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

Proceeding	91225703
Party	Plaintiff Urgent Care MSO, LLC
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Submission	Motion to Suspend for Settlement Discussions
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Date	09/02/2018
Attachments	2018-09-02 - Joint Report on Settlement Status and Motion to Suspend with Consent.pdf(28425 bytes )

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

In the Matter of Application Serial No. 86/595,594  
Published in the Official Gazette of September 8, 2015

URGENT CARE MSO, LLC,

Opposer,

v.

MESSAGE ENVY FRANCHISING, LLC,

Applicant.

Opposition No. 91225703

**JOINT REPORT ON SETTLEMENT STATUS AND  
MOTION TO SUSPEND PROCEEDINGS WITH CONSENT**

Pursuant to the Board’s Order of July 16, 2018, Opposer Urgent Care MSO, LLC (“Opposer”) and Applicant Massage Envy Franchising, LLC (“Applicant”) hereby submit this Joint Report on Settlement Status and Motion to Suspend Proceedings with Consent, showing the Board as follows:

1. The parties have been engaged in settlement negotiations since Opposer initiated this proceeding on January 6, 2016. [1 TTABVUE.] The Board granted four requests for extension of time to answer in order to allow the parties to continue their negotiations. [5 TTABVUE; 7 TTABVUE; 9 TTABVUE; 11 TTABVUE.] Unfortunately, the parties were unable to resolve their issues after those initial rounds of negotiation, so Applicant filed its Answer on October 12, 2016. [12 TTABVUE.]

2. Since that time, the parties have exchanged several drafts of a written agreement memorializing proposed settlement terms. The Board has supported the parties’ efforts by granting a number of additional requests for extension of deadlines and suspension for continued

settlement negotiation. [13 TTABVUE; 15 TTABVUE; 18 TTABVUE; 20 TTABVUE; 22 TTABVUE; 24 TTABVUE; 26 TTABVUE; 28 TTABVUE; 30 TTABVUE; 32 TTABVUE; 35 TTABVUE; 37 TTABVUE.]

3. The parties are wary of abusing the privilege of extensions and suspensions and have attempted to settle their dispute without having to make any further requests to the Board. Unfortunately, it appears the parties will need some additional time in which to attempt to reach final settlement terms. Therefore, in support of this Motion to Suspend Proceedings with Consent, as requested by the Board in its July 16, 2018 Order [38 TTABVUE], the parties hereby provide a detailed report to establish good cause for a further suspension.

4. The parties submitted their most recent motion for suspension on June 29, 2018. [37 TTABVUE.] On July 13, 2018, Applicant's counsel reached out to Opposer's via email, seeking comments on the latest draft agreement.

5. Following receipt of Applicant's comments, Opposer's counsel received further guidance from Opposer regarding its position. On August 29, 2018, Opposer's counsel spoke with Applicant's counsel via telephone and conferred regarding the merits of their clients' respective positions and, as a result of the call, were hopeful that a compromise remains possible. Opposer's counsel agreed to further confer with Opposer and to expedite negotiations. As of the August 29, 2018 discussion, the parties had agreed regarding most of the details of the potential co-existence of the marks at issue, but were still at an impasse regarding two terms. Counsel believes the parties will reach a final decision, one way or the other, during the requested suspension period.

6. Under the current schedule set forth by the Board, expert disclosures are due on September 2, 2018. [38 TTABVUE 2.] Meanwhile, discovery is set to close on October 2, 2018.

[Id.] As a result, out of an abundance of caution, Opposer served Applicant with its First Set of Interrogatories, First Set of Requests for Production of Documents and Things, and First Set of Requests for Admissions via email on August 31, 2018. However, Opposer's counsel also informed Applicant's counsel that Opposer was hopeful that no discovery would be necessary and that the dispute would be finally resolved during the requested suspension period. Similarly, on September 2, 2018, Applicant served on Opposer a First Set of Interrogatories, First Set of Requests for Production of Documents and Things, and First Set of Requests for Admissions. Applicant's counsel likewise is hopeful that discovery will be unnecessary due to a potential resolution during the requested suspension period.

7. Counsel for Applicant has expressly provided consent to the suspension requested herein.

8. The parties believe they can complete their negotiations within 60 days. For the foregoing reasons, and in view of the progress the parties have made toward settlement since their last motion for suspension, Opposer and Applicant respectfully and jointly submit that good cause exists to suspend this proceeding for another 60 days, with a schedule as set on the following page:

	<b>Current Schedule</b>	<b>Proposed Schedule</b>
Time to Answer		
Deadline for Discovery Conference		
Discovery Opens		
Initial Disclosures Due		
Expert Disclosures Due	09/02/2018	11/02/2018
Discovery Closes	10/02/2018	12/02/2018
Plaintiff's Pretrial Disclosures Due	11/16/2018	01/16/2019
Plaintiff's 30-day Trial Period Ends	12/31/2018	03/02/2019
Defendant's Pretrial Disclosures Due	01/15/2019	03/17/2019
Defendant's 30-day Trial Period Ends	03/01/2019	05/01/2019
Plaintiff's Rebuttal Disclosures Due	03/16/2019	05/16/2019
Plaintiff's 15-day Rebuttal Period Ends	04/15/2019	06/15/2019
Plaintiff's Opening Brief Due	06/14/2019	08/14/2019
Defendant's Brief Due	07/14/2019	09/13/2019
Plaintiff's Reply Brief Due	07/29/2019	09/28/2019
Request for Oral Hearing (optional) Due	08/08/2019	10/08/2019

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Dated: September 2, 2018

Respectfully submitted by:

SEYFARTH SHAW LLP

/s/ Kenneth L. Wilton

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MESSAGE ENVY FRANCHISING, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on September 2, 2018, I served the foregoing JOINT REPORT ON SETTLEMENT STATUS AND MOTION TO SUSPEND PROCEEDINGS WITH CONSENT by e-mailing a copy thereof to Applicant's counsel of record:

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with copies to michael.geller@dlapiper.com, ch.tm@dlapiper.com, and tamar.duvdevani@dlapiper.com.

/s/ Kenneth L. Wilton  
Kenneth L. Wilton

Attorney for Opposer  
URGENT CARE MSO, LLC