

ORIGINAL



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

In the Matter of)	
)	
POM WONDERFUL LLC and ROLL)	Docket No. 9344
INTERNATIONAL CORP., companies and)	PUBLIC
)	
STEWART A. RESNICK, LYNDA RAE)	
RESNICK, and MATTHEW TUPPER,)	
individually and as officers of the)	
companies.)	

**RESPONDENT POM WONDERFUL LLC'S OPPOSITION TO COMPLAINT
COUNSEL'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND
INTERROGATORY RESPONSES**

Respondent POM Wonderful LLC ("POM") opposes Complaint Counsel's Motion to Compel Production of Documents and Interrogatory Responses from Respondent POM Wonderful LLC ("Motion to Compel") on the grounds that it is moot because POM has already complied with the Federal Trade Commission's ("FTC" or "Commission") discovery requests at issue.

In its Motion to Compel, the FTC seeks an order compelling POM to provide: (1) a detailed accounting of the dollars spent by Respondents on research and development, including the basis for the propositions that the Challenged Products are backed by \$23, \$25, or \$32 million in research; and (2) advertisements and dissemination schedules of POM Juice prior to 2007.

First, in response to the FTC's request for a detailed accounting of dollars spent by Respondents on research and development, POM has provided the Commission with not one, but *three* versions of a comprehensive spreadsheet containing the requested

information. (See documents bates-numbered [REDACTED]
[REDACTED]). Thus, POM has complied with the FTC's demand for a complete
accounting of dollars spent on research. This issue, therefore, has now been resolved.

Second, POM has also complied with the FTC's request that POM provide
advertisements and dissemination schedules for POM Juice prior to 2007. Here, POM
has already furnished the Commission with all of the advertisements for the Challenged
Products, after a reasonable and diligent search, in its custody, control and possession.

(See, e.g., [REDACTED]
[REDACTED]). With respect to any dissemination
schedules, POM has produced to the Commission numerous advertisement or
dissemination schedules, including print media archives, print position schedules, and an
advertisement agency "traffic" schedule. (See, e.g., [REDACTED]
[REDACTED]). Specifically, POM has presented the FTC with: (1) internal
POM marketing spreadsheets documenting when particular print advertisements ran for
the years 2004-2008 (see, e.g., [REDACTED]); and (2) an
internal traffic schedule from Fire Station listing project job numbers for the Challenged
Products per the FTC's request. (See [REDACTED]). [REDACTED]
[REDACTED]
[REDACTED]

* * *

Based upon the foregoing, the FTC's Motion to Compel is moot and should be denied.

Respectfully Submitted,

/Johnny Traboulsi

Johnny Traboulsi
Kristina M. Diaz
Alicia Mew
Paul A. Rose
Adam P. Zaffos
ROLL LAW GROUP P.C.
11444 West Olympic Boulevard
10th Floor
Los Angeles, CA 90064
Telephone: 310.966.5723
E-mail: jtraboulsi@roll.com

John D. Graubert
Skye L. Perryman
COVINGTON & BURLING LLP
1201 Pennsylvania Ave. NW
Washington, DC 20004-2401
Telephone: 202.662.5938
Facsimile: 202.778.5938
E-mail: JGraubert@cov.com
SPerryman@cov.com

*Counsel for Respondent POM
Wonderful LLC*

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS: Jon Leibowitz, Chairman
 William E. Kovacic
 J. Thomas Rosch
 Edith Ramirez
 Julie Brill

In the Matter of)	
)	
POM WONDERFUL LLC and)	
ROLL INTERNATIONAL CORP.,)	
companies, and)	Docket No. 9344
)	PUBLIC
)	
STEWART A. RESNICK,)	
LYNDA RAE RESNICK, and)	
MATTHEW TUPPER, individually and)	
as officers of the companies.)	

CERTIFICATE OF SERVICE

I hereby certify that this is a true and correct copy of the PUBLIC version of Respondent **POM WONDERFUL LLC'S OPPOSITION TO COMPLAINT COUNSEL'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND INTERROGATORY RESPONSES**, and that on this 9th day of March, 2011, I caused the foregoing to be served by FTC E-File and hand delivery 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 the PUBLIC version of Respondent **POM WONDERFUL LLC'S OPPOSITION TO COMPLAINT COUNSEL'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND INTERROGATORY RESPONSES**, and that on this 9th day of March, 2011, 2011, I caused the foregoing to be served by e-mail on the following:

Mary Engle
Associate Director for Advertising Practices
Bureau of Consumer Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Washington, DC 20580

Heather Hipsley
Mary L. Johnson
Tawana Davis
Federal Trade Commission
601 New Jersey Avenue, NW
Washington, DC 20580

 /John Graubert

John D. Graubert
Skye L. Perryman
COVINGTON & BURLING LLP
1201 Pennsylvania Ave. NW
Washington, DC 20004-2401
Telephone: 202.662.5938
Facsimile: 202.778.5938
E-mail: JGraubert@cov.com
SPerryman@cov.com

Kristina M. Diaz
Alicia Mew
Paul A. Rose
Johnny Traboulsi
Adam P. Zaffos
Roll Law Group P.C.
11444 West Olympic Boulevard
10th Floor
Los Angeles, CA 90064
Telephone: 310.966.8775
E-mail: kdiaz@roll.com

*Counsel for Respondent POM Wonderful
LLC*

Dated: March 9, 2011