

ESTTA Tracking number: **ESTTA651528**

Filing date: **01/22/2015**

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

Proceeding	91212553
Party	Defendant 365 Laboratories, LLC
Correspondence Address	CRAIG S KIRSCH KIRSCH LAW FIRM 40 NE 1 AVENUE, SUITE 602 MIAMI, FL 33132 UNITED STATES ckirsch@kirschlawfirm.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Craig Kirsch
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Signature	/Craig Kirsch/
Date	01/22/2015
Attachments	130075.tm.01. motion for continuance 1.22.15.pdf(16877 bytes) 130075.tm.01.status report to be filed with TTAB 1.14.15.pdf(12050 bytes)

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

In the Matter of Trademark Application No. 85812336
For the mark: NATURE365 (and Design)
Date Published: May 21, 2013

Whole Foods Market IP, L.P.)	
)	
Opposer,)	Opposition No. 91212553
)	
v.)	
)	
365 LABORATORIES, LLC)	
)	
Applicant.)	
)	

Motion for Suspension for Settlement With Consent

Preliminary Statement

365 Laboratories, LLC, (hereinafter the “Applicant”) originally filed a Motion for Suspension for Settlement With Consent (hereinafter the “Motion”) with the Trademark Trial and Appeal Board (hereinafter the “Board”) on or about December 31, 2014 and said Motion was not granted because a status report was not included with the filing of the Motion.

On or about January 14, 2015, Applicant filed a STATUS REPORT TO ACCOMPANY MOTION TO SUSPEND PROCEEDING (hereinafter the “Status Report”). It was Applicant’s intention to link the Status Report with the Motion in order to comply with the Board’s order dated November 4, 2014 thereby rendering Applicant’s Motion compliant and in a position to be granted.

In the alternative, Applicant hereby refiles its Motion and Status Report and requests that the Board grants the Motion and in support thereof Applicant states as follows:

The parties are actively engaged in negotiations for the settlement of this matter. 365 Laboratories, LLC requests that this proceeding be suspended for 60 days to allow the parties to continue their settlement efforts.

The following Trial schedule is proposed:

Time to Answer:	CLOSED
Deadline for Discovery Conference:	CLOSED
Discovery Opens:	CLOSED
Initial Disclosures Due:	04/03/2015
Expert Disclosure Due:	08/03/2015
Discovery Closes:	09/03/2015
Plaintiff's Pretrial Disclosures:	10/17/2015
Plaintiff's 30 day Trial Period Ends:	12/01/2015
Defendant's Pretrial Disclosures:	12/16/2015
Defendant's 30 day Trial Period Ends:	01/30/2016
Plaintiff's Rebuttal Disclosures:	02/15/2016
Plaintiff's 15 day Rebuttal Period Ends:	03/14/2016

365 Laboratories, LLC has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

365 Laboratories, LLC has provided an email address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Counsel for Whole Foods Market IP, L.P.: jmatthysse@pirkeybarber.com

Counsel for 365 Laboratories, LLC: ckirsch@kirschlawfirm.com

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,

By: /Craig S Kirsch/

Craig S. Kirsch

Attorney for Applicant

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STATUS REPORT TO ACCOMPANY MOTION TO SUSPEND PROCEEDING

Opposer, Whole Foods Market IP, L.P., and Applicant, 365 LABORATORIES, LLC., each individually a “Party” and collectively, the “Parties” hereby file this Status Report concurrently with a Consented Motion to Suspend Proceeding, as requested by the Board, and report as follows:

1. To date, the Parties have not exchanged any discovery as the Parties have been working diligently on settling this matter without the need for protracted litigation.
2. The Parties, through their counsel, have undertaken continuous and extensive dialogue, negotiation, and exchange of information in seeking to reach a settlement. As noted above, the Parties have not initiated formal discovery; however, the Parties have exchanged significant amounts of information, and have negotiated and drafted a settlement agreement that substantially addresses the outstanding issues.

3. It is believed by the Parties that the settlement agreement will be resolved between themselves in the next 60 days.

Respectfully submitted,

By: /Craig S Kirsch/

Craig S. Kirsch

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