations reached an impasse;
- On March 26, 2014, counsel for JFI provided for PW's review a further revised draft of the agreement, along with counsel's responsive comments;
- On March 28, 2014, counsel for JFI and counsel for PW agreed to the extended schedule presented for the Board's consideration in this Stipulated Motion.
- On April 4, 2014, counsel for JFI left a voicemail for counsel for PW to schedule a time to discuss JFI's most recent revisions to the draft agreement;

- On April 9, 2014, counsel for the Parties held a telephone conference regarding the most recent revisions to the agreement

As further required by the Board's December 7, 2010 order, the Parties have made the following progress toward resolving this matter. [redacted]. Since the Parties' last report to the Board, the following provisions are currently being negotiated:

- Section 1.c., concerning [redacted];
- Section 2.d., concerning [redacted].
- Section 2.e., concerning [redacted].

As the Board can see, notwithstanding the previously scheduled depositions, appellate briefing and argument, and trial testimony periods in other litigation matters that necessitated their previous extension request, 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 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 ninety (90) days from the prior schedule as set forth below:

Plaintiff's Pretrial Disclosures Due	May 24, 2014
Plaintiff's 30-day Trial Period Ends	July 8, 2014
Defendant's Pretrial Disclosures Due	July 23, 2014
Defendant's 30-day Trial Period Ends	September 6, 2014
Plaintiff's Rebuttal Disclosures Due	September 21, 2014
Plaintiff's 15-day Rebuttal Period Ends	October 21, 2014

In light of the Parties' continued efforts and progress towards reaching a mutually agreeable settlement agreement, the Parties submit that their request is supported by good cause and is not for purposes of unduly delaying proceedings.

Counsel for JFI and counsel for PW have both participated in the drafting of this Motion.

Respectfully submitted:

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April 9, 2014

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April 9, 2014

CERTIFICATE OF SERVICE

I, David Ewen, hereby certify that a copy of *****FILED UNDER SEAL*** HIGHLY CONFIDENTIAL STIPULATED MOTION FOR EXTENSION OF ALL DEADLINES FOR NINETY (90) DAYS AND DETAILED PROGRESS REPORT** has been served upon attorneys for PomWonderful LLC via email, as agreed to by the Parties:

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Date: April 9, 2014

By: */s/ David Ewen*
David Ewen