

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF THE ADMINISTRATIVE LAW JUDGE



In the Matter of

**BENCO DENTAL SUPPLY CO.,
a corporation,**

**HENRY SCHEIN, INC.,
a corporation, and**

**PATTERSON COMPANIES, INC.,
a corporation,**

Respondents.

Docket No. 9379

**COMPLAINT COUNSEL’S UNOPPOSED MOTION TO EXTEND THE DEADLINE TO
RESPOND TO PATTERSON’S MOTION TO DISMISS THE CASE AGAINST
PATTERSON IN ITS ENTIRETY**

Pursuant to Federal Trade Commission Rules of Practice for Adjudicative Proceedings (“Rule”) 3.22 and 4.3(b), 16 C.F.R. §§ 3.22, 4.3(b), Complaint Counsel moves to extend the deadline for filing its Response to Respondent Patterson’s Motion to Dismiss The Case Against Patterson in its Entirety to February 6, 2019. Complaint Counsel requests this extension in light of the recent government shutdown, during which this case was stayed and Complaint Counsel was precluded by law from working on its Response. Respondent Patterson does not oppose the requested relief.

Patterson filed its Motion on December 20, 2018, which, under the Rules, made Complaint Counsel’s response due on January 2, 2019. On December 27, 2018, the Court granted Complaint Counsel’s Unopposed Motion for Extension of Time for its Response, making the due date January 9, 2019. On December 28, 2018, the Commission directed this proceeding to be fully stayed during the federal government shutdown that commenced on

December 28, 2018.¹ As of the date of the stay and commencement of the shutdown, Complaint Counsel had twelve (12) calendar days remaining to respond to Patterson’s Motion. During the shutdown, Complaint Counsel was prohibited by law from working on its Response, or anything related to this matter, and faced potential monetary and criminal penalty for violating this rule. 31 U.S.C. §§ 1342, 1350.

In light of the Commission’s stay, the duration of the federal government shutdown, and 31 U.S.C. §§ 1342 and 1350, Complaint Counsel requests that the deadline for its Response be extended to February 6, 2019, twelve (12) calendar days after the federal government re-opened. This extension would allow Complaint Counsel the same amount of time it would otherwise have had to respond to Patterson’s motion, and would result in no prejudice to Patterson. Patterson does not oppose this extension.

For the reasons stated above, Complaint Counsel respectfully requests that the Court extend the deadline to file the Response to February 6, 2019.

Dated: January 28, 2019

Respectfully submitted,

/s/ Thomas J. Dillickrath

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Counsel Supporting the Complaint

¹ Per the Commission’s order, this proceeding was “fully stayed for the duration of the shutdown and for an additional five business days thereafter.” The Commission further ordered that “[t]he Administrative Law Judge shall have discretion to adjust any applicable deadlines as warranted.” Order Regarding Scheduling, December 28, 2018.

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**PATTERSON COMPANIES, INC.,
a corporation,**

Respondents.

Docket No. 9379

**[PROPOSED] ORDER GRANTING COMPLAINT COUNSEL'S UNOPPOSED MOTION
TO EXTEND THE DEADLINE TO RESPOND TO PATTERSON'S MOTION TO
DISMISS THE CASE AGAINST PATTERSON IN ITS ENTIRETY**

Complaint Counsel filed an Unopposed Motion to Extend the Deadline to Respond to Patterson's Motion to Dismiss the Case Against Patterson in its Entirety on January 28, 2019. Complaint Counsel seeks to extend the deadline for responding to Patterson's Motion to February 6, 2019, which is twelve (12) calendar days after the federal government re-opened.

Patterson filed its Motion on December 20, 2018, which, under the Rules, made Complaint Counsel's response due on January 2, 2019. On December 27, 2018, the Court granted Complaint Counsel's Unopposed Motion for Extension of Time for its response, making the due date January 9, 2019. On December 28, 2018, the Commission directed this proceeding to be fully stayed during the federal government shutdown that commenced on December 28,

2018.¹ As of the date of the stay and commencement of the shutdown, Complaint Counsel had twelve (12) calendar days remaining to respond to Patterson’s Motion. During the shutdown, Complaint Counsel was prohibited by law from working on its Response, or anything related to this matter, and faced potential monetary and criminal penalty for violating this rule. 31 U.S.C. §§ 1342, 1350.

In light of the Commission’s stay, the duration of the federal government shutdown, and 31 U.S.C. §§ 1342 and 1350, Complaint Counsel requests that the deadline for its Response be extended to February 6, 2019, twelve (12) calendar days after the federal government re-opened. This extension would allow Complaint Counsel the same amount of time it would otherwise have had to respond to Patterson’s motion, and would result in no prejudice to Patterson. Patterson does not oppose this extension.

Based on the foregoing, Complaint Counsel’s Motion for Extension of Time is GRANTED, and it is HEREBY ORDERED that Complaint Counsel’s time to respond to Patterson’s Motion is extended to February 6, 2019.

ORDERED:

Dated: _____

D. Michael Chappell,
Chief Administrative Law Judge

¹ Per the Commission’s order, this proceeding was “fully stayed for the duration of the shutdown and for an additional five business days thereafter.” The Commission further ordered that “[t]he Administrative Law Judge shall have discretion to adjust any applicable deadlines as warranted.” Order Regarding Scheduling, December 28, 2018.

CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2019, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable D. Michael Chappell
Administrative Law Judge
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I further certify that I delivered via electronic mail a copy of the foregoing document to:

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Counsel For Respondent Patterson Companies, Inc.

January 28, 2019

By: /s/ Lin W. Kahn
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CERTIFICATE OF ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed documents that is available for review by the parties and the adjudicator.

January 28, 2019

By: /s/ Lin W. Kahn
Attorney

Notice of Electronic Service

I hereby certify that on January 28, 2019, I filed an electronic copy of the foregoing Complaint Counsel's Unopposed Motion to Extend the Deadline to Respond to Patterson's Motion to Dismiss the Case Against Patterson in its Entirety, with:

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I hereby certify that on January 28, 2019, I served via E-Service an electronic copy of the foregoing Complaint Counsel's Unopposed Motion to Extend the Deadline to Respond to Patterson's Motion to Dismiss the Case Against Patterson in its Entirety, upon:

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