

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: Jon Leibowitz, Chairman
J. Thomas Rosch
Edith Ramirez
Julie Brill
Maureen Ohlhausen



In the Matter of)
)
)
POM WONDERFUL LLC and)
ROLL GLOBAL, as successor in interest)
to Roll International companies, and)
)
)
STEWART A. RESNICK,)
LYNDA RAE RESNICK, and)
MATTHEW TUPPER, individually and)
as officers of the companies.)
_____)

**Docket No. 9344
PUBLIC**

RESPONDENT'S UNOPPOSED MOTION TO SCHEDULE ORAL ARGUMENT

Pursuant to Rule 4.3(b), of the Commission's Rules of Practice ("Rules"), 16 C.F. R. § 4.3(b), Respondents POM Wonderful LLC, Roll Global, Lynda Resnick, Stewart Resnick, and Matthew Tupper (collectively, "Respondents") respectfully move the Commission to extend the time for oral argument from August 9, 2012 to August 22, 2012 or a date thereafter due to the unavailability of its appellate counsel, Edward Lazarus, and an arbitration that is scheduled in which POM Wonderful LLC and Roll Global Corporation's General Counsel, Craig Cooper, must participate. Based on the current briefing schedule, under Commission Rule 3.52(a)(1), Respondents expect that oral argument would be held on or before August 9, 2012, absent an extension. Respondents respectfully request that argument be held on August 22, 2012 or thereafter so that their counsel can adequately prepare and attend. Respondents have contacted Complaint Counsel and they do not object to this motion.

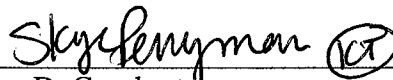
Section 4.3(b) of the Commission's Rules permits the Commission to "extend any time limit prescribed by the rules in this chapter" for "good cause shown." 16 C.F.R. § 4.3(b). Good cause exists for this extension so that Respondents' counsel can fully participate in and prepare for oral argument. Failure to grant such an extension would severely prejudice Respondents who would not be able to participate in the argument due to an arbitration and other commitments.

On May 17, 2012, Chief Administrative Law Judge D. Michael Chappell issued an Initial Decision in this matter. Both Complaint Counsel and Respondents submitted Notices of Appeal on June 4, 2012. Briefing is currently ongoing and will be complete by July 25, 2012 and, under the Rules, oral argument is to occur by August 9, 2012. Respondents respectfully request that the Commission extend the time for oral argument until August 22 or a date thereafter. Respondents have retained Mr. Edward Lazarus to argue this appeal and Mr. Lazarus has entered his appearance. Prior to being retained by Respondents to principally handle their appeal, Mr. Lazarus had committed to lecturing on international communications policy and engaging in other teaching sessions at the Legatum Institute's Summer School in Italy from July 27 to August 7. The Institute is based in London and the Summer School is for 25 fellows chosen from applicants throughout the world. Because of Mr. Lazarus's preexisting commitment, he, therefore, will not be available for argument during this time. Respondents respectfully request that the schedule be amended to provide Mr. Lazarus sufficient time to return to the United States and prepare for argument.

Moreover, Respondents' Genentech Counsel, Craig Cooper, is participating in an arbitration starting July 26, 2012. The arbitration, *Sun Pacific Group v. Paramount Group*, Case No. 72 180 Y 0118711-JEMO, is pending before the American Arbitration Association and it is estimated that the arbitration will last approximately four weeks. Mr. Cooper, who oversees the

legal defense in this case for POM Wonderful LLC and Roll Global Corporation, will be engaged in the *Sun Pacific* arbitration at that time and thus is unable to attend oral argument in this matter until after the arbitration concludes. Respondents, therefore, request that the Commission extend the time for oral argument and schedule argument on or after August 22, 2012.

Respectfully Submitted,



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CERTIFICATION

Respondents have conferred with Complaint counsel and Complaint counsel does not oppose this motion.

CERTIFICATE OF SERVICE

I hereby certify that this is a true and correct copy of Respondents' **UNOPPOSED MOTION TO SCHEDULE ORAL ARGUMENT**, and that on this 14th day of June, 2012, I caused the foregoing to be served by hand delivery and email on the following:

Donald S. Clark
The Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Rm. H-159
Washington, DC 20580

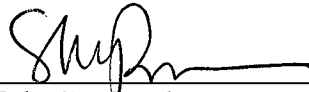
The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW
Rm. H-110
Washington, DC 20580

I hereby certify that this is a true and correct copy of Respondents' **UNOPPOSED MOTION TO SCHEDULE ORAL ARGUMENT**, and that on this 14th day of June, 2012, I caused the foregoing to be served by e-mail on the following:

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