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

Proceeding	91238728
Party	Defendant Paris Croissant Co., Ltd.
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Submission	Stipulated/Consent Motion to Extend
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Date	11/04/2019
Attachments	motion to extend 4 Nov 2019.pdf(151879 bytes)

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

BIRDS EYE FOODS LLC,)
)
 Opposer) Opposition No. 91238728
) Mark:



v.) Serial Nos. 87168679, 87168692
)
 PARIS CROISSANT CO., LTD.,)
)
 Applicant)

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

Pursuant to the TTAB's condition in its May 16, 2019 order granting the extension of all dates in the above-referenced matter, that the Parties submit a status report in support of any future motions to extend, Applicant, Paris Croissant Co., Ltd. submits the following Consent Motion for Extension and Status Report.

With regard to the status report, the following lays out the requested updates. However, note that a change in legal representation has very recently occurred for Opposer, which may result in further extensions needed for settlement discussions. Specifically, Opposer's business was recently acquired by Conagra. As a result, new counsel for Opposer has recently made an appearance (filed June 26, 2019). The parties would appreciate the Board's understanding in continuing to grant extensions as needed, as the parties are not only in the middle of settlement negotiations but also negotiations with new counsel on Opposer's side. We further note that

Applicant is located in S. Korea, which requires more time to communicate settlement offers back and forth with regard to local Korean counsel and required translations.

STATUS REPORT

The parties communicated various settlement offers and positions as follows:

- Feb. 1, 2018, email from Applicant's counsel to Opposer's prior counsel regarding settlement March 14, 2018 – discovery conference conducted by phone between Applicant's counsel and Opposer's prior counsel
- March 27, 2018 – email from Opposer's prior counsel to Applicant's counsel regarding settlement
- May 4, 2018, email from Applicant's counsel to Opposer's prior counsel regarding settlement
- August 17, 2018 - email from Opposer's prior counsel to Applicant's counsel regarding settlement
- August 29, 2018, email from Applicant's counsel to Opposer's prior counsel regarding settlement
- November 28, 2018 – telephone discussion with Applicant's counsel and Opposer's prior counsel regarding settlement
- Dec. 17, 2018, email from Applicant's counsel to Opposer's prior counsel regarding settlement
- March 1, 2019, email from Applicant's counsel to Opposer's prior counsel regarding request for status update on latest settlement position
- March 21, 2019 - email from Opposer's prior counsel to Applicant's counsel regarding settlement
- May 1, 2019, email from Applicant's counsel to Opposer's prior counsel regarding request for Opposer's prior counsel to prepare written settlement agreement for review
- June 13, 2019 - email from Opposer's prior counsel to Applicant's counsel regarding notification that Opposer was purchased by Conagra and new counsel would be appointed

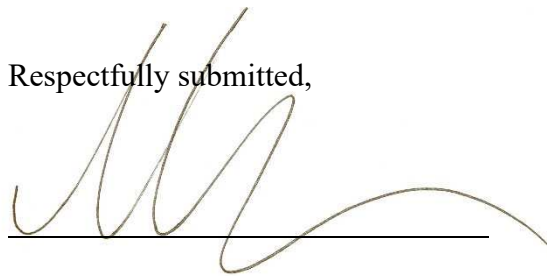
- June 26, 2019 – new counsel for Opposer entered an appearance and notified Applicant's counsel that a written settlement agreement was being prepared for review
- July 5, 2019 – The parties filed a joint motion to extend the deadlines to provide time for new counsel for Opposer to review the file and prepare a draft settlement agreement
- July 12, 2019 – The motion was granted by the Board
- August 13, 2019 – Counsel for Opposer sent a draft settlement agreement to counsel for Applicant for review and comments
- Sept. 4, 2019 – The parties filed a joint motion to extend the deadlines to provide time for Applicant to review and comment on the draft settlement agreement
- Sept. 10, 2019 – The motion was granted by the Board
- Applicant is still in the process of reviewing the draft agreement, and Applicant has had some back and forth with its Korean counsel and its U.S. counsel (the undersigned) regarding the agreement. In general, a settlement agreement such as the one discussed herein does take additional time to consider for Applicant, as (a) Applicant is located in S. Korea; (b) Applicant is working with local counsel and with U.S. counsel; and (c) the draft agreement is in English, whereas Applicant's first language is Korean; therefore, it takes some time for Applicant to work through an agreement regarding its trademarks (which involves four trademarks, which are the subject of this Opposition No. 91238728 and Opposition No. 91243391).

Applicant continues to review and consider the agreement, and work with U.S. and Korean counsel on its agreement and the parties will continue to actively work towards a resolution of the matter.

Applicant and Opposer have conferred with regard to the content of this Consent Motion for Suspension and Status Report, and Opposer 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 the settlement agreement. The parties request a 60 day extension, and that the deadlines be reset as follows:

	Current Schedule	Proposed Schedule
Initial Disclosures Due	11/04/2019	01/03/2020
Expert Disclosures Due	03/03/2020	05/02/2020
Discovery Closes	04/02/2020	06/01/2020
Plaintiff's Pretrial Disclosures Due	05/17/2020	07/16/2020
Plaintiff's 30-day Trial Period Ends	07/01/2020	08/29/2020
Defendant's Pretrial Disclosures Due	07/16/2020	09/14/2020
Defendant's 30-day Trial Period Ends	08/30/2020	10/29/2020
Plaintiff's Rebuttal Disclosures Due	09/14/2020	11/13/2020
Plaintiff's 15-day Rebuttal Period Ends	10/14/2020	12/13/2020
Plaintiff's Opening Brief Due	12/13/2020	02/11/2021
Defendant's Brief Due	01/12/2021	03/13/2021
Plaintiff's Reply Brief Due	01/27/2021	03/28/2021
Request for Oral Hearing (optional) Due	02/06/2021	04/07/2021

Respectfully submitted,



Date: 4 November 2019

By:

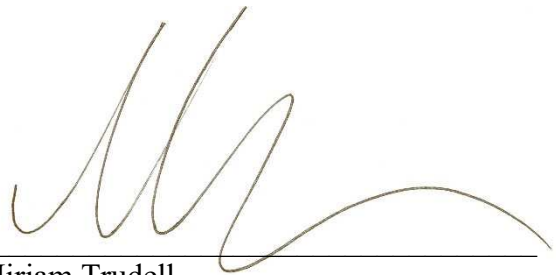
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**ATTORNEYS FOR APPLICANT
PARIS CROISSANT CO., LTD.**

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2019 a true and correct copy of the **CONSENT MOTION TO EXTEND FOR SETTLEMENT DISCUSSION AND STATUS REPORT** was served by email only to:

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A handwritten signature in black ink, appearing to read 'MT', is written over a horizontal line. The signature is fluid and cursive.

Miriam Trudell