

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

DUNN
Mailed: July 5, 2005

Opposition No. 91163125

FOODPHONE, LLC

v.

VERONICA G. HEGEMAN

Elizabeth A. Dunn, Attorney:

Opposer's motion, filed February 10, 2005, to reopen the time allowed to comply with the Board's January 5, 2005 order to file substitute copies of the exhibits which accompanied opposer's notice of opposition is granted.¹ Trademark Rule 2.127(a).

The Board notes that opposer, who is represented by counsel, provided no explanation for its inability to submit copies of its exhibits in compliance with the Board's order and that opposer has not yet filed the requested exhibits.

Opposer is allowed TWENTY days from the mailing date of this order to submit copies of the exhibits that were filed with its notice of opposition or to file an amended notice of opposition which does not include exhibits, failing which this proceeding will be dismissed for opposer's loss of

interest in the case.² Further motions to extend will be granted to opposer by telephone conference only. Opposer must request a telephone conference by telephoning Board Attorney Elizabeth Dunn at 571-272-4267. Written requests for extension, or oral requests received after the due date for response will not be considered.

Applicant is allowed 60 days from the mailing date of this order in which to file its answer or otherwise respond to the original or, if applicable, amended notice of opposition.

Discovery is open and the close of discovery and trial dates are set as follows:

THE PERIOD FOR DISCOVERY TO CLOSE:	January 8, 2006
30-day testimony period for party in position of plaintiff to close:	April 8, 2006
30-day testimony period for party in position of defendant to close:	June 7, 2006
15-day rebuttal testimony period to close:	July 22, 2006

¹ The delay in acting upon this matter is regretted.

² Opposer is advised that, except as provided in paragraph (d)(1) of Trademark Rule 2.122, an exhibit attached to a pleading is not evidence on behalf of the party whose pleading the exhibit is attached unless identified and introduced in evidence as an exhibit during the period for the taking of testimony. See Trademark Rule 2.122(c). Thus, the exhibits attached to the notice of opposition are not evidence.

Opposition No. 91163125

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.

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.

000