

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: November 5, 2003

Opposition No. 91151470

RANDY N. GRAHAM RUSTY
GRAHAM AND JAMES Q

v.

CUSTOM GOLF SALES, INC.

David Mermelstein, Attorney:

On September 6, 2003, the Board granted the request of opposer's counsel to withdraw from representation in this matter, and suspended this proceeding for thirty days in which to allow opposer to either have substitute counsel enter an appearance or to indicate that it would represent itself.

On September 16, 2003, applicant filed a motion for involuntary dismissal pursuant to Trademark Rule 2.132(a). Applicant's motion is DENIED without prejudice, because it was filed during the Board-ordered suspension.¹

¹ We note that the request of opposer's counsel to withdraw was filed well before the close of discovery, let alone the close of opposer's testimony period. However, the Board did not act on opposer's counsel's request until after opposer's testimony period had closed. Under the circumstances, if applicant's Trademark Rule 2.132(a) motion were considered on the merits, the facts here might well amount to "good and sufficient cause" to reopen the matter. See Trademark Rule 2.132(a).

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Now before the Board is opposer's filing of October 6, 2003, requesting a further extension of sixty days.²

Opposer explains that it will be representing itself, but that recent health problems have diverted its attention from this matter.

Opposer's motion to extend is GRANTED.

Proceedings are RESUMED. The parties are allowed THIRTY DAYS from the mailing date of this order to serve responses to any outstanding discovery requests. Trial dates, including the close of discovery, are reset as follows:

DISCOVERY PERIOD TO CLOSE: **January 3, 2004**

Thirty-day testimony period for party in position of plaintiff to close: **April 2, 2004**

Thirty-day testimony period for party in position of defendant to close: **June 1, 2004**

Fifteen-day rebuttal testimony period to close: **July 16, 2004**

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

² Opposer's paper does not bear a certificate attesting to service of the paper on counsel for opposer. Opposer is cautioned that a copy of all papers filed in this proceeding are to be served upon applicant, and a certificate attesting to such service must be filed with the paper. Trademark Rule 2.119. A copy of opposer's filing is included with this order for applicant's perusal.

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Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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