

ESTTA Tracking number: **ESTTA1310388**Filing date: **09/15/2023**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91267153
Party	Plaintiff South Beach Beverage Company, Inc.
Correspondence address	PAUL J. REILLY BAKER BOTTS L.L.P. 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 UNITED STATES Primary email: paul.reilly@bakerbotts.com Secondary email(s): meghna.prasad@bakerbotts.com, john.mitchell@bakerbotts.com, nytmdpt@bakerbotts.com 212-408-2500
Submission	Stipulated/Consent Motion to Extend
Filer's name	Paul J. Reilly
Filer's email	paul.reilly@bakerbotts.com, meghna.prasad@bakerbotts.com, lucy.soyinka@bakerbotts.com, john.mitchell@bakerbotts.com, nytm- dpt@bakerbotts.com
Signature	/Paul J. Reilly/
Date	09/15/2023
Attachments	2023.09.15 Consent Mtn to Extend.pdf(104351 bytes )

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

**IN THE MATTER OF APPLICATIONS**

Mark : LITEWATER & Design  
Applicant : Litewater, Inc.  
Serial No. : 88/920,986  
Filed : May 18, 2020  
Published in  
the **Official Gazette** : September 22, 2020

Mark : LITEWATER & Design  
Applicant : Litewater, Inc.  
Serial No. : 88/920,947  
Filed : May 18, 2020  
Published in  
the **Official Gazette** : September 22, 2020

Mark : LITEWATER SCIENTIFIC & Design  
Applicant : Litewater, Inc.  
Serial No. : 90/002,762  
Filed : June 15, 2020  
Published in  
the **Official Gazette** : September 22, 2020

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SOUTH BEACH BEVERAGE :  
COMPANY, INC., :  
:  
Opposer, : Opposition No. 91267153  
:  
v. :  
:  
Litewater, Inc., :  
:  
Applicant. :  
\_\_\_\_\_ X

**CONSENTED MOTION TO EXTEND ALL DEADLINES BY 90 DAYS**

In accordance with Federal Rule of Civil Procedure 6(b), 36 C.F.R. § 2.120(a), and Rules 403.04 and 509 of the Trademark Trial and Appeal Board (“Board”) Manual of Procedure, Opposer, South Beach Beverage Company, Inc. (hereinafter “SoBe” or “Opposer”), with the

consent of Applicant Litewater, Inc. (hereinafter “Applicant”), hereby submit this request to extend all deadlines in the above-referenced opposition proceeding by ninety (90) days. Pursuant to the Board’s April 17, 2023 Order [Dkt. 29], this motion provides an update on the progress of the parties’ settlement discussions. This Motion is made in good faith and without any intention of causing delays in this proceeding.

Pursuant to the Board’s April 17, 2023 Order, in this proceeding, the period for expert disclosures expires on September 17, 2023, and the discovery closes on October 17, 2023. [Dkt. 31]. Since the filing of the parties’ Consent Motion to Extend on June 14, 2023, the parties have been involved in active communications concerning the resolution of this dispute, and believe further progress has been made. Specifically, on July 17, 2023, counsel for Opposer provided Applicant via e-mail with comments on the draft settlement agreement. Applicant responded with feedback and comments on the draft settlement agreement on July 24, 2023. On July 25, 2023, SoBe’s counsel confirmed receipt of Applicant’s revisions to the draft agreement and provided further comments to Applicant. On or about July 28, 2023 after receiving comments to an exhibit to the draft agreement from Applicant, SoBe provided its proposed revisions to that exhibit. SoBe then followed up with Applicant on August 11, 2023 to ascertain the status of Applicant’s review of the draft agreement, and proposed extending all dates while the parties continued their settlement negotiations. Having not received a response from Applicant, SoBe followed up again on August 25, 2023. On September 8, 2023, Applicant’s counsel confirmed via email that Applicant consented to a 90-day extension of deadlines in this matter and anticipated having comments on the draft agreement shortly. Applicant’s counsel confirmed today that Applicant’s comments on the revised draft will be complete and forward to SoBe on Monday, September 18, 2023.

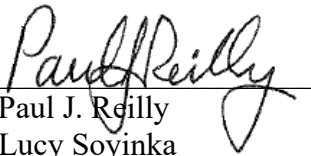
Having additional time to continue negotiations, without jeopardizing either party's ability to complete discovery by the existing deadline in this matter, will foster continued cooperation between the parties and facilitate a possible amicable resolution of the matter which could preserve valuable resources of not only the parties but the Board as well. This request is made in good faith and not for purposes of delay.

For the reasons stated and the good cause shown herein, Opposer, with Applicant's consent, respectfully requests that the Board grant this motion and extend all deadlines by ninety (90) days in accordance with the schedule set forth below, or ninety (90) days from the date that the Board rules on this Motion, whichever is later. *See* TBMP 509.02 (“[I]t is preferable ... that the motion request that the new period or periods be set to run from the date of the Board's decision on the motion.”):

Expert Disclosures Due	12/16/2023
Discovery Closes	1/15/2024
Plaintiff's Pretrial Disclosures Due	2/29/2024
Plaintiff's 30-day Trial Period Ends	4/14/2024
Defendant's Pretrial Disclosures Due	4/29/2024
Defendant's 30-day Trial Period Due	6/13/2024
Plaintiff's Rebuttal Disclosures Due	6/28/2024
Plaintiff's 15-day Rebuttal Period Ends	7/28/2024
Plaintiff's Opening Brief Due	9/26/2024
Defendant's Brief Due	10/26/2024
Plaintiff's Reply Brief Due	11/10/2024
Request for Oral Hearing (optional) Due	11/20/2024

Dated: September 15, 2023

Respectfully submitted,

By:   
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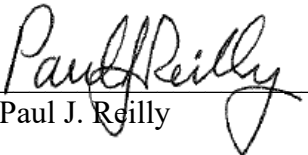
**ATTORNEYS FOR OPPOSER,  
SOUTH BEACH BEVERAGE  
COMPANY, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below a true and correct copy of the  
aforementioned document “**CONSENTED MOTION TO EXTEND ALL DEADLINES BY  
90 DAYS**” was served by e-mail on the following counsel of record for Applicant as follows:

Joseph Posillico  
Christopher Kinkade  
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Philadelphia, PA 19103-3222  
Phone: (215) 299-2000  
Joseph.Posillico@fisherbroyles.com  
Christopher.Kinkade@fisherbroyles.com

On September 15, 2023

By:   
Paul J. Reilly