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

Proceeding	91120332
Party	Plaintiff MAGASCHONI APPAREL GROUP, INC.
Correspondence Address	ANTHONY F. LO CICERO AMSTER ROTHSTEIN & EBENSTEIN 90 PARK AVENUE NEW YORK, NY 10016
Submission	Motion to Extend
Filer's Name	Holly Pekowsky
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Date	08/31/2004
Attachments	MagaschoniMotion.tif (3 pages)

MOTION TO EXTEND CLOSE OF DISCOVERY AND TESTIMONY PERIODS

Dear Commissioner:

Magaschoni Apparel Group, Inc. ("Opposer") respectfully requests that the Trademark Trial and Appeal Board extend, for ninety days after the decision of the subject Motion, the period for the close of discovery and subsequent testimony periods. Discovery is presently scheduled to close on September 1, 2004. This request is necessitated by the fact that Magaschoni needs Kappetein's Answer (including any affirmative defenses asserted therein) in order to formulate appropriate discovery requests, and Magaschoni has not yet received said Answer. Kappetein did not answer Magaschoni's initial Notice of Opposition by the July 3, 2004, deadline, and may, in fact, be defaulting in this Opposition. On August 16, 2004, Magaschoni filed an Amended Notice of Opposition, and Kappetein's Answer to the Amended Answer is not due until September 10, 2004.

In the interests of prudence, Magaschoni is simultaneously serving some bare bones discovery upon Kappetein, but will need the benefit of Kappetein's Answer to the Amended Notice to serve appropriate additional discovery.

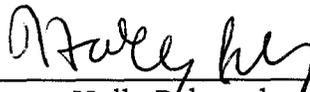
It is respectfully submitted that, based on the foregoing, Magaschoni has shown good cause for extending the deadline for discovery and the testimony periods, and that therefore, the instant Motion should be granted. *See Roederer v. J. Garcia Carrion, S.A.*, 2004 TTAB LEXIS 235 (T.T.A.B Apr. 15, 2004) ("The Board is generally liberal in granting extensions of time so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused."); *Physician's Formula Cosmetics, Inc. v. Small Giant*, 2003 TTAB LEXIS 327 (T.T.A.B. June 30, 2003) (granting

Motion to extend discovery dates since petitioner had not been dilatory and there was no prejudice to respondent).

CERTIFICATE OF SERVICE

Holly Pekowsky, the undersigned attorney, hereby certifies that she is one of the attorneys for Opposer Magaschoni Apparel Group, Inc. in the captioned action, and that on the date which appears below she served a copy of the annexed MOTION TO EXTEND CLOSE OF DISCOVERY AND TESTIMONY PERIODS on Applicant Johannes Kappetein by causing a copy thereof to be placed in a depository under the care and custody of the United States Postal Service, first class postage prepaid affixed thereto, addressed to the attorneys for Applicant, as follows:

Joseph A. Calvaruso, Esq.
Cindy M. Zelson, Esq.
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Holly Pekowsky