

# TTAB

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

-----X  
MARTHA STEWART LIVING :  
OMNIMEDIA, INC. :

Opposer, :

v. :

AMERICAN PUBLISHING, LLC and :  
MARS ADVERTISING COMPANY, INC. :

Applicants. :  
-----X

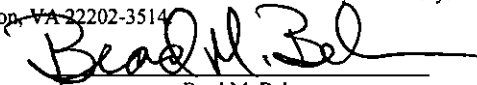
Opposition No. 91157919

**CERTIFICATE OF EXPRESS MAIL  
UNDER 37 C.F.R. § 1.10**

"Express Mail" mailing label number: **EL 803884585 US**

DATE OF DEPOSIT: July 26, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service Under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514



Brad M. Behar

### MOTION ON CONSENT FOR THIRD EXTENSION OF DISCOVERY PERIOD

Opposer, Martha Stewart Living Omnimedia, Inc. ("MSLO"), through its undersigned counsel, hereby requests on consent of counsel for Applicant American Publishing, LLC and Mars Advertising Company, Inc. that the Trademark Trial and Appeal Board extend the time for discovery and testimony by sixty (60) days in this proceeding as follows:

Discovery Period to Close:	October 16, 2004
30-day testimony period for party in position of plaintiff to close:	January 14, 2005
30-day testimony period for party in position of defendant to close:	March 15, 2005
15-day rebuttal testimony period for plaintiff to close:	April 29, 2005



07-26-2004

The additional time is requested because ownership of the subject trademark application has allegedly been assigned to Mars Advertising Company, Inc., which has consented to join as a party to the opposition. Thus, the additional time is required to permit MSLO to obtain discovery from Mars Advertising, Inc. The parties conferred and consented to the joinder of Mars and the above extension on July 8, 2004 and July 21, 2004.

The additional time is requested for the reasons stated herein, and is not requested for the purpose of unduly delaying this proceeding. Since the parties respectfully state they have shown good cause for this request, we request that the extension be granted.

Respectfully submitted,

KENYON & KENYON

By: 

Howard J. Shire

Brad M. Behar

KENYON & KENYON

One Broadway

New York, New York 10004

(212) 425-7200

Attorneys for Opposer

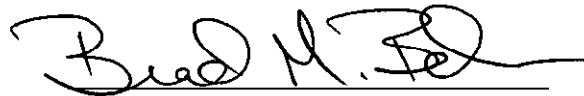
Martha Stewart Living Omnimedia, Inc.

Dated: July 26, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Motion on Consent for Third Extension of Discovery and Testimony Periods* has been sent on this 26<sup>th</sup> day of July, 2004, via first class mail, postage prepaid to:

Thomas E. Bejin, Esq.  
Young & Basile, P.C.  
3001 W. Big Beaver Road  
Troy, MI 48084-3107  
(248) 649-3333

A handwritten signature in black ink, appearing to read "Brad M. Behar", written over a horizontal line.

Brad M. Behar