

ESTTA Tracking number: **ESTTA555925**

Filing date: **08/23/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	77199918
Applicant	Chicago Mercantile Exchange Inc.
Applied for Mark	CHI
Correspondence Address	TATYANA V GILLES NORVELL IP LLC 1776 ASH STREET NORTHFIELD, IL 60093 UNITED STATES officeactions@norvellip.com
Submission	Applicant's Request to Extend
Attachments	130823 2nd Request For 30 Day Extension of Time CHI final.pdf(13020 bytes)
Filer's Name	Tatyana V. Gilles
Filer's e-mail	officeactions@norvellip.com
Signature	/Tatyana V. Gilles/
Date	08/23/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application of: CHICAGO MERCANTILE EXCHANGE INC. Serial No.: 77/199,918 Filed: June 7, 2007 Mark: CHI	Examining Attorney: Linda A. Powell Law Office 106
---	--

**APPLICANT'S REQUEST FOR A SECOND THIRTY (30) DAY
EXTENSION OF TIME TO FILE ITS APPEAL BRIEF**

Applicant, Chicago Mercantile Exchange Inc. ("Applicant"), through its undersigned counsel, files this request in good faith for a second thirty (30) day extension of time to file its appeal brief. Applicant filed its application to register the mark CHI on June 7, 2007 ("Applicant's Mark"). The Examining Attorney refused registration of Applicant's Mark arguing that Applicant's Mark, as used on the specimen of record, merely identifies a process or system and does not function as a service mark to identify and distinguish Applicant's services from those of others and to indicate the source of those services. Applicant appealed the Examining Attorney's decision. Applicant respectfully requests a second thirty (30) day extension of time to file its appeal brief. As set forth below, Applicant has good cause for filing this Request for An Extension of Time.

BACKGROUND

Applicant filed its application to register the mark CHI on June 7, 2007. The Examining Attorney issued her Final Refusal on October 5, 2012. Registration of Applicant's Mark was refused because, in the Examining Attorney's opinion, Applicant's

Mark, as used on the specimen of record, merely identifies a process or system and does not function as a service mark to identify and distinguish Applicant's services from those of others and to indicate the source of those services. 15 U.S.C. §§1051-1053, 1127.

On April 5, 2013, Applicant filed a Request for Reconsideration with the Examining Attorney ("Request for Reconsideration"). Also, on April 5, 2013, Applicant filed its Notice of Appeal and requested that this proceeding be suspended while the Request for Reconsideration was pending. Ultimately, the Request for Reconsideration was denied on May 22, 2013, and the present appeal was resumed. Applicant was given sixty days from the mailing day of the May 27, 2013, Order of United States Patent and Trademark Office Trademark Trial and Appeal Board ("Board"), to file its appeal brief. This deadline was set to expire on July 26, 2013. On July 19, 2013, Applicant filed its first request for an extension of time, which the Board granted until August 25, 2013. In an effort to streamline this appeal, Applicant recently spoke to the Examining Attorney regarding this Application and the issues on appeal.

ARGUMENT

Under Rule 1203.02(d) of the TTAB Manual of Procedure ("TBMP"), an applicant may request an extension of time to file an appeal brief upon showing good cause for the requested extension. TBMP Rule 1203.02(d). The rule states that "[t]he determination of good cause will be based upon all relevant circumstances, including the length of time of any previously granted extensions." TBMP Rule 1203.02(d).

The present request is only Applicant's second request for an extension of time and Applicant's first extension was for only thirty days. This present request is made in good faith and Applicant has acted diligently. Applicant's counsel used the first time

extension to review the prosecution history of the application, conduct the necessary legal research, and prepare substantive arguments in support of the appeal. In addition, Applicant's counsel recently spoke to the Examining Attorney regarding the sole issue on appeal, the acceptability of previously submitted specimens, including those submitted with Applicant's Request for Reconsideration.

As a result of these actions and the discussion with the Examining Attorney, Applicant requests a second extension of time to file its appeal brief because Applicant's counsel needs additional time to consult with Applicant regarding historical and current use of the Applicant's Mark. In addition, Applicant may prepare and file a request to remand the Application to the Examining Attorney. Finally, Applicant's counsel needs additional time to conduct further legal research in connection with the pending appeal. Applicant's request is reasonable, made in good faith, and is not for purposes of delay. Based upon the totality of the circumstances and to conserve the time and resources of all parties involved, Applicant's request for additional time should be granted.

CONCLUSION

Based upon the foregoing, Applicant respectfully requests that the Board grant its second request for a thirty (30) extension of time to file its appeal brief until September 24, 2013. Applicant has demonstrated the requisite good cause to grant this request.

Respectfully submitted,

**CHICAGO MERCANTILE
EXCHANGE INC.**

Dated: August 23, 2013

By:

/Tatyana V. Gilles/
Joseph T. Kucala, Jr.

Tatyana V. Gilles
Norvell IP llc
1776 Ash Street
Northfield, IL 60093
Tel: 888.315.0732
Fax: 312.268.5063
officeactions@norvellip.com

ATTORNEYS FOR APPLICANT