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

Proceeding	91239524
Party	Plaintiff Eating Well, Inc.
Correspondence Address	Mark Lerner Satterlee Stephens LLP 230 PARK AVENUE, SUITE 1130 NEW YORK, NY 10169 UNITED STATES mlerner@ssbb.com 212-404-8714
Submission	Other Motions/Papers
Filer's Name	Mark Lerner
Filer's email	mlerner@ssbb.com, kathleen.rheintgen@huschblackwell.com
Signature	/mark lerner/
Date	08/17/2018
Attachments	Motion to reset due dates - Eating Well vs. DEW - 91239524_3041438_2.pdf(22219 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Eating Well, Inc., :
Opposer, : Opposition No. 91239524
- against - :
DEW – Drink Eat Well, LLC :
Applicant. :
----- X

**MOTION TO CORRECT CONSENTED MOTION TO SUSPEND FOR
SETTLEMENT FILED ON JUNE 21, 2018**

On June 21, 2018, Eating Well Inc. filed a Consented Motion to Extend
Discovery due date for 60 days to allow the parties to continue their settlement efforts.

The deadlines had previously been extended in May to the following:

Time to Answer : CLOSED
Deadline for Discovery Conference : CLOSED
Discovery Opens : CLOSED
Initial Disclosures Due : 06/26/2018
Expert Disclosure Due : 10/22/2018
Discovery Closes : 11/21/2018
Plaintiff's Pretrial Disclosures : 01/05/2019
Plaintiff's 30-day Trial Period Ends : 02/19/2019
Defendant's Pretrial Disclosures : 03/06/2019
Defendant's 30-day Trial Period Ends : 04/20/2019
Plaintiff's Rebuttal Disclosures : 05/05/2019
Plaintiff's 15-day Rebuttal Period Ends : 06/04/2019

The intent in filing for an extension in June had been to extend for a further 60 days so
that the schedule would be as follows:

Time to Answer : CLOSED
Deadline for Discovery Conference : CLOSED
Discovery Opens : CLOSED

Initial Disclosures Due : 08/25/2018
Expert Disclosure Due : 12/21/2018
Discovery Closes : 1/20/2018
Plaintiff's Pretrial Disclosures : 03/06/2019
Plaintiff's 30-day Trial Period Ends : 04/20/2019
Defendant's Pretrial Disclosures : 05/05/2019
Defendant's 30-day Trial Period Ends : 06/19/2019
Plaintiff's Rebuttal Disclosures : 07/04/2019
Plaintiff's 15-day Rebuttal Period Ends : 08/03/2019

However, in filing the extension request in June, the *original* Initial Disclosure Due date of June 26, 2018 was mistakenly selected as if it were the next upcoming deadline, when, in fact the August 25, 2018 discovery closing date should have been selected as the next upcoming deadline from among the choices. This date thus served as the trigger date for the recalculation. Based on that, the dates were re-set to the following:

Time to Answer: CLOSED
Deadline for Discovery Conference: CLOSED
Discovery Opens: CLOSED
Initial Disclosures Due: CLOSED
Expert Disclosure Due: 07/22/2018
Discovery Closes: 08/21/2018
Plaintiff's Pretrial Disclosures: 10/05/2018
Plaintiff's 30-day Trial Period Ends: 11/19/2018
Defendant's Pretrial Disclosures: 12/04/2018
Defendant's 30-day Trial Period Ends: 01/18/2019
Plaintiff's Rebuttal Disclosures: 02/02/2019
Plaintiff's 15-day Rebuttal Period Ends: 03/04/2019

This schedule provides for an even earlier close of discovery than originally ordered and is not in keeping with what had been the parties' intent to move all dates out by ninety (90) days from the original deadlines. Eating Well, Inc. therefore respectfully requests that the dates be corrected and reset as follows:

Time to Answer: CLOSED
Deadline for Discovery Conference: CLOSED
Discovery Opens: CLOSED
Initial Disclosures Due: 08/25/2018
Expert Disclosure Due: 12/21/2018

Discovery Closes: 1/20/2018
Plaintiff's Pretrial Disclosures: 03/06/2019
Plaintiff's 30-day Trial Period Ends: 04/20/2019
Defendant's Pretrial Disclosures: 05/05/2019
Defendant's 30-day Trial Period Ends: 06/19/2019
Plaintiff's Rebuttal Disclosures : 07/04/2019
Plaintiff's 15-day Rebuttal Period Ends: 08/03/2019

Dated: New York, New York
August 16, 2018

Respectfully submitted,

Eating Well, Inc.

By: /mark lerner/

Mark Lerner

Satterlee Stephens LLP

230 Park Avenue

New York, New York 10169

Tel. (212) 404-8714

Date: August 16, 2018

CERTIFICATE OF SERVICE

I hereby certify that on this day that a true and complete copy of the foregoing Consented Motion To Amend Application, Suspend Opposition And Conditional Dismissal Without Prejudice has been served today on Opposer by emailing and sending copies via First Class Mail, postage prepaid to:

Kathleen A Rheintgen
kathleen.rheintgen@huschblackwell.com
Husch Blackwell LLP
120 South Riverside Plaza – 22 Floor
Chicago, IL 60606

Dated: August 16, 2018

/pboisson/
By: Patrick Boisson