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

Proceeding	91212477
Party	Defendant GFA Brands, Inc.
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Date	10/17/2014
Attachments	2014-10-17 Joint Stipulation Regarding Testimony Evidence.pdf(11738 bytes)

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

In the Matter of Application Serial No. 85/751,520: EARTH BALANCE
Published for Opposition March 19, 2013

BALANCE BAR COMPANY

Opposer

v.

Opposition No. 91212477

GFA BRANDS, INC.

Applicant.

JOINT STIPULATION REGARDING TESTIMONY EVIDENCE

Pursuant to Rule 2.123(b) of the Trademark Rules of Practice and Section 703.01(b), Opposer, Balance Bar Company, and Applicant, GFA Brands, Inc., stipulate to the submission of testimony and evidence at trial as follows:

1. Testimony may be introduced by affidavit in lieu of live deposition for the following six witnesses for Applicant: (1) William B. Shanks; (2) Kiersten P. Van Horne, (3) Chris Rodermond, (4) Marie Flemmings, (5) Michael Suskind, and (6) Philip Johnson (“Applicant’s Witnesses”).
2. Testimony may be introduced by affidavit in lieu of live deposition for Jacob Jacoby, witness for Opposer (“Opposer’s Witness”).
3. Exhibits that would normally be introduced during a live deposition may be introduced as attachments to the testimony affidavit.

4. Pursuant to 37 C.F.R. § 2.122(f) and TBMP § 704.13, the parties stipulate to the admissibility of the trial testimony examination and all exhibits annexed thereto of Opposer's expert witness Jacob Jacoby, taken August 27, 2014, and of Applicant's expert witness Philip Johnson, taken July 21, 2014, in co-pending Opposition Proceeding Nos. 91196954 and 91197748. The trial testimonies and exhibits from this co-pending opposition proceeding will be appended to and referenced in the respective witness's affidavit.

5. The parties agree to serve any testimony submitted via affidavit on or before the close of their relevant testimony period.

6. The parties reserve the right to object in their trial brief to such testimony on any applicable ground, including but not limited to grounds such as relevance and materiality.

7. The Parties waive their respective rights to an in-person cross-examination and an in-person re-direct.

Dated: October 17, 2014

/s/ R. Glenn Schroeder
R. Glenn Schroeder
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Dated: October 17, 2014

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Attorneys for Applicant GFA Brands, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2014, I served upon counsel of record the foregoing
by causing the same to be delivered by U.S. mail and email to:

R. Glenn Schroeder
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Dated this 17th day of October, 2014.

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