

UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

SOCIETE DES PRODUITS NESTLE, S.A.	)	
(by assignment from the Stouffer	)	
Corporation),	)	No. 04-1369
	)	
Appellant,	)	(Opposition No. 111,517)
	)	
v.	)	Appeal from the United States Patent
	)	and Trademark Office, Trademark
APPLEBEE'S INTERNATIONAL, INC.,	)	Trial and Appeal Board.
	)	
Appellee.	)	

**MOTION FOR AN EXTENSION OF TIME**

Appellant Societe des Produits Nestle, A.A. (by assignment from the Stouffer Corporation) ("Nestle") hereby moves this Court for an extension of 7 days up to and including November 8, 2004. In support of its motion, Nestle states as follows:

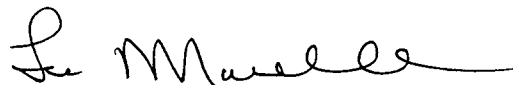
1. This is an appeal from a decision of United States Patent and Trademark Office, Trademark Trial and Appeal Board, in Opposition No. 111,517 between Nestle and Applebee's International, Inc.
2. Concurrently with this appeal is pending an action filed by Applebee's against Nestle in the District of Kansas relating to the same mark at issue in the Opposition.
3. Nestle's Brief of Appellant was originally due on July 13, 2004. The parties reached a settlement in principle, and Nestle obtained extensions until September 1, 2004, October 1, 2004, and again until November 1, 2004, in order to allow the parties to document the settlement.
4. The parties have now finalized the settlement. Nestle has not yet received the executed signature page of the settlement agreement from Applebee's. Nestle submitted the attached letter on November 1, 2004, to apprise the Court of the circumstances and to request a

7-day extension in which to either dismiss the appeal pursuant to the settlement agreement or otherwise act.

5. On November 2, 2004, the Court informed counsel that a formal motion would be required. Nestle thus submits this motion.

For the foregoing reasons, Nestle respectfully requests that this Court grant its motion for an extension of time.

Respectfully submitted,



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ATTORNEYS FOR APPLICANT

CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that the foregoing Motion for Extension of Time in Which to File Brief of Appellant was filed by facsimile transmission upon the Clerk at (202) 633-9623 and served upon counsel for Applebee's, J. David Wharton, Stinson Morrison Hecker LLP, at (816) 691-3495, pursuant to Federal Circuit Rule 25(a); and further that the original Motion was sent to the Clerk by Federal Express, and a copy was sent to General Counsel, United States Patent and Trademark Office, P.O. Box 15667, Arlington, VA 22215, to the Trademark Trial and Appeal Board of the United States Patent and Trademark Office, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 222-02-3514, and also to counsel for Applebee's, at Stinson Morrison Hecker LLP, 1201 Walnut Street, Kansas City, Missouri 64106-2150, by First Class Mail on this 3rd day of November 2004.





K. Lee Marshall  
Direct: (314) 259-2135  
klmarshall@bryancave.com

November 1, 2004

Via Facsimile (202) 633 - 9623 and FEDERAL EXPRESS

Mr. Jan Horbaly  
Clerk of Court  
U.S. Court of Appeals for the Federal Circuit  
Howard T. Markey National Courts Bldg.  
717 Madison Pl., N.W., Room 401  
Washington, D.C. 20439

Re: Societe Des Produits Nestle, S.A. v. Applebee's International, Inc.  
No. 04-1369, Opposition No. 111,517

Dear Mr. Horbaly:

Regarding the above-captioned appeal, Appellant has in the past moved for extensions of time in which to file its brief due to ongoing settlement negotiations. Appellant's brief is currently due today, November 1, 2004. Appellant hereby informs the Court that the parties have finalized a settlement, however they have not yet exchanged executed signature pages of the settlement agreement.

Accordingly, to ensure that the settlement agreement is completely and properly executed, Appellant respectfully requests an extension of 7 (seven) days in which to either dismiss the appeal pursuant to the settlement agreement or otherwise act.

Thank you for your assistance with this matter.

Very truly yours,

K. Lee Marshall  
KLM/HSC

cc: General Counsel, United States Patent and Trademark Office  
Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office  
J. David Wharton, Esq.

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TTAB

November 3, 2004

VIA FACSIMILE (202) 633-9623 AND FEDERAL EXPRESS

Mr. Jan Horbaly  
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75/301,628  
75/305,648

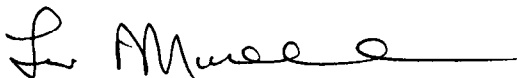
Re: Societe Des Produits Nestle, S.A. v. Applebee's International, Inc.  
No. 04-1369, Opposition No. 111,517

Dear Mr. Horbaly:

Enclosed for filing in the above-referenced case are an original and four (4) copies of Nestle's for an Extension of Time. Filing and service is being made in compliance with Federal Circuit Rule 25(a). Please file stamp and return one copy with the enclosed self-addressed, stamped envelope.

Thank you for your assistance with this matter.

Very truly yours,

  
K. Lee Marshall

KLM/mdb  
Enclosure

cc: General Counsel, United States Patent and Trademark Office  
Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office  
J. David Wharton, Esq.

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11-12-2004

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