


**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 **76083594**

CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F.R. § 1.10
"Express Mail" mailing label number: EL803885705 US
DATE OF DEPOSIT: <u>November 15, 2004</u>
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, P.O. Box 1451, Alexandria, VA 22313-1451.
 Brad M. Behar

**MOTION ON CONSENT FOR FIFTH
EXTENSION OF DISCOVERY AND TESTIMONY PERIODS**

Martha Stewart Living Omnimedia, Inc. ("MSLO"), through its undersigned counsel, hereby requests, with the consent of counsel for American Publishing, LLC and Mars Advertising Company, Inc., that the Trademark Trial and Appeal Board extend the time for discovery and testimony by thirty (30) days in this proceeding as follows:

DISCOVERY PERIOD TO CLOSE:	December 15, 2004
30-day testimony period for party in the position of plaintiff to close:	March 15, 2005
30-day testimony period for party in the position of defendant to close:	May 14, 2005
15-day rebuttal testimony period for party in the position of the plaintiff to close:	June 28, 2005

The additional time is requested because the parties have agreed upon the basic terms of a settlement and a formal written settlement agreement is nearly completed. The parties have agreed to



11-15-2004

suspend all discovery in this proceeding because it appears that the case will settle. The parties intend to notify the Board as soon as the settlement document is fully executed.

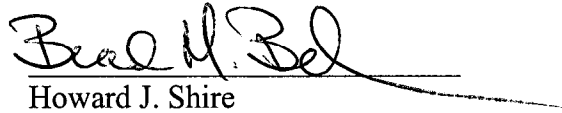
The additional time is requested for the reasons stated herein, and is not requested for the purpose of unduly delaying this proceeding. We request that the extension be granted.

Respectfully submitted,

KENYON & KENYON

Dated: November 15, 2004

By:



Howard J. Shire

Brad M. Behar

KENYON & KENYON

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New York, New York 10004

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Attorneys for Opposer

Martha Stewart Living Omnimedia, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion on Consent for Fifth Extension of Discovery and Testimony Periods* has been sent on this 15th day of November, 2004, via first class mail, postage prepaid to:

Thomas E. Bejin, Esq.
Dan Checkowsky, Esq.
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Brad M. Behar