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

Proceeding	91201229
Party	Defendant Vitamin Shoppe Industries Inc.
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Submission	Stipulated/Consent Motion to Extend
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Date	01/13/2014
Attachments	Motion to Extend Discovery Deadlines - JOINT VITALITY - January 2014.pdf(53503 bytes)

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

In the Matter of U.S. Application No. 85071988

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MELALEUCA, INC.,)	
)	Opposition No 91201229
Opposer,)	
)	U.S. Application No. 85071988
v.)	
)	Mark: JOINT VITALITY
VITAMIN SHOPPE INDUSTRIES INC.,)	
)	
Applicant.)	
-----	x	

ATTN: Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

**MOTION FOR AN EXTENSION OF
DISCOVERY OR TRIAL PERIODS WITH CONSENT AND
REPORT ON SETTLEMENT NEGOTIATIONS**

In the TTAB Order dated November 1, 2013, the Board requested a report detailing the progress of discovery and/or any ongoing settlement negotiations. The Order indicated that such report must include: a recitation of discovery taken to date, a statement of issues that have been resolved and issues that remain to be resolved, and a firm timetable for resolution.

Applicant and Opposer have exchanged several proposed Trademark Co-Existence Agreements regarding use and registration of the mark JOINT VITALITY during the prosecution of Opposition No. 91201229.

After Answering the Notice of Opposition and exchange of Initial Disclosures, Applicant sent Opposer a proposed Trademark Co-Existence Agreement. Thereafter, Applicant and Opposer have been negotiating the Trademark Co-Existence Agreement.

After several e-mail correspondences regarding the status of the Trademark Co-Existence Agreement, Opposer sent a revised proposed Trademark Coexistence Agreement on February 14, 2013, which included Applicant's agreement to expressly abandon U.S. Application Serial No. 85071988 with prejudice in exchange with an agreement for Applicant to use, but not register JOINT VITALITY in the future.

Applicant reviewed the proposed Trademark Co-Existence Agreement and sent a counter-proposal to Opposer on January 3, 2014. At the present time, Applicant is waiting for Opposer's response to the counter-proposal.

In terms of outstanding legal issues, at the present time, Applicant and Opposer are discussing Applicant's ability to use other marks which incorporate the term VITALITY with other terms.

Applicant and Opposer are diligently negotiating resolution of Opposition No. 91201229 and expect to resolve the Opposition within the next six (6) months.

Applicant, Vitamin Shoppe Industries Inc., through its counsel, hereby moves the Trademark Trial & Appeal Board to extend the time for all subsequent discovery and trial dates for sixty (60) days from the dates listed in the TTAB Order dated November 1, 2013 in accordance with the below revised trial schedule:

Time to Answer:	CLOSED
Deadline for Discovery Conference:	CLOSED
Discovery Opens:	CLOSED
Initial Disclosures Due:	CLOSED
Expert Disclosure Due:	02/12/2014
Discovery Closes:	03/14/2014
Plaintiff's Pretrial Disclosures:	04/28/2014
Plaintiff's 30-day Trial Period Ends:	06/12/2014
Defendant's Pretrial Disclosures:	06/27/2014
Defendant's 30-day Trial Period Ends:	08/11/2014
Plaintiff's Rebuttal Disclosures:	08/26/2014
Plaintiff's 15-day Rebuttal Period End:	09/25/2014

This time is needed in order for each party to confer with their respective clients and allow additional time to discuss discovery related matters and finalize settlement.

The foregoing motion is not being filed for the purpose of mere delay of the proceedings and favorable consideration of this request is respectfully solicited.

Applicant has secured the express consent of all parties to this proceeding for the extension and resetting of dates requested herein.

Dated: New York, New York
January 13, 2014

Respectfully submitted,

Todd Braverman

By: _____

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