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Filing date: **12/19/2014**

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	12/19/2014
Attachments	REDACTED - Stipulated Motion to Extend (12.19.2014).PDF(244032 bytes )

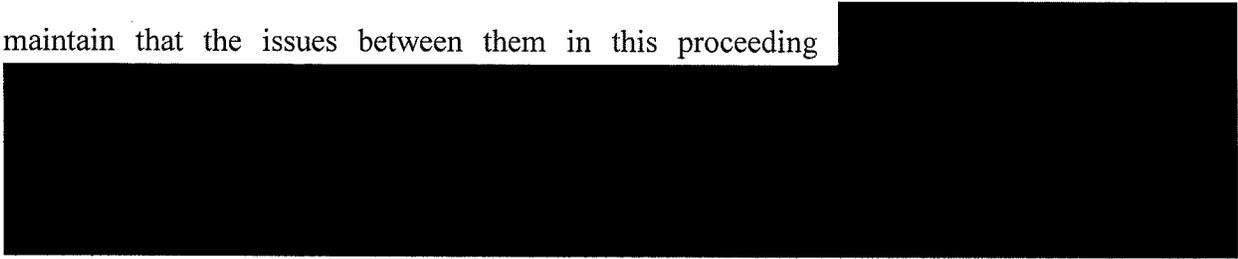
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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

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Jarrow Formulas, Inc. (“JFI”) and PomWonderful LLC (“PW”) respectfully submit this Stipulated Motion to extend all deadlines in this proceeding according to the modified trial schedule set forth herein. This extension is requested solely for purposes of focusing the Parties’ time, energy and resources on their ongoing efforts 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 April 9, 2014, the Parties maintain that the issues between them in this proceeding



[REDACTED]

Since the last extension request was filed on April 9, 2014 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' substantive settlement activities since the last extension request can be summarized as follows:

- Since the settlement agreement between JFI and PW [REDACTED] on May 1, 2014, counsel for PW provided [REDACTED];
- Between May 6-9, 2014, PW's counsel continued communicating [REDACTED] with respect to the proposed settlement terms with JFI;
- On May 7, 2014, JFI's counsel provided PW's counsel with a revised draft settlement agreement, which draft implemented [REDACTED]

[REDACTED];

- During the week of May 18, 2014, PW reviewed the proposed draft settlement agreement and provided revisions thereto;
- On May 27, 2014, PW's counsel provided JFI's counsel with a revised, redlined draft of the proposed settlement agreement. Specifically, PW revised language in the settlement agreement pertaining to [REDACTED].

The language in the agreement was revised by PW such that it [REDACTED]

[REDACTED];

- On June 4, 2014, PW provided further revisions to the settlement agreement, which revisions PW believes were minor and for clarification purposes only;
- On June 9, 2014, counsel for JFI and PW held a phone conference to discuss issues relating to PW's latest draft of the agreement. Later that day, JFI's counsel provided PW's counsel a revised draft containing revisions that [REDACTED]

[REDACTED];

- On June 9, 2014, counsel for JFI also provided revised settlement terms [REDACTED]

[REDACTED];

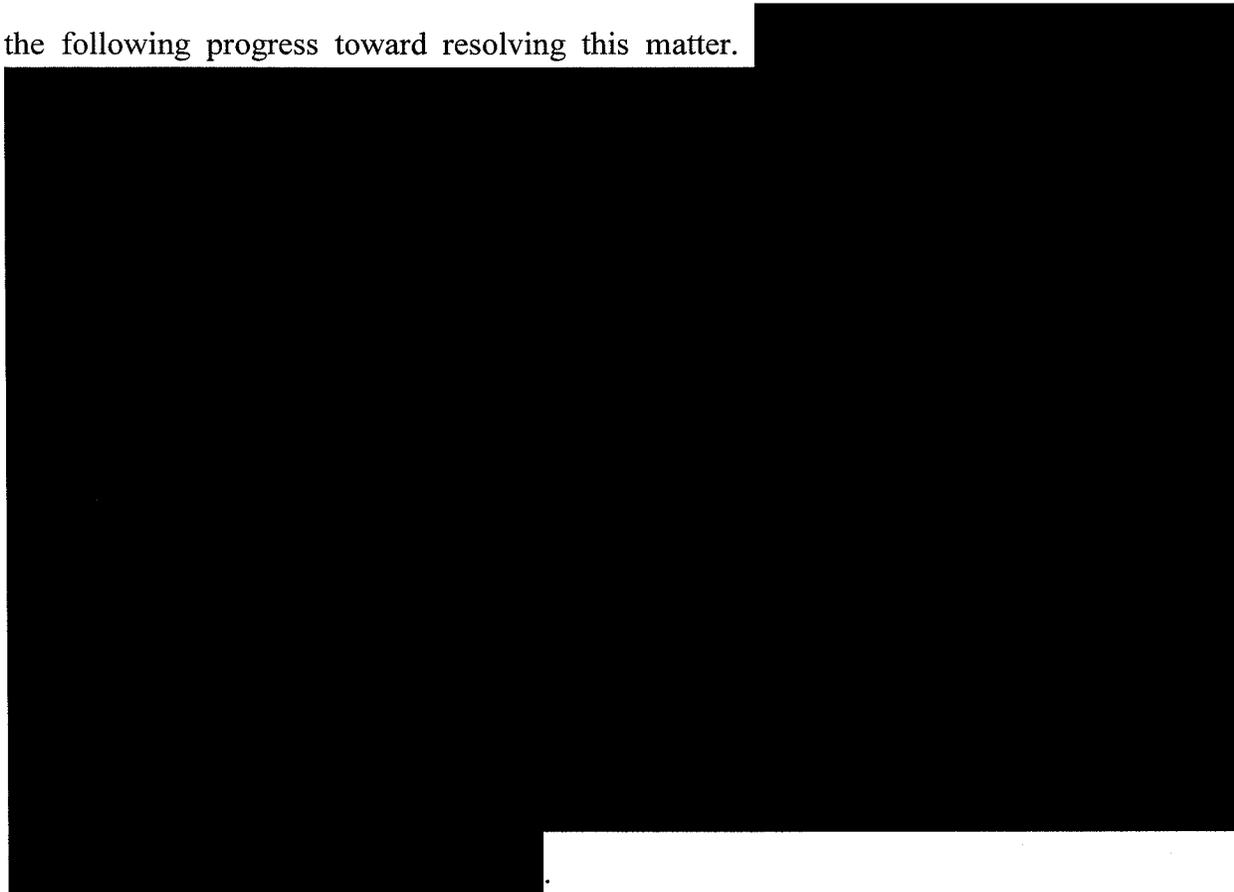
- On June 20, 2014 the Parties' counsel held a phone conference to discuss the revised settlement agreement previously prepared by JFI's counsel;
- On June 22, 2014, counsel for PW provided JFI's counsel a revised draft of the proposed settlement agreement addressing the issues discussed during the parties' phone conversation two days earlier. Specifically, PW's revisions [REDACTED]

[REDACTED]

- [REDACTED];
- On August 26, 2014, [REDACTED];
  - On September 18, 2014, JFI's counsel met with the client to discuss the remaining outstanding issues in the negotiation of the proposed settlements with PW [REDACTED];
  - On September 30, 2014, the Parties' counsel held a phone conference to discuss outstanding issues, including [REDACTED];
  - On October 31, 2014, JFI's counsel provided [REDACTED];
  - On November 13, 2014, [REDACTED];
  - On November 17, 2014, in an email to JFI's counsel, PW's counsel confirmed that she [REDACTED];
  - On November 18, 2014, JFI's counsel provided PW's counsel a revised draft agreement that [REDACTED];

- On December 16, 2014, the Parties' counsel held a phone conference to discuss PW's comments on the last draft agreement prepared by JFI. Counsel discussed a possible alternate solution to address concerns raised by PW's counsel, and PW's counsel agreed to discuss said alternate solution with PW, and then to follow up with JFI's counsel regarding the same.

As further required by the Board's December 7, 2010 order, the Parties have made the following progress toward resolving this matter.



In view of their progress in settlement, as detailed above, the Parties respectfully request that the Board re-open and extend all remaining discovery and trial dates as set forth below. The Parties note that their proposed schedule deviates from the schedule typically set by the Board. This deviation is to account for the fact that in Opposition No. 91194226, the Parties' roles are reversed (i.e., in that proceeding JFI is the plaintiff and PW is the defendant). Accordingly, the Parties request that the Board enter the proposed schedule pursuant to 37 C.F.R. § 2.121(b)(2).<sup>1</sup> As used below, oppositions in which PW is the plaintiff are referred to as the "PW Oppositions"; the opposition in which JFI is the plaintiff is referred to as the "JFI Opposition."

PW's Pretrial Disclosures Due in the PW Oppositions .....	February 9, 2015
PW's 30-day Trial Period Ends in the PW Oppositions .....	March 26, 2015
JFI's Pretrial Disclosures Due in the JFI Opposition and the PW Oppositions.....	May 10, 2015
JFI's 30-day Trial Period Ends in the JFI Opposition.....	May 25, 2015
PW's Rebuttal Disclosures Due in the PW Oppositions and Pretrial Disclosures Due in the JFI Opposition .....	June 9, 2015
PW's 15-day Rebuttal Period Ends in the PW Oppositions .....	July 9, 2015
PW's 30-day Trial Period Ends in the	

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<sup>1</sup> 37 C.F.R. § 2.121(b)(2) provides, in relevant part, that "when proceedings have been consolidated and one party is in the position of plaintiff in one of the involved proceedings and in the position of defendant in another of the involved proceedings ... the Board will schedule testimony periods so that each party in the position of plaintiff will have a period for presenting its case in chief against each party in the position of defendant, each party in the position of defendant will have a period for presenting its case and meeting the case of each plaintiff, and each party in the position of plaintiff will have a period for presenting evidence in rebuttal."

JFI Opposition..... July 24, 2015  
JFI's Rebuttal Disclosures Due in the JFI  
Opposition..... September 7, 2015  
JFI's 15-day Rebuttal Period Ends in JFI  
Opposition..... September 22, 2015

Opening trial briefs for the plaintiffs in both the PW Oppositions and JFI Opposition shall be due sixty (60) days from the close of JFI's rebuttal period.

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.

*[signature blocks on the following page]*

Respectfully submitted:

DATED: December 19, 2014

McCARTER & ENGLISH, LLP

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DATED: December 19, 2014

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**CERTIFICATE OF FILING AND SERVICE**

I, the undersigned, hereby certify that on December 19, 2014, the foregoing STIPULATED MOTION FOR EXTENSION/REOPENING OF ALL DEADLINES AND DETAILED PROGRESS REPORT was filed with the Trademark Trial & Appeal Board via the ESTTA online filing system, and served upon counsel for PomWonderful LLC via email at the address shown below:

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