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

Proceeding	92048989
Party	Plaintiff Top Tobacco, LP
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Date	09/29/2009
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of
Registration Nos. 2,950,896 and 3,328,623

TOP TOBACCO, LP,)	
)	
Petitioner,)	
v.)	Consolidated Cancellation No. 92048989
)	
VAN NELLE TABAK NEDERLAND BV,)	
)	
Respondent.)	

**JOINT MOTION FOR EXTENSION OF TIME FOR PETITIONER TO FILE A
RESPONSE TO RESPONDENT’S MOTION TO COMPEL**

Petitioner, Top Tobacco, LP (“Top”), and Respondent, Van Nelle Tabak Nederland BV (“Van Nelle”), jointly move for an additional extension of sixty (60) days, until December 13, 2009, of the time by which Top must file its brief in opposition to Van Nelle’s Motion to Compel. In support thereof, the parties state as follows:

1. On January 2, 2009, the Board suspended these proceedings pending disposition of Top’s Motion to Compel discovery.

2. On January 16, 2009, Van Nelle filed a Motion to Compel discovery. In response, on January 27, 2009, Top filed a Motion to Strike Van Nelle’s Motion to Compel because the proceedings were suspended for all issues not germane to its earlier filed Motion to Compel and, it submitted, Van Nelle’s Motion to Compel was not germane.

3. On June 25, 2009, the Board issued an Order denying Top’s Motion to Strike and directing Top to respond to Van Nelle’s Motion to Compel. *See* June 25, 2009 Order. As the

parties were engaged in settlement discussions, on June 30, 2009, Top filed a Consented Motion for Extension of Time for Petitioner to File a Response to Respondent's Motion to Compel, thereby giving Top until August 14, 2009 to file its Response, which the Board granted on July 2, 2009.

4. As settlement discussions were still on-going as of July 28, 2009, Top then filed a Joint Motion for an additional sixty (60) days time to file its Response. The Board granted this motion on August 6, 2009, setting the due date for Top's Response at October 13, 2009.

5. The parties are continuing to discuss and have made progress toward reaching settlement. In that regard, the parties have exchanged draft settlement agreements which require further review by the parties' principals. The parties believe that settlement in this matter will be promoted by further extending the time for Top to respond to Van Nelle's Motion to Compel, as it will preserve resources and permit them to continue to focus their attention on settling this case. Accordingly, the parties jointly seek an additional extension of sixty (60) days for Top to respond to Van Nelle's Motion to Compel, thereby making Top's response due on December 13, 2009. This extension is sought not for purposes of delay but to allow the parties the opportunity to resolve all matters at issue in this case and conserve the Board's resources in the event the parties are able to settle these proceedings before December 13, 2009.

6. Counsel for Top and Van Nelle conferred regarding this matter on September 28, 2009 and agreed to this Joint Motion.

WHEREFORE, the parties respectfully request that this Board enter an order granting Top an extension of time until December 13, 2009 to respond to Van Nelle's Motion to Compel.

Date: September 29, 2009

Respectfully submitted,

/Antony J. McShane/
One of the Attorneys for Petitioner,
Top Tobacco, L.P.

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Date: September 29, 2009

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Mike R. Turner, an attorney, state that I caused a copy of the foregoing, JOINT MOTION FOR EXTENSION OF TIME FOR PETITIONER TO FILE A RESPONSE TO RESPONDENT'S MOTION TO COMPEL to be served upon:

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via U.S. Mail on this September 29th, 2009.

/Mike R. Turner/
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