

ESTTA Tracking number: **ESTTA745384**

Filing date: **05/10/2016**

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

Proceeding	92060085
Party	Defendant Port Excel International Limited
Correspondence Address	NING BAO 1921 ROCK STREET #28 MOUNTAIN VIEW, CA 94043 UNITED STATES nbao@nguyen-chen.com, ningbao@gmail.com, patrick.reilly@ipsociety.net
Submission	Other Motions/Papers
Filer's Name	Ning Bao
Filer's e-mail	nbao@nguyen-chen.com, ningbao@gmail.com, patrick.reilly@ipsociety.net
Signature	/Ning Bao/
Date	05/10/2016
Attachments	MOMENTO MOTION TO EXTEND 160510-eFiled.pdf(112341 bytes )

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

Proceeding.	92060085
Applicant	Plaintiff <b>DCore Lifestyle Inc.</b>
Other Party	Defendant <b>Port Excel International Ltd.</b>
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	No

**MOTION TO EXTEND TIME TO ANSWER**

Defendant, **Port Excel International Ltd.** (hereinafter “**Port Excel**”), first respectfully notes that the **Parties** are actively engaged in negotiations for the settlement of this matter and have achieved and fully executed Settlement Agreement (as previously submitted) the promises of which Settlement Agreement are in the process of full performance by the **Parties**.

**Port Excel** further notes that it has resubmitted a MOTION FOR SUSPENSION FOR SETTLEMENT WITH CONSENT AND REQUEST EXCUSAL OF INSUFFICIENT SHOWING OF INTENT IN PREVIOUSLY FILED MOTION FOR SUSPENSION OF APRIL 2016 on May 2, 2016, and also filed another Motion to Suspend with Consent Pending Settlement Negotiation with supporting documents on May 5, 2016. **Port Excel** has not to date received notice of a ruling by the Trademark Trial and Appeal Board on either motion.

As per the aforementioned and previously submitted, Settlement Agreement, **Plaintiff** agrees to **withdraw** this cancellation proceeding upon the confirmation of the approval by USPTO’s Trademark Trial and Appeal Board of **Port Excel’s** Section 7 Request as attached and previously submitted by **Port Excel**. Therefore, **Port Excel** respectfully asserts it to be in the interest of both the **Parties** and the Trademark Trial and Appeal Board not to initiate a trial. Accordingly, **Port Excel** prays that the Trademark Trial and Appeal Board extend the allotted time to Answer in order to avoid initiation of a trial in the course of the above-referenced Cancellation Proceeding.

**Port Excel** provides the following summary of key developments that substantiate the parties’ continued progress since the last Motion to Suspend with Consent pending settlement negotiation filed by Defendant **Port Excel** on April 8, 2016:

- April 08, 2016: Defendant **Port Excel** filed the Motion to Suspend with Consent pending settlement negotiation.
- April 15, 2016: Defendant **Port Excel's** Motion to Suspend was denied.
- May 02, 2016: Defendant **Port Excel** filed a MOTION FOR SUSPENSION FOR SETTLEMENT WITH CONSENT AND REQUEST EXCUSAL OF INSUFFICIENT SHOWING OF INTENT IN PREVIOUSLY FILED MOTION FOR SUSPENSION OF APRIL 2016.
- May 04, 2016: Defendant **Port Excel** communicated with Plaintiff about the motion filed on May 2, 2016 via telephone, and also engaged in a negotiation for the Plaintiff's withdrawal from the above-referenced cancellation proceeding before the scheduled Time to Answer by Defendant, May 10, 2016. Plaintiff refused to withdraw before the USPTO approves the Section 7 Request to Revise the Goods & Services Listings by Deletion of Elements that was filed by Defendant on March 31, 2016. However, Plaintiff agreed to another 30-day suspension and a prompt withdrawal immediately after the approval of the Section 7 Request.
- May 04, 2016. Defendant **Port Excel** communicated with Plaintiff. Plaintiff also agreed to another 30-day to extend the time to answer if a suspension for settlement is unavailable to the parties. Plaintiff agreed to a prompt withdrawal immediately after the approval of the Section 7 Request.
- May 05, 2016. Defendant **Port Excel** filed a Motion to Suspend with Consent Pending Settlement Negotiation.
- May 06, 2016. Counsel to Defendant **Port Excel** attempted to communicate via telephone with the Interlocutory Attorney of TTAB, ELIZABETH A DUNN to request that the Trademark Trial and Appeal Board rule affirmatively on both of its motions as filed in May 2016. **Port Excel** thereupon learned by voice mail greeting that Ms. Dunn is out of office until May 16, 2016.

Therefore, **Port Excel** again respectfully prays that the Board not initiate a trial in the course of the above-referenced Cancellation Proceeding.

Consequently, **Port Excel** requests the Trademark Trial and Appeal Board to first rule on its motions to suspend recently filed in May 2016. If the Board decided that above referenced Cancellation Proceeding cannot be further suspended, **Port Excel** requests that the time for Defendant to file an answer to be extended for 30 days to allow the parties to continue their settlement efforts, as per the following schedule:

<b>Time to Answer :</b>	<b>06/09/2016</b>
<b>Deadline for Discovery Conference :</b>	<b>07/09/2016</b>
<b>Discovery Opens :</b>	<b>07/09/2016</b>
<b>Initial Disclosures Due :</b>	<b>08/08/2016</b>
<b>Expert Disclosure Due :</b>	<b>12/06/2016</b>
<b>Discovery Closes :</b>	<b>01/05/2017</b>
<b>Plaintiff's Pretrial Disclosures :</b>	<b>02/19/2017</b>
<b>Plaintiff's 30-day Trial Period Ends :</b>	<b>04/05/2017</b>

<b>Defendant's Pretrial Disclosures :</b>	<b>04/20/2017</b>
<b>Defendant's 30-day Trial Period Ends :</b>	<b>06/04/2017</b>
<b>Plaintiff's Rebuttal Disclosures :</b>	<b>06/19/2017</b>
<b>Plaintiff's 15-day Rebuttal Period Ends :</b>	<b>07/19/2017</b>

**Port Excel** has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

**Port Excel** has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

/NING BAO/

---

Ning Bao, Esq.  
Attorney for Registrant  
Port Excel International Ltd.  
nbao@nguyen-chen.com  
TEL: 650.860.5168

## CERTIFICATE OF SERVICE

Registrant **PORT EXCEL INTERNATIONAL, LTD.** hereby certifies that a copy of this **MOTION FOR SUSPENSION FOR SETTLEMENT WITH CONSENT** has been served upon **DCORE LIFESTYLE INCORPORATED** on this 5<sup>th</sup> day of May, 2016, by US Post via first class mail with full postage at the following address:

Richard Y. Kim  
McDermott Will & Emery LLP  
500 North Capitol Street NW  
Washington, D.C. 20001

/NING BAO/

---

Ning Bao, Esq.  
Attorney for Registrant  
Port Excel International Ltd.  
nbao@nguyen-chen.com  
TEL: 650.860.5168