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

Proceeding	91194974
Party	Defendant GFA Brands, Inc.
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Submission	Motion to Extend
Filer's Name	David R. Cross
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Date	07/17/2012
Attachments	GFA.pdf (3 pages)(71859 bytes) GFA1.pdf (1 page)(44313 bytes)

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

PROMARK BRANDS INC., & H.J.
HEINZ COMPANY,

**Opposition Nos. 91194974
91196358**

Opposers,

U.S. Trademark Application 77/864,305
For the Mark **SMART BALANCE**
Published in the Official Gazette on April 20, 2010

v.

GFA BRANDS, INC.,

U.S. Trademark Application 77/864,268
For the Mark **SMART BALANCE**
Published in the Official Gazette on August 10, 2010

Applicant.

GFA BRANDS, INC.'S OPPOSITION TO OPPOSERS' MOTION FOR EXTENSION

Applicant GFA Brands, Inc. opposes Opposers' motion for a 45 day extension.

Opposers, through this and their previous unsuccessful motions challenging GFA Brands' survey expert, Phil Johnson, have already succeeded in delaying this proceeding. GFA Brands is eager to have this matter concluded so as to clarify its rights. It therefore opposes the motion for a 45 day extension. Although GFA Brands would prefer no extension, it has offered a 5 business day extension (see attached e-mail correspondence) and would not oppose a 10 business day extension. Two business weeks should be ample time for Mr. Fraelich, who has appeared on Opposers' filings throughout this dispute, to pick-up where his former colleague, Ms. Dickson,

has left off.

Respectfully submitted,

Dated: July 17, 2012

By: _____/David R. Cross

David R. Cross

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Attorneys for GFA, GFA Brands, Inc.

From: Cross, David R. (MKE x1669)
Sent: Tuesday, July 17, 2012 7:16 AM
To: Timothy Fraelich
Cc: Wilbert, Johanna M. (MKE x1495); Levine, Marta S. (MKE x1675)
Subject: FW: extension

We have your motion, but I realize that Cecilia may have left the firm and not seen my message from yesterday. Please note my question about Phil Johnson's deposition next week and reply as soon as you can. We do want to keep that date due to his very difficult schedule. Thank you.

From: Cross, David R. (MKE x1669)
Sent: Monday, July 16, 2012 9:52 AM
To: crdickson@jonesday.com
Cc: Wilbert, Johanna M. (MKE x1495); Levine, Marta S. (MKE x1675)
Subject: extension

I have now heard from my client. For the reasons we discussed, including Promark's unjustified accusations that GFA was intentionally delaying the proceedings when it in fact is eager to get this resolved, it is not in a position to grant your request for a 30-45 day delay. GFA will, however, agree to a 5 business day extension.

We very much want to keep Phil Johnson's discovery deposition date as is. Please let me know as soon as possible if that continues to be the plan.

Thank you, and best of luck in your new position.

David R. Cross
Partner
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