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Filing date: **11/30/2015**

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

Proceeding	91207333
Party	Defendant IP Application Development LLC
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Submission	Stipulated/Consent Motion to Extend
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Signature	/Allison Buchner/
Date	11/30/2015
Attachments	2015-11-30 Stipulation re Extension of Discovery and Trial Schedule.pdf(17817 bytes)

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

RXD MEDIA, LLC	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No. 91207333
	:	91207598
IP APPLICATION DEVELOPMENT LLC,	:	
	:	
Applicant.	:	
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STIPULATION REGARDING EXTENSION OF DISCOVERY AND TRIAL SCHEDULE

WHEREAS the deadline for the close of discovery period in this matter is currently set on November 30, 2015; and

WHEREAS Applicant has filed a Motion to Extend the Discovery and Trial Schedule on November 17, 2015, and Opposer has opposed the extension as requested by Applicant;

WHEREAS, each Party has challenged the sufficiency of the other's discovery responses, including the production of documents, and the sufficiency of responses by the Parties' respective prior counsel; and

THEREFORE, in order to resolve the pending Motion and the outstanding challenges, the Parties, pursuant to TBMP § 403.04, hereby agree and stipulate as follows:

1. Each Party shall undertake to resolve any claimed deficiencies in its responses to all written discovery requests served prior to the date of this Stipulation, including conducting of a good faith review of files and responses of prior counsel, and make any necessary supplemental document production by December 4, 2015. Opposer will produce privilege logs of all documents withheld on the basis of privilege by

- December 8, 2015; Applicant will, to the extent necessary, supplement its prior privilege logs by that same date.¹
2. Applicant's counsel, who also represents Apple Inc. ("Apple"), further agrees to produce documents responsive to Opposer's Subpoena *Duces Tecum* to Apple, subject to its previously-served written objections and a suitable protective order being entered in the United States District Court for the Northern District of California, on a rolling basis and will complete the production by December 4, 2015.
 3. Opposer shall serve written responses and objections (if any) to Applicant's Subpoena *Duces Tecum* to Keith Clements and Ben Clements by Monday, November 30, 2015, and will produce non-privileged documents responsive to those subpoenas, if any, by December 4, 2015.
 4. Applicant shall produce Thomas LaPerle, in his individual capacity and as Applicant's designee(s) pursuant to Fed. R. Civ. P. 30(b)(6), and Apple's designee(s) pursuant to Opposer's Subpoena *Ad Testificatum* for depositions by Opposer on December 10, 2015. Should Opposer be unable to complete that deposition in one day, Applicant will meet and confer with Opposer to make Mr. La Perle available on one other mutually agreeable date prior to the close of discovery.
 5. Opposer shall produce Keith Clements and Ben Clements, each in their individual capacities and as Opposer's designees pursuant to Fed. R. Civ. P. 30(b)(6) for depositions the week of December 14, 2015 on dates, time and place to be mutually agreed upon by the Parties. Opposer will provide Applicant with the respective 30(b)(6) topics for Ben and Keith Clements by Friday, December 4, 2015. Should

¹ Opposer and Applicant have agreed that the parties will *not* be required to log privileged documents created on or after October 5, 2012.

Applicant be unable to complete either deposition in the day allotted for that individual, Opposer will meet and confer with Applicant to make the witness available on one other mutually agreeable date prior to the close of discovery.

6. Should Apple’s pending motion to quash Opposer’s Subpoena *Ad Testificatum* to non-party Douglas Vetter (“Vetter Subpoena”) be denied after the date set for the close of fact discovery by the Board or without sufficient time remaining in the discovery period for that deposition to be scheduled, the parties agree that the deposition of Mr. Vetter may take place outside the dates for fact discovery. If that occurs, Applicant agrees that it will not object to the use of Mr. Vetter’s deposition testimony in this proceeding on the basis that it was taken outside the discovery period. Applicant and non-parties Apple and Mr. Vetter expressly reserve the right to raise all other objections to the use and/or admissibility of Mr. Vetter’s deposition testimony. Nothing in this stipulation is intended to waive the previously-served written objections of Apple or Mr. Vetter to the Vetter Subpoena.

7. In light of the foregoing stipulation, Parties agree to the rescheduling of the discovery and trial proceedings as follows:

Event	Current Deadline	Requested Extension
Discovery Closes	11/30/2015	1/6/2016
Plaintiff’s Pretrial Disclosures	1/14/2016	2/22/2016
Plaintiff’s 30-day Trial Period Ends	2/28/2016	4/7/2016
Defendant’s Pretrial Disclosures	3/14/2016	4/22/2016
Defendant’s 30-day Trial	4/28/2016	6/6/2016

Period Ends		
Plaintiff's Rebuttal Disclosures	5/13/2016	6/21/2016
Plaintiff's 15-day Rebuttal Period Ends	6/12/2016	7/21/2016

8. In light of the foregoing stipulation, Applicant hereby withdraws its pending Motion to Extend the Discovery and Trial Schedule as moot.

RxD Media, LLC
By Counsel

IP Applicant Development, LLC
By Counsel

/s/ Cecil E. Key*

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