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Filing date: **08/20/2015**

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

Proceeding	92056497
Party	Plaintiff Gerawan Farming, Inc.
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Date	08/20/2015
Attachments	Sambado Stip to Extend.pdf(91793 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 and)	
Counter-Defendant,)	PETITIONER AND COUNTER-
)	DEFENDANT GERAWAN FARMING, INC.'S
v.)	CONSENTED MOTION TO SUSPEND THE
)	PROCEEDINGS FOR 6 MONTHS
A. Sambado & Son, Inc.,)	
)	
Registrant and)	
Counterclaimant.)	

Petitioner and Counter-Defendant Gerawan Farming, Inc. (“Petitioner”), by and through its counsel, hereby moves the Board to suspend this case for six months, such that the deadlines are rescheduled as set forth below. Registrant and Counterclaimant A. Sambado & Son, Inc. (“Registrant”), by and through its counsel, has expressly consented to Petitioner’s motion:

Deadline	Date
Discovery Closes	February 20, 2016
Petitioner’s Pretrial Disclosures Due	April 4, 2016
30-day testimony period for Petitioner’s testimony to close	May 18, 2016
Registrant/Counterclaimant Pretrial Disclosures Due	June 3, 2016
30-day testimony period for Registrant/Counterclaimant to close	July 17, 2016
Counter-Defendant's and Petitioner’s Rebuttal Disclosures Due	August 1, 2016
30-day testimony period for Counter-Defendant and rebuttal testimony for	September 17, 2016

Petitioner to close	
Counterclaimant's Rebuttal Disclosures Due	October 1, 2016
15-day rebuttal period for Counterclaimant' to close	November 1, 2016
Brief for Petitioner due	December 30, 2016
Brief for Registrant and Counterclaimant due	January 30, 2017
Brief for Counter-Defendant and reply brief, if any, for Petitioner due	February 28, 2017
Reply brief, if any, for Counterclaimant due	March 13, 2017

Petitioner's counsel has been in contact with Registrant's counsel by email on August 13, 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 Workers of America ("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 administrative proceedings before the California Agricultural Labor Relations Board (ALRB) involving an ongoing labor dispute between Petitioner and the UFW. Due to the expansive scope of the dispute, the administrative proceedings were severed due to the need to litigate disputed decertification election issues first, the hearing for which began on September 29, 2014 and concluded on March 12, 2015. That hearing has involved more than 130 witnesses over 105 hearing days and covers many issues relevant to both parties in this case, given that they are both farming operations in California. That initial stage is fully briefed and submitted. While the parties are waiting for a decision from the administrative law judge for that hearing, the remaining portion of the proceeding,

involving unfair labor practice allegations, remains to be litigated as soon as possible. In parallel litigation involving Petitioner, a constitutional challenge against portions of the ALRA was recently decided in Petitioner's favor by the California 5th District Court of Appeal, and is now before the California Supreme Court with briefing schedules pending. The ALRB and appellate proceedings have implications for a majority of growers in California, including Registrant, because they 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 new ALRB and appellate proceedings are concluded or at least the hearings concluded, Petitioner will be able to turn its focus back to this proceeding and hopefully conclude a settlement shortly. Petitioner believes that the hearing on the remaining severed portion of the ALRB proceedings will begin sometime in October or November 2015, depending on extensive pre-hearing motions and should be concluded a few months thereafter with briefing to follow. Petitioner also believes briefing to the Supreme Court in the appellate matter will be scheduled over the next two to three months.

Petitioner believes that the parties' coexistence agreement should be finalized by early 2016.

Petitioner is also engaged in another litigation, which is set for trial in late February 2016.

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

Respectfully submitted,

Dated: August 20, 2015

/Jill M. Pietrini/
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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 20th day of August, 2015.

/Monica Danner/
Monica Danner

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 20th day of August, 2015.

/Monica Danner/
Monica Danner

SMRH:447421995.2