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

Proceeding	92056497
Party	Plaintiff Gerawan Farming, Inc.
Correspondence Address	JILL M PIETRINI SHEPPARD MULLIN RICHTER & HAMPTON LLP 1901 AVENUE OF THE STARS, SUITE 1600 LOS ANGELES, CA 90067-6017 UNITED STATES rhilbert@sheppardmullin.com, jpietrini@sheppardmullin.com, baander-son@sheppardmullin.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Jill M. Pietrini
Filer's e-mail	jpietrini@smrh.com, mdanner@smrh.com, rwalsh@smrh.com, lmartin@smrh.com
Signature	/Jill M. Pietrini/
Date	01/22/2015
Attachments	STIPULATED MOTION TO EXTEND TIME FOR REGISTRANT TO ANSWER COUNTERCLAIMS.pdf(46265 bytes)

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

In the Matter of Trademark: PRIMA FRUTTA
Reg. No. 3,334,633, Reg. Date: Nov. 13, 2007

Gerawan Farming, Inc.,)	
)	Cancellation No. 92-056497
Petitioner,)	
)	STIPULATED MOTION TO EXTEND TIME
v.)	FOR REGISTRANT TO ANSWER
)	COUNTERCLAIMS
A. Sambado & Son, Inc.,)	
)	
Registrant.)	
)	

Petitioner Gerawan Farming Inc. Inc. (“Petitioner”), by and through its counsel has agreed with Registrant A. Sambado & Son, Inc. (“Registrant”), by and through its counsel, with the Board’s approval, that the case be suspended for six months.

Petitioner’s counsel has been in contact with Registrant’s counsel by telephone on December 19, 2014 and by email on January 21, 2015, and both parties, through counsel, have agreed to this motion, because the parties are in settlement discussions and Petitioner has been engaged in a lengthy arbitration with the United Farm Worker’s Union (“UFW”). Pursuant to the Board’s order of January 31, 2014, the parties provide the following report.

What Has Been Resolved

The parties have agreed to enter a coexistence agreement. Specifically, the parties agree to a coexistence agreement and Registrant has proposed a specific set of terms. Petitioner is considering those terms, but has been unable to focus on the parameters of a coexistence agreement because of the lengthy UFW arbitration proceeding, whose hearing began on September 29, 2014, is currently ongoing, and will

continue until sometime in March 2015. Prior to the commencement of the hearing, there were multiple pre-trial hearings. The hearing has involved more than 100 witnesses and covers many issues relevant to both parties in this case, given that they are both farming operations in California. After the hearing is completed, there will be extensive briefing, which will take 2 to 3 months to complete. The UFW proceeding has implications for a majority of growers in California, including Registrant, because it would place union restrictions on the parties' employees.

Issues that Remain to be Resolved

The specific division of products for the coexistence agreement remains to be resolved. Registrant has made its proposal on the goods it proposes to have exclusive use over. Petitioner is considering that proposal and will respond with its proposed list of goods.

Firm Timetable for Resolution

After the UFW proceeding is concluded, Petitioner will be able to turn its focus back to this proceeding and hopefully conclude a settlement shortly. Petitioner believes that the hearing in the UFW arbitration proceeding will be concluded in March 2015 and that briefing will be concluded by May or June 2015.

Petitioner is also engaged in another litigation, which is set for trial in April 2015. Accordingly, Petitioner believes that this dispute should be resolved by May 2015 or June 2015.

Accordingly, for the reasons stated above, Petitioner seeks a six month suspension of this case.

Respectfully submitted,

Dated: January 22, 2015

/Jill M. Pietrini/
Jill M. Pietrini
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, CA 90067-6055
310-228-3700

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically to Commissioner of Trademarks, Attn: Trademark Trial and Appeal Board through ESTTA pursuant to 37 C.F.R. §2.195(a), on this 22nd day of January, 2015.

/LaTrina Martin/
LaTrina Martin

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Thomas A. Dirksen
4607 Lakeview Canyon Road, Suite 117
Westlake Village, CA 91361

on this 22nd day of January, 2015.

/LaTrina Martin/
LaTrina Martin

SMRH:435631483.1