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Attorneys for Plaintiff RARE BREED DISTILLING, LLC

7 UNITED STATES DISTRICT COURT
 8 NORTHERN DISTRICT OF CALIFORNIA
 9 SAN FRANCISCO DIVISION

11 RARE BREED DISTILLING LLC, a Delaware limited liability company,

12 Plaintiff,

13 v.

14 HEAVEN HILL DISTILLERIES, INC., a
15 Kentucky Corporation, and DOES 1 through
16 30, inclusive,

Defendants.

CASE NO. CV-09-4728 EDL

**STIPULATION TO EXTEND TIME TO
 RESPOND TO PENDING DISCOVERY
 REQUESTS AND TO CONTINUE TRIAL
 DATE
 (LOCAL RULES 6-2, 7-12)**

Dept: Courtroom E, 15th Floor
 Judge: Magistrate Judge Elizabeth D. LaPorte

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 19 Subject to the approval of the Court, plaintiff Rare Breed Distilling LLC ("Rare
 20 Breed") and defendant Heaven Hill Distilleries, Inc., ("Heaven Hill") stipulate with respect to the
 21 following facts:

22 A. On February 17, 2010, the parties stipulated to continue all deadlines to respond to
 23 pending discovery requests by 30 days to allow the parties to participate in settlement discussions
 24 (Document No. 26).

25 B. The parties' current deadline to complete mediation is ninety days following the
 26 Court's denial of defendant's motion to transfer venue, dated January 25, 2010 (Documents Nos. 16,
 27 25).

Rare Breed v. Heaven Hill,
 Case No. CV 09-4728 EDL
 Stipulation To Extend Time To Respond To
 Pending Discovery Requests And To Continue
 Trial Date

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1 C. The current discovery cut off is July 30, 2010.

2 D. The current trial date is January 31, 2011.

3 E. Defendant's production of documents is due Friday, March 26, 2010. Defendant's
4 responses to plaintiff's first set of special interrogatories are due March 30, 2010. Plaintiff's
5 deadlines to respond to pending discovery are set out in the February 17, 2010, stipulation.

6 F. On February 23, 2010, the parties' principals met in Chicago to discuss settlement.
7 The parties met again by telephone on March 17, 2010, to discuss settlement. The parties'
8 discussions have been productive. Because the subject matter of the litigation is in part defendant's
9 trade dress, however, each round of discussions requires a significant period of time for the
10 preparation of iterations of proposed design changes. That is, approximately two weeks were
11 required after the parties' first in person meeting in Chicago for defendant to prepare proposed
12 design changes, and approximately an additional two weeks will be required for the next round of
13 proposed changes.

14 G. The parties anticipate reviewing a new set of proposed design changes during the
15 week of March 29, 2010. Another round of proposed changes (requiring another two weeks) may
16 or may not be necessary to determine if a settlement is possible.

17 H. Accordingly, the parties seek to continue all pending deadlines to respond to
18 discovery by an additional 30 days. The parties seek to continue the deadline to complete mediation
19 by 30 days, to May 25, 2010. Because the requested extensions of time will push plaintiff's
20 deadline to respond to defendant's first request for production of documents to May 22, and the
21 current discovery cut off is July 30, the parties further seek to continue the current trial date, the
22 current discovery cut off, and all associated dates by between 30 and 60 days, as the Court's
23 calendar may allow.

24 I. There is good cause for extending discovery deadlines, mediation deadlines, and the
25 trial date. The parties' principals have held good faith and productive meeting in person to pursue
26 settlement. Settlement of trade dress disputes necessarily requires significant time because of the
27 time required to create new designs that will meet defendant's needs but avoid plaintiff's claims.

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1 The parties are diligently pursuing these discussions and design changes. They are also diligently
2 pursuing discovery – both parties have served requests for production and interrogatories; defendant
3 has served requests for admission. Both parties are diligently gathering documents and
4 interviewing witnesses. But they believe that their time and resources will be well spent in pursuing
5 the settlement discussions underway without incurring the additional expense of responding to the
6 pending formal discovery demands. Extending the pending deadlines does not leave enough time
7 before the discovery cut off to complete discovery, particularly depositions of party and third-party
8 witnesses.

9 Subject to the approval of the Court, the parties stipulate as follows:

- 10 1. All deadlines to respond to pending discovery as set forth in the parties' February 17,
- 11 2010 stipulation (Document No. 26) shall be extended by 30 days.
- 12 2. Mediation shall be completed no later than May 25, 2010.
- 13 3. The non expert discovery cut off shall be August 29, 2010.
- 14 4. Initial expert disclosures shall be made no later than August 29, 2010.
- 15 5. Rebuttal disclosures shall be made no later than September 12, 2010.
- 16 6. All expert discovery shall be completed no later than October 15, 2010.
- 17 7. The last day for hearing dispositive motions shall be December 9, 2010.
- 18 8. Trial shall be continued from between 30 and 60 days as the Court's calendar may
- 19 allow, with the final pretrial conference scheduled by the Court according to the trial date.

20 Dated: March 24, 2010

Dated: March 24, 2010

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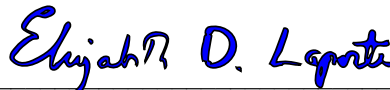
IT IS SO ORDERED.

Jury trial shall begin on March 14, 2011 at 8:30 a.m. in Courtroom E, 15th Floor.

A pretrial conference shall be held on February 22, 2011 at 2:00 p.m. in Courtroom E, 15th Floor.

The last day to hear dispositive motions shall be December 7, 2010.

Dated: March 29, 2010



ELIZABETH D. LAPORTE
United States Magistrate Judge

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