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

Proceeding	91156321
Party	Plaintiff The Chamber of Commerce of the United States of America
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Submission	Motion to Extend
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE CHAMBER OF COMMERCE OF  
THE UNITED STATES OF AMERICA

*Opposer,*

v.

UNITED STATES HISPANIC CHAMBER  
OF COMMERCE FOUNDATION,

*Applicant.*

Opposition No.: 91/156,321

Serial No.: 78/081,731

**MOTION TO MODIFY THE BRIEFING SCHEDULE**

Pursuant to TBMP Sections 509 and Fed. R. Civ. P. 6(b), Opposer, The Chamber of Commerce of the United States of America, respectfully requests that the briefing schedule in this opposition be modified and extended so that Opposer's opening trial brief is due no earlier than ninety (90) days after the issuance of a ruling on Opposer's *Motion for an Extension of Time*, which was filed on April 28, 2008. *See* Docket No. 72. As set forth below, Opposer has good cause for requesting to modify the schedule.

**BACKGROUND**

In the present action, Applicant moved on February 8, 2008, to extend its trial testimony period (which at that point had been open for seven months), seeking at the last minute to take the trial testimony of ten third parties, a motion Opposer opposed on the basis that Applicant had not demonstrated "good cause" for extending the trial schedule so as to accommodate the unmanageable last minute flurry of activity. *See* Docket Nos.

51, 54. Opposer, which was continuing to follow the existing trial schedule, which the Board approved on December 12, 2007 (Docket No. 49), then went ahead and put on its rebuttal testimony, including the testimony of a third party witness (Mr. Ramos).

During the testimony of Mr. Ramos, however, Opposer became aware of the relevance of another third party witness, and it proceeded immediately to subpoena that party and to schedule the party's trial deposition within the dates set by the Board on December 12<sup>th</sup>. However, after it became clear that the third party could not attend a deposition until the first week of May (the week after Opposer's rebuttal period closed), Opposer moved for a short extension of time for the sole purpose of permitting Opposer to take that third party deposition. *See* Docket No. 72. Applicant ostensibly opposed that motion (arguing merely that Opposer's motion should be denied unless Applicant's own motion was granted), although at no point did Applicant ever claim that Opposer lacked good cause for the extension request. *See* Docket Nos. 79, 81.

The Board has yet to rule on either pending motion.

## **ARGUMENT**

Pursuant to TBMP Section 509.01(a), a party may seek to extend the briefing schedule upon a showing of "good cause." *TBMP*, §509.01(a); *see also* 37 CFR § 2.128(a)(2). To establish good cause, the moving party "must demonstrate that the requested extension of time is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor." *TBMP*, §509.01(a). Opposer submits that good cause exists here.

The extension Opposer seeks is for the limited purpose of awaiting rulings by the Board on the pending motions, which rulings will likely clarify whether, and to what

extent, the record for this case may further change. Until that is settled, though, it would be difficult for Opposer to draft its opening trial brief. Thus, Opposer submits that the requested extension of the briefing schedule is necessary for the orderly presentation of this case and will help avoid possibly wasteful efforts and unnecessary expenses.

### **CONCLUSION AND PROPOSED SCHEDULE**

For the reasons set forth above, Opposer respectfully submits that good cause exists for granting the requested extension. Assuming that the Board grants Opposer's request for a brief extension of its rebuttal period (the third party deposition was already taken during the requested period as part of another proceeding and would be submitted in the present case pursuant to TBMP Section 530) and denies Applicant's request to reopen its trial period for the purpose to take several new third party depositions, the testimony period in the case would be closed, with only briefing remaining.

So as to allow Opposer time to process the evidence and formulate its trial position once the extent of the record is finalized, however, Opposer requests that the briefing schedule in this opposition be extended so that Opposer's brief is due no earlier than ninety (90) days after the issuance by the Board of a ruling on Opposer's motion.

Respectfully submitted,

Date: August 12, 2008

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## CERTIFICATE OF SERVICE

I hereby certify that the required number of copies of the foregoing *Motion to Modify the Briefing Schedule* was served on the parties or counsel on the date and as indicated below:

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