

ESTTA Tracking number: **ESTTA895011**

Filing date: **05/07/2018**

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

|                        |   |
|------------------------|---|
| Proceeding             | 91230042  |
| Party                  | Plaintiff<br>Provide Commerce, Inc.   |
| Correspondence Address | MICHAEL CULVER<br>MILLEN WHITE ZELANO & BRANIGAN PC<br>2200 CLARENDON BLVD SUITE 1400<br>ARLINGTON, VA 22201<br>UNITED STATES<br>Email: mandell@mwzb.com, major@mwzb.com, docketing@mwzb.com, culver@mwzb.com |
| Submission             | Motion to Suspend for Settlement Discussions  |
| Filer's Name           | Scott J. Major  |
| Filer's email          | major@mwzb.com, culver@mwzb.com, docketing@mwzb.com   |
| Signature              | /Scott J. Major/  |
| Date                   | 05/07/2018  |
| Attachments            | consented motion for suspension - 5-7-18.pdf(222880 bytes )   |

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

|                           |   |                            |
|---------------------------|---|----------------------------|
| Provide Commerce, Inc.    | ) |                            |
|                           | ) |                            |
| Opposer                   | ) |                            |
|                           | ) |                            |
| v.                        | ) | Opposition No. 91230042    |
|                           | ) | Mark: SIGNATURE BERRY BOX  |
| Edible Arrangements, LLC, | ) | App. Serial No. 86/835,876 |
|                           | ) |                            |
| Applicant                 | ) |                            |
| _____                     | ) |                            |

**OPPOSER’S MOTION ON CONSENT TO SUSPEND  
FOR SETTLEMENT NEGOTIATIONS**

Opposer Provide Commerce, Inc. (“Opposer”), by and through counsel, hereby moves for an order suspending the proceedings in this matter for a period of sixty (60) days. The suspension is requested to allow the parties to continue to negotiate appropriate terms and to attempt to finalize a settlement among the parties.

Since the filing of the last extension request on March 14, 2018, the parties have been negotiating in good faith regarding terms related to use and registration of the mark at issue in this proceeding, as well as marks at issue in related proceedings between the parties, and have engaged in the following settlement activities: (1) there were multiple phone conferences and emails exchanged between counsel regarding the settlement proposal set forth by Opposer via email on March 8, 2018 and related issues; (2) Applicant’s outside counsel sent on April 19, 2018 an email to outside counsel for Opposer regarding Applicant’s response to same; (3) Opposer’s outside counsel promptly forwarded on that same date Applicant’s response to Opposer; (4) Opposer and its outside counsel conferred regarding the Applicant’s response of April 19 over the next week; (5) outside counsel for the parties conferred by phone on April 20

and via email on April 24 and April 26 regarding this proceeding and related matters; (6) Opposer authorized outside counsel on April 27, 2018 to send a revised proposal for settlement to Applicant's outside counsel; (7) Opposer's outside counsel presented the new proposal to Applicant's outside counsel via email on April 27, 2018; (8) Applicant's outside counsel promptly forwarded on that same date Opposer's response to Applicant; (9) outside counsel for the parties had a brief telephone discussion regarding the matter on April 30, 2018; (10) after conferring with Applicant, Applicant's outside counsel sent to Opposer's outside counsel on May 3 a new proposal; (11) Opposer's counsel forwarded the proposal to Opposer on May 3; and (12) Opposer and its outside counsel continue to confer regarding the proposal of May 3, 2018.

The parties desire additional time to attempt to negotiate the terms of a settlement and to draft and finalize an agreement concerning the registration and use of the mark at issue in this opposition, as well as marks that are the subject of other proceedings between the parties. Opposer's outside counsel has been in communication with Opposer's in-house counsel about the May 3 proposal, and anticipates responding on or before Friday, May 11, 2018. The parties aim to use the remainder of the suspension to attempt to negotiate additional settlement terms and to draft and finalize a settlement agreement.

Accordingly, Opposer, with the consent of Applicant, moves for an order suspending the proceedings in this matter for a period of sixty (60) days and resetting all subsequent deadlines in this matter as follows:

Expert Disclosure Due: 07/6/2018  
Discovery Closes: 08/5/2018  
Plaintiff's Pretrial Disclosures: 09/19/2018  
Plaintiff's 30-day Trial Period Ends: 11/3/2018  
Defendant's Pretrial Disclosures: 11/18/2018  
Defendant's 30-day Trial Period Ends: 1/2/2018  
Plaintiff's Rebuttal Disclosures: 1/17/2018  
Plaintiff's 15-day Rebuttal Period Ends: 2/16/2019

The parties also request further that the proceeding be suspended pending disposition of this motion. In the event that the Board denies this motion, Opposer requests an extension of deadlines by thirty (30) days after such denial.

PROVIDE COMMERCE, INC.

/Scott J. Major/

Date: May 7, 2018

By: \_\_\_\_\_

Scott J. Major  
Michael S. Culver  
Millen, White, Zelano & Branigan, P.C.  
2200 Clarendon Blvd., Suite 1400  
Arlington, Virginia 22201  
Tel: 703-243-6333  
Fax: 703-243-6410  
[major@mwzb.com](mailto:major@mwzb.com)  
[culver@mwzb.com](mailto:culver@mwzb.com)

Attorneys for Opposer

Certificate of Service

This is to certify that a copy of the foregoing was served this 7th day of May 2018 by email on Applicant's attorney as follows: [MRM@ccl.com](mailto:MRM@ccl.com) .

By: /Scott J. Major/  
Attorney for Opposer