

1 IAN C. BALLON (SBN: 141819)
 KAREN ROSENTHAL (SBN 209419)
 2 CINDY HAMILTON (SBN 217951)
 GREENBERG TRAUIG, LLP
 3 1900 University Avenue, Fifth Floor
 East Palo Alto, California 94303
 4 Telephone: (650) 328-8500; Facsimile: (650) 328-8508
 Email: ballon@gtlaw.com; rosenhalk@gtlaw.com;
 5 hamiltonc@gtlaw.com

6 STEVEN M. SCHNEEBAUM (admitted *pro hac vice*)
 MICHAEL J. QUARTARONE (admitted *pro hac vice*)
 7 GREENBERG TRAUIG, LLP
 2101 I Street, N.W.
 8 Washington, D.C. 20037
 Telephone: (202) 530-8544; Facsimile: (202) 261-2665
 9 Email: schneebaums@gtlaw.com; quartaronem@gtlaw.com

10 Attorneys for Defendant/Counter-claimant Royal Canin USA, Inc.

11 JOHN DOUGLAS MOORE (SBN: 095655)
 HENN, ETZEL & MOORE, INC.
 12 1970 Broadway, Ste. 950
 Oakland, CA 94612-2228
 13 Telephone: (510) 893-6300; Facsimile: (510) 433-1298
 Email: jmoore@hennetzel.com

14 FRANCIS O. SCARPULLA (SBN: 041059)
 15 JUDITH A. ZAHID (SNB: 215418)
 ZELLE, HOFMANN, VOELBEL & MASON, LLP
 16 44 Montgomery Street, Suite 3400
 San Francisco, CA 94104
 17 Telephone: (415) 693-0700; Facsimile: (415) 693-0770
 Email: fscarpulla@zelle.com; jzahid@zelle.com

18 Attorneys for Plaintiff/Counter-defendant Pet Food Express Ltd.

19
 20 UNITED STATES DISTRICT COURT
 21 NORTHERN DISTRICT OF CALIFORNIA

22 PET FOOD EXPRESS LTD.,
 23
 24 Plaintiff,
 25 v.
 26 ROYAL CANIN USA INC.,
 27 Defendants.
 28 AND RELATED COUNTERCLAIM.

Case No. C09-01483 MHP
 (Consolidated with Case No. C09-0704 MHP)
**JOINT MOTION TO AMEND CASE
 DEADLINES AND [PROPOSED] ORDER**

1 Plaintiff and Counter-defendant Pet Food Express Ltd. and Defendant and Counter-claimant
2 Royal Canin USA Inc., through their respective counsel, hereby submit the parties' Joint Motion to
3 Amend Case Deadlines.

4 **BACKGROUND**

5 On October 12, 2010, the parties submitted a Joint Motion to Amend the Court's Discovery
6 Schedule to permit Royal Canin USA Inc. ("RC USA") to take the depositions of Michael Levy,
7 Mark Witriol, Terri Witriol, Glen Novotny, and the corporate representative of Pet Food Express Ltd.
8 ("PFE") during the week of November 7, 2010. The Joint Motion was based on RC USA's expressed
9 desire for additional time to consider documents originally requested on August 17, 2010, which had
10 not yet been produced. The Joint Motion stated that neither party anticipated the need for further
11 amendment to the Court's case schedule. The Court granted the Joint Motion on October 19, 2010.

12 However, RC USA now believes that the relief sought was too limited because RC USA's
13 expert wants to consider information RC USA intends to solicit in the depositions now scheduled for
14 the week of November 7, 2010, before issuing his expert report. Under the Court's current case
15 schedule, that expert report is due on November 1, 2010, prior to the depositions of PFE's principals,
16 officers, director, and corporate representative.

17 The parties therefore agree that: (1) fairness requires that the expert-report deadline be
18 extended one additional month; and (2) an extension of the expert-report deadline requires that all
19 other case deadlines be amended as well.

20 After conferring through counsel, the parties agreed to the following suggested changes:

21 <u>Event:</u>	22 <u>Current Date:</u>	23 <u>Proposed Date:</u>
24 Expert Designations & Reports	25 November 1, 2010	26 December 1, 2010
27 Close of Expert Discovery	28 December 1, 2010	January 21, 2011
Dispositive Motions Deadline	December 13, 2010	February 9, 2011
Oppositions Deadline	January 3, 2011	February 28, 2011
Replies Deadline	January 10, 2011	March 7, 2011
Hearing on Dispositive Motions	January 24, 2011	March 21, 2011
Pretrial Documents Deadline	February 14, 2011	April 11, 2011

1 Pretrial Conference

February 24, 2011

April 21, 2011

2 Trial

March 8, 2011

April 26, 2011 at 8:30 a.m.
~~Week of April 25, or as~~
~~soon thereafter as~~
~~possible~~

3
4
5
6 **ARGUMENT**

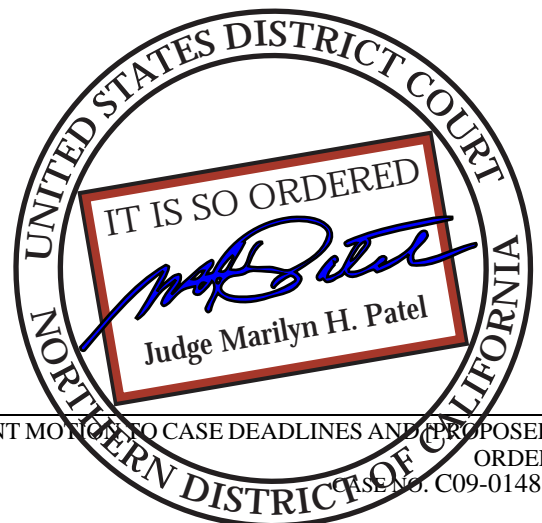
7 The Court should exercise its broad authority to manage this case and extend all of the case
8 deadlines for the same reasons it previously granted the parties' Joint Motion to Amend the
9 Discovery Deadlines: the relief requested results from the parties' attempt to resolve a potential
10 discovery dispute, as mandated by the Federal Rules of Civil Procedure. That potential dispute was
11 indeed resolved through the meet-and-confer process, but the limited relief sought from the Court left
12 RC USA's expert without access to the discovery materials that RC USA intends to obtain through
13 the deposition process. A minimal delay in the ultimate resolution of the case is justified under these
14 circumstances.

15 Moreover, allowing RC USA's expert an opportunity to consider all relevant evidence before
16 issuing his report would be the only way, in these circumstances, to effectuate the design of the
17 Court's August 23, 2010 scheduling order. The original schedule mandated the completion of all
18 non-expert discovery before the expert reports and designations were due. That can only occur if the
19 expert report and other deadlines are extended as requested.

20 **CONCLUSION**

21 Accordingly, for the reasons stated above, the parties' joint motion should be granted, and the
22 case schedule amended in a manner as consistent with the proposed dates as the Court's calendar
23 allows.

24
25 10/29/2010



1 Dated: October 28, 2010.

GREENBERG TRAURIG, LLP

2
3
4 By: /s/ Karen Rosenthal
Ian C. Ballon
Karen Rosenthal

5
6 Attorneys for Defendant/Counter-claimant
Royal Canin USA Inc.

7
8 Dated: October 28, 2010.

ZELLE, HOFMANN, VOELBEL & MASON,
LLP.

9
10 By: /s/ Judith A. Zahid
Francis O. Scarpulla
Judith A. Zahid

11
12 Attorneys for Plaintiff/Counter-defendant
Pet Food Express Ltd.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION CLAUSE

I, Karen Rosenthal, am the ECF User whose ID and password are being used to file this JOINT MOTION TO AMEND CASE DEADLINES AND [PROPOSED] ORDER. In compliance with General Order 45, X.B., I hereby attest that Judith A. Zahid, counsel for Plaintiff, has concurred in this filing.

Date: October 28, 2010.

GREENBERG TRAURIG LLP

By: /s/ Karen Rosenthal
Karen Rosenthal

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[PROPOSED] ORDER

IT IS SO ORDERED.

Dated: _____

Honorable Marilyn H. Patel
United States District Court Judge