



Jared M. Hartzman
Principal
hartzman@fr.com
T: 202 626 7754

Fish & Richardson P.C.
1000 Maine Avenue SW
Suite 1000
Washington, DC 20024
T: 202 783 5070
F: 202 783 2331

August 17, 2026

VIA E-MAIL

Jonathan Watkins
Proskauer Rose LLP
Eleven Times Square
New York, NY 10036
Phone: 704-972-7130

Re: *ZoomEssence, Inc. v. McCormick & Co. Inc., et al.*, Case No. 2:25-cv-01240 (E.D. Tex)

Dear Counsel:

McCormick & Co., Inc. (“McCormick”) has filed a petition for *inter partes* review (IPR) petition (IPR2026-00416) with the Patent Trial and Appeal Board (PTAB) to address the validity of claims 1-5 and 7-19 of U.S. Patent No. 9,332,776 (“**the ’776 Patent**”). McCormick and FONA Technologies, LLC, and Fona International, LLC (collectively, “FONA”) are the real parties-in-interest. The tables in attached Appendix A list all grounds, challenged claims, and references asserted in IPR2026-00416.

I write to inform you that McCormick and FONA hereby stipulate that, if the PTAB institutes review in this proceeding, McCormick and FONA will not pursue in District Court litigation the specific grounds asserted in *inter partes* review in this proceeding, or any other ground that could have been reasonably raised in this proceeding (i.e., any ground that could have been raised under §§ 102 or 103 on the basis of prior art patents or printed publications).” *See Sotera Wireless, Inc. v. Masimo Corporation*, IPR2020-01019, Paper 12 (PTAB Dec. 1, 2020). McCormick and FONA also stipulate that, if the PTAB institutes review in this proceeding, McCormick and FONA will not pursue in District Court litigation combinations of the prior art asserted in this proceeding with unpublished system prior art (or any other type of prior art). *See Motorola Solutions, Inc. v. Stellar, LLC*, IPR2024-01205, IPR2024-01206, IPR2024-01207 & IPR2024-01208, Paper 19 (PTAB Mar. 28, 2025).

Sincerely,

/s/ Jared Hartzman

Jared Hartzman
Attorney for McCormick & Company, Inc.,
FONA International, LLC, and
FONA Technologies, LLC

Appendix A – Grounds and Prior Art References Used in IPR2026-00416

Ground	Claim(s)	35 U.S.C. §103
1	1-5, 7-9	Baranauskiene
2	10-11, 15-17, 19	Watanabe in view of JECFA Monograph and JECFA CTA
3	1-5, 7-14, 16-19	Subramaniam

List of References

Reference Name	Details
Baranauskiene	Renata Baranauskienė, Eglė Bylaitė, Jūratė Žukauskaitė & Rimantas P. Venskutonis, “Flavor Retention of Peppermint (<i>Mentha piperita</i> L.) Essential Oil Spray-Dried in Modified Starches during Encapsulation and Storage,” 55 J. Agric. Food Chem. 3027–3036 (2007)
Watanabe	U.S. Patent Application Publication No. US 2004/0228959 A1
JECFA Monograph	“Paprika Extract,” in Compendium of Food Additive Specifications, FAO JECFA Monographs 5, at 51 (69th meeting, Rome 2008)
JECFA CTA	Richard Cantrill, “Paprika Extract: Chemical and Technical Assessment (CTA),” prepared for the 69th JECFA (2008)
Subramaniam	Subramaniam et al., European Patent No. EP 1,435,797 B1