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Filing date: **02/03/2012**

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

Proceeding	91196963
Party	Plaintiff Kellogg North America Company
Correspondence Address	LISABETH H COAKLEY HARNESS DICKEY & PIERCE PLC 5445 CORPORATE DRIVE, SUITE 200 TROY, MI 48098 UNITED STATES coakley@hdp.com, tjcomparoni@hdp.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Lisabeth H. Coakley
Filer's e-mail	coakley@hdp.com, tjcomparoni@hdp.com
Signature	/lhc/
Date	02/03/2012
Attachments	91196963 - SMART BALANCE Consented Motion to Extend 020312.pdf (4 pages)(107820 bytes)

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

KELLOGG NORTH AMERICA COMPANY,)
Opposer,)
v.) Opposition Nos. 91196963; 91198489 (Consolidated)
GFA BRANDS, INC.) Serial Nos. 77/864279, 77/864206; 77/864268
Applicant.) Mark: SMART BALANCE
_____)

**CONSENTED MOTION TO EXTEND
DISCOVERY AND TRIAL PERIODS**

Opposer, Kellogg North America Company, respectfully requests that the discovery and trial periods be extended for a period of thirty (30) days in order to allow the parties additional time to pursue settlement in this matter. Additionally, the parties have agreed to extend the time to respond to outstanding discovery requests by thirty (30) days. Johanna M. Wilbert, counsel for Applicant, consented to this Motion to Extend by e-mail on Friday, February 3, 2012.

Since the time of the filing of this opposition proceeding, the parties have been in ongoing and active settlement discussions and have exchanged multiple settlement proposals. Since the time of the last request for extension of discovery and trial periods, Applicant responded to Opposer's latest settlement proposal on January 11, 2012. Additionally, the parties have exchanged e-mail correspondence regarding certain specifics of Applicant's latest proposal so that the parties may schedule and participate in a telephone settlement conference to further refine and discuss the proposal. Currently, Opposer requires additional time to review Applicant's latest proposal.

Applicant has served Opposer with its first set of Interrogatories and its Requests for Production of Documents and Things. Applicant has also served a deposition notice on Opposer. Opposer has served its first set of Interrogatories, Requests for Production of Documents and Things

and Request for Admissions on Applicant. The parties have consistently agreed to extend the time for discovery responses while they are in settlement discussions.

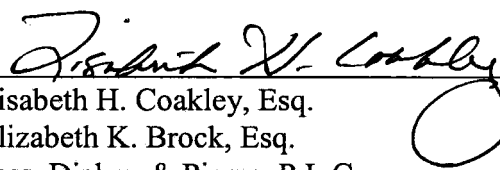
The parties have reached agreement on most terms of the Settlement Agreement including certain limitations on use of the mark. The remaining issues include the nature and extent of the limitations of use. The parties reasonably expect that resolution of these outstanding issues will fall within the extension period requested.

In light of the above and since this request is made for good cause and not made simply for purposes of delay, it is respectfully requested that trial dates be reset as indicated below:

Kellogg's Objections and Responses to GFA Brands, Inc.'s First Requests for Production of Documents Due	03/05/12
Discovery Closes	03/06/12
Kellogg's Objections and Responses to GFA Brands, Inc.'s First Set of Interrogatories due	03/09/12
Applicant's Objections and Responses to Kellogg's First Set of Discovery Requests due	03/19/12
Plaintiff's Pretrial Disclosures	04/14/12
Plaintiff's 30-Day Trial Period Ends	05/29/12
Defendant's Pretrial Disclosures.....	06/13/12
Defendant's 30-Day Trial Period Ends.....	07/30/12
Plaintiff's Rebuttal Disclosures	08/12/12
Plaintiff's 15-Day Rebuttal Period Ends.....	09/11/12

Respectfully submitted,

Date: February 3, 2012

By: 
Lisabeth H. Coakley, Esq.
Elizabeth K. Brock, Esq.
Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive, Suite 200
Troy, Michigan 48098
(248) 641-1600
Attorneys for Kellogg North America
Company

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_____)

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Consented Motion to Extend Discovery and Trial Periods has been served on Johanna M. Wilbert, counsel for Applicant, GFA Brands, Inc., by agreement, via e-mail addressed to johanna.wilbert@quarles.com, on February 3, 2012.



Timothy J. Comparoni