

ESTTA Tracking number: **ESTTA1001647**

Filing date: **09/13/2019**

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

Proceeding	91234715
Party	Plaintiff Birds Eye Foods LLC
Correspondence Address	MICHAEL ALVEY HUSCH BLACKWELL LLP 190 CARONDELET PLAZA, SUITE 600 ST LOUIS, MI 48304-5098 UNITED STATES Michelle.Alvey@huschblackwell.com, Alan.Nemes@huschblackwell.com, Mike.Tolles@huschblackwell.com 314-480-1500
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Michelle Alvey
Filer's email	pto-sl@huschblackwell.com, Michelle.Alvey@huschblackwell.com, Nicole.Anderson@huschblackwell.com
Signature	/Michelle Alvey/
Date	09/13/2019
Attachments	Motion_to_Extend_and_Status_Report.pdf(104477 bytes)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on September 13th, 2019.

/Michelle Alvey/

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

Application Serial No. 86920322

BIRDS EYE FOODS LLC,)	
)	
Opposer,)	Opposition No. 91234715
)	
v.)	
)	
MICHAEL HANSON.,)	
)	
Applicant.)	

**CONSENT MOTION TO EXTEND FOR SETTLEMENT
AND STATUS REPORT**

Pursuant to the TTAB’s condition in its July 12, 2019 order granting the extension of all dates in the above-referenced matter, the parties hereby submit the following Consent Motion for Extension and Status Report.

The history relating to the settlement discussions are set forth below. Further, with the change of ownership and representation for Opposer, it has required some additional time for new counsel for Opposer to review the file and the comments to the draft settlement agreement recently provided by counsel for Applicant. The parties would appreciate the Board's understanding in granting a further extension while the parties work to resolve this matter.

STATUS REPORT

The parties communicated various settlement offers and positions as follows:

- November 13, 2017 – Proposal from Applicant to Opposer regarding possible settlement.
- December 11, 2017 – Counter-proposal sent by Opposer to Applicant.
- January 8, 2018 – Reply to counter-proposal sent by Applicant.
- April 24, 2018 – Opposer sent draft settlement agreement to Applicant.
- November 15, 2018 – Notification from counsel for Applicant that lead counsel had transitioned to a new firm and that a determination was being made as to how the matter would be handled, which resulted in a delay in providing comments to the draft agreement.
- February 4, 2019 – Change of attorney/correspondence filed on behalf of Applicant.
- May 2019 – Follow-up sent to counsel for Applicant regarding comments to draft settlement agreement.
- June 26, 2019 – Entry of Appearance filed for new counsel for Opposer due to a change of ownership for Opposer.
- July 9, 2019 – The parties filed a joint motion to extend the deadlines.
- July 12, 2019 – The motion to extend deadlines was granted by the Board, but the Board indicated that a status report would be required for further extensions.
- August 18, 2019 – Counsel for Applicant provided comments to the settlement agreement prepared by prior counsel for Opposer.
- Opposer is reviewing the comments and the parties require additional time to work to resolve the matter and to finalize an agreement.

The general nature of each communication above consisted of various points of a proposed written settlement agreement that would result in withdrawal of the Application by Applicant and withdrawal of opposition by Opposer.

Applicant and Opposer have conferred with regard to the content of this Consent Motion for

Extension and Status Report, and Applicant has consented to the relief requested. The Parties request that the deadlines in this proceeding be extended for 60 days to allow the parties to work on a written settlement agreement. The parties request a 60 day extension, and that the deadlines be reset as follows:

	Current Schedule	Proposed Schedule
Initial Disclosures Due		
Expert Disclosures Due	9/21/2019	11/20/2019
Discovery Closes	10/21/2019	12/20/2019
Plaintiff's Pretrial Disclosures Due	12/5/2019	2/3/2020
Plaintiff's 30-day Trial Period Ends	1/19/2020	3/19/2020
Defendant's Pretrial Disclosures Due	2/3/2020	4/3/2020
Defendant's 30-day Trial Period Ends	3/19/2020	5/18/2020
Plaintiff's Rebuttal Disclosures Due	4/3/2020	6/2/2020
Plaintiff's 15-day Rebuttal Period Ends	5/3/2020	7/2/2020
Plaintiff's Opening Brief Due	7/2/2020	8/31/2020
Defendant's Brief Due	8/1/2020	9/30/2020
Plaintiff's Reply Brief Due	8/16/2020	10/15/2020
Request for Oral Hearing (optional) Due	8/26/2020	10/25/2020

Respectfully submitted,

By: /Michelle Alvey/
Michelle Alvey
Alan S. Nemes
Michael J. Tolles
HUSCH BLACKWELL LLP
The Plaza in Clayton Office Tower
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Michelle.alvey@huschblackwell.com

Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been duly served on the Applicant by mailing a copy of same via electronic mail on this 13th day of September 2019 to:

MICHELLE Q PHAM
HELSELL FETTERMAN LLP
1001 4TH AVENUE, 42ND FLOOR
SEATTLE, WA 98154
UNITED STATES
trademark@helsell.com, mpham@helsell.com

Attorneys for Applicant.

/Michelle Alvey/