

ESTTA Tracking number: **ESTTA1328869**Filing date: **12/15/2023**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, nytmdpt@bakerbotts.com, john.mitchell@bakerbotts.com
Signature	/Paul J. Reilly/
Date	12/15/2023
Attachments	2023.12.15 Consent Mtn to Extend.pdf(104859 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

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

**CONSENTED MOTION TO EXTEND ALL DEADLINES BY 60 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 submits this request to extend all deadlines in the above-referenced opposition proceeding by sixty (60) days. Pursuant to the Board’s September 18, 2023 Order [TTABVUE Dkt. 35], 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 September 18, 2023 Order, the period for expert disclosures expires on December 16, 2023, and the discovery closes on January 15, 2024. [TTABVUE Dkt. 35]. Since the filing of the parties’ Consent Motion to Extend on September 15, 2023, the parties have been involved in active communications concerning the resolution of this dispute, and believe further progress has been made. Specifically, on September 19, 2023, counsel for Applicant provided Opposer via e-mail with comments on the draft settlement agreement. By email on September 22, 2023, Opposer responded with feedback and comments on the draft settlement agreement. On October 9, 2023, SoBe’s counsel followed up with Applicant’s counsel to check on status of settlement to which he advised that he was trying to schedule a call with his client to discuss. Opposer subsequently followed up with Application on October 24, November 8 and November 15, 2023 to find out the status of Applicant’s comments on the draft agreement. By email on November 20, 2023, Applicant served Opposer’s counsel with further revisions to the draft agreement. That same day, Opposer advised Applicant’s counsel that his client’s comments were passed along Opposer for consideration; however, given the holidays and the current schedule, requested Applicant’s consent to extend all dates by 60 days. With a follow up from Opposer’s counsel, Applicant consented to extend the dates in an email dated December 4, 2023.

At present, the issues remaining appear to concern the nature and scope of use of by Applicant of the certain marks at issue, but the parties believe they are moving closer to resolving these outstanding issues with the expectation of concluding their negotiations in advance of the extended closing date for discovery. 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. As noted, this request is made in good faith and not for purposes of delay.

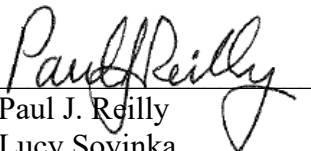
For the reasons stated and the good cause shown herein, Opposer, with Applicant’s consent, respectfully requests that the Board grant this motion and extend all deadlines by sixty (60) days in accordance with the schedule set forth below, or sixty (60) days from the date that the Board rules on this 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	2/14/2024
Discovery Closes	3/15/2024
Plaintiff’s Pretrial Disclosures Due	4/29/2024
Plaintiff’s 30-day Trial Period Ends	6/13/2024
Defendant’s Pretrial Disclosures Due	6/28/2024
Defendant’s 30-day Trial Period Due	8/12/2024
Plaintiff’s Rebuttal Disclosures Due	8/27/2024
Plaintiff’s 15-day Rebuttal Period Ends	9/26/2024

Plaintiff's Opening Brief Due	11/25/2024
Defendant's Brief Due	12/25/2024
Plaintiff's Reply Brief Due	1/9/2025
Request for Oral Hearing (optional) Due	1/19/2025

Dated: December 15, 2023

Respectfully submitted,

By:   
Paul J. Reilly  
Lucy Soyinka  
2001 Ross Avenue, Suite 900  
Dallas, Texas 75201-2980  
Telephone: (214) 953-6500

Meghna Prasad  
30 Rockefeller Plaza  
New York, NY 10112-4498  
Telephone: (214) 953-6500

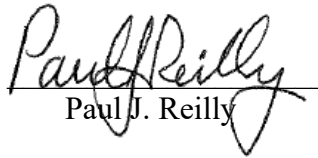
**ATTORNEYS FOR OPPOSER,  
SOUTH BEACH BEVERAGE  
COMPANY, INC.**

**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  
60 DAYS**” was served by e-mail on the following counsel of record for Applicant as follows:

Joseph Posillico  
Christopher Kinkade  
One Liberty Place,  
1650 Market Street, 36<sup>th</sup> Floor  
Philadelphia, PA 19103-3222  
Phone: (215) 299-2000  
Joseph.Posillico@fisherbroyles.com  
Christopher.Kinkade@fisherbroyles.com

On December 15, 2023

By:   
Paul J. Reilly