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

Bridgestone/Firestone Research, Inc.

Opposer,

v.

Opposition No. 122,110

Wirestone, LLC

Serial No. 75/839,980

Applicant
(by assignment and name change).



04-07-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #22

OPPOSER'S QUALIFIED CONSENT TO APPLICANT'S
MOTION TO EXTEND DISCOVERY AND TESTIMONY DATES

Opposer hereby responds to *Applicant's Motion to Extend Discovery and Trial Dates* ("Applicant's motion") filed on March 18, 2004. Counsel for Opposer has just been informed by telephone this afternoon, April 7, 2004, that new counsel, Jonathan King of Cowan, Liebowitz & Latman PC, will be assuming responsibility for future representation of the Applicant in this case. For this reason, and not for the reasons stated in Applicant's motion, Opposer is amenable to a sixty (60) day extension of the discovery and testimony periods.

In an order dated October 9, 2003 the Board ended the suspension, resumed opposition proceedings, and re-set the discovery and trial dates. The Board afforded the parties a new three month discovery period, that was scheduled to close on January 9, 2004. By agreement of the parties, the close of discovery was extended to the present deadline of April 7, 2004.

Prior to the close of discovery, on March 18, 2004, Applicant filed its presently pending motion seeking to extend the discovery and trial deadlines by sixty days. Applicant filed its motion without first seeking Opposer's consent or otherwise discussing the matter with Opposer's counsel. In its motion, Applicant seeks to justify its unilateral request for an extension of time by stating that "[t]he

parties have only recently commenced discovery in this action, which is now foreshortened.” Applicant’s representation is inaccurate and misinforms the Board as to the true status of the case. In particular, Applicant neglects to mention that Opposer served its first set of interrogatories and first request for production of documents and things almost three years ago, in July 2001. To date, Applicant has not responded to Opposer’s discovery requests.

Moreover, when settlement negotiations ended without an agreement and the proceedings resumed, Applicant’s counsel, Virginia Richard, sent Opposer’s counsel a letter dated March 5, 2004, in which she advised Opposer’s counsel that Applicant was “in the process of gathering documents and information responsive to Bridgestone/Wirestone’s [*sic*] outstanding discovery requests.” In a letter dated March 10, 2004, Opposer’s counsel replied by advising Mr. Richard that Opposer expected to receive Applicant’s interrogatory answers and documents and things responsive to Opposer’s document requests within 30 days of Applicant’s March 5th letter. To date, Applicant has provided no response, written or otherwise, to Opposer’s outstanding discovery requests or its letter of March 10, 2004.

Contrary, to Applicant’s motion, Applicant is solely responsible for the position in which it finds itself. In its motion, Applicant also states that it requires the extension “in order for both parties to conduct discovery and specifically, for Applicant to discover the factual basis of Opposer’s allegations in its Notice of Opposition.” (emphasis added). Opposer filed its Notice of Opposition on February 16, 2001. The discovery period in this case first opened on March 21, 2001. As indicated above, Opposer initiated discovery almost three years ago when it served its first round of written discovery request to Applicant in July, 2001. The parties did not request suspension of the case for the first time until October 17, 2001. Thus, from March 2001 until October 2001, Applicant had seven months to “discover the factual basis of Opposer’s allegations in its Notice of Opposition.”

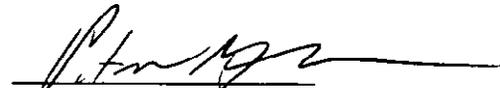
Moreover, Applicant could have initiated discovery at any time after the proceedings resumed on October 9, 2003. Likewise, in March, 2004, while Applicant was preparing and filing its

Applicant's Motion Extend Discovery and Trial Dates, Applicant could have initiated written discovery.

Instead, at the eleventh hour Applicant seeks for the Board to rescue Applicant from its own dilatory preparation of its case. Applicant's ongoing failure to initiate discovery following the opening of the discovery period in 2001 does not merit an extension of the discovery and trial deadlines. Indeed, the Board, in its practice manual, expressly encourages parties to initiate discovery early in a proceeding in order to preserve time for serving following up discovery. Trademark Board Manual of Procedure § 403.05. Applicant, having failed to do so, now seeks Board intervention to rescue it from its own failure to timely prepare its case.

WHEREFORE, for the foregoing reasons, Opposer respectfully requests that the Board, in acting on the motion to extend, also rule that no further extensions will be granted without the consent of both parties.

Respectfully submitted,



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Dated: April 7, 2004

CERTIFICATE OF SERVICE

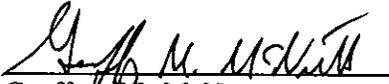
I hereby certify that the foregoing **OPPOSER'S OPPOSITION TO APPLICANT'S MOTION TO EXTEND DISCOVERY AND TESTIMONY DATES** was served this 7th day of April, 2004, by mailing a true copy thereof via First Class U.S. Mail, postage prepaid, addressed to the following:

Ms. Virginia R. Richard, Esq.
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and,

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By:


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