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

Proceeding	91164764
Party	Plaintiff Brink's Network, Incorporated
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Date	06/15/2012
Attachments	OPPOSER'S MOTION TO EXTEND.pdf (4 pages)(97633 bytes) MEMORANDUM IN SUPPORT OF MOTION.pdf (5 pages)(125190 bytes)

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

BRINK'S NETWORK, INCORPORATED)
)
 Opposer)
)
 v.) Opposition No. 91164764
)
 BRINKMANN CORPORATION)
)
 Applicant)

OPPOSER'S MOTION TO EXTEND
THE DISCOVERY CUT-OFF DATE AND
THE PARTIES' TESTIMONY PERIODS

Opposer, Brink's Network, Inc., respectfully moves the Board to extend the current discovery cut-off date of June 15, 2012 for a period of sixty (60) days to and including August 14, 2012, and to extend the current trial dates, including the parties' respective testimony periods, for the same period of time.

The grounds for this motion are as follows:

(1) On January 7, 2011, the Board suspended proceedings in the above-captioned opposition pending its decision on Opposer's Motion for Summary Judgment Dismissing Applicant's Prior Registration Defense which was filed on January 5, 2011.

(2) On May 21, 2012, the Board rendered its decision denying Opposer's Motion for Summary Judgment Dismissing Applicant's Prior Registration Defense which also directed that proceedings be resumed with the discovery period to close on June 15, 2012.

(3) On February 22, 2011, while proceedings were suspended, Applicant served its Response to Opposer's Third Request for Production, its Answers to Applicant's Fourth Set of Interrogatories, and its production of Doc. Nos. BM 018970 – BM 019169.

(4) Opposer seeks an opportunity to take some additional discovery directed to Applicant's discovery responses served on February 22, 2011 and other areas where discovery had not been completed as of January 7, 2011 when proceedings were suspended.

(5) Opposer also has recently made a supplemental production of documents responsive to Applicant's discovery directed to the alleged misuse of the ® registration symbol by Opposer and/or one of its licensees which is the basis for the unclean hands defense pleaded in ¶ 29 of Applicant's Answer and Counterclaims filed on December 20, 2010.

(6) The additional sixty-day extension of the discovery period and other trial dates set forth in the Board's decision of May 21, 2012 is necessary for Opposer to conclude its discovery and also will afford Applicant an opportunity for additional discovery as well.

(7) The length of the requested extension is necessary to accommodate conflicts arising from due dates and prior commitments in other contested proceedings and civil actions being handled by the undersigned counsel.

(8) Given the complexity of the issues presented in this opposition and the prior suspension of proceedings for a number of months, it is believed that

this one additional extension would not be prejudicial to the parties and would facilitate an orderly and effective presentation of relevant evidence during the parties' respective testimony periods.

(9) The undersigned counsel for Opposer contacted counsel for Applicant and requested consent to the extension for the reasons indicated above. Counsel for Applicant declined to provide the requested consent.

For all of the reasons stated above, it is respectfully requested that the Board extend the current discovery period and the other trial dates set forth in the Board's decision of May 21, 2012 for an additional period of sixty (60) days.

Respectfully submitted,

BRINK'S NETWORK, INC.

Date: June 15, 2012

By: /Alan S. Cooper/
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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Opposer's Motion to Extend the Discovery Cut-Off Date and the Parties' Testimony Periods was served on the following attorneys of record for Applicant by email transmission, with confirming service by depositing the same in the United States mail, first class postage prepaid, on this 15th day of June, 2012:

Gary A. Clark, Esq.
Susan Hwang, Esq.
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333 South Hope Street, 48th Floor
Los Angeles, California 90071

/Alan S. Cooper/

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BRINK'S NETWORK, INCORPORATED)
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) Opposer)
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BRINKMANN CORPORATION)
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) Applicant)

MEMORANDUM IN SUPPORT OF
OPPOSER'S MOTION TO EXTEND
THE DISCOVERY CUT-OFF DATE AND
THE PARTIES' TESTIMONY PERIODS

I. INTRODUCTION

This matter is before the Board on the motion of Opposer, Brink's Network, Inc., to extend the current discovery cut-off date of June 15, 2012 for a period of sixty (60) days to and including August 14, 2012, and to extend the current trial dates, including the parties' respective testimony periods, for the same period of time.

II. BACKGROUND OF MOTION

On January 5, 2011, Opposer filed its Motion for Summary Judgment Dismissing Applicant's Prior Registration Defense. On January 7, 2011, in accordance with Rule 2.127(d) of the Trademark Rules of Practice, the Board suspended proceedings in the above-captioned opposition pending its decision

on Opposer's Motion for Summary Judgment Dismissing Applicant's Prior Registration Defense.

The Board rendered its decision denying Opposer's Motion for Summary Judgment Dismissing Applicant's Prior Registration Defense on May 21, 2012. The Board's decision also directed that proceedings be resumed with the discovery period to close on June 15, 2012.

III. THE EXTENSION SOUGHT BY THE PRESENT MOTION SHOULD BE GRANTED

After proceedings were resumed on May 21, 2012, Opposer's counsel began the process of reviewing the extensive prior discovery and record in this proceeding to determine what additional discovery was still required. Part of that discovery included Applicant's Response to Opposer's Third Request for Production, its Answers to Applicant's Fourth Set of Interrogatories, and its production of Doc. Nos. BM 018970 – BM 019169 which were served on February 22, 2011, while proceedings were suspended,

Based on that review, Opposer concluded that it would be necessary to take some additional discovery directed to Applicant's discovery responses served on February 22, 2011 and other areas where discovery had not been completed as of January 7, 2011 when proceedings were suspended.

Another factor which warrants an extension of the discovery period is that on June 13, 2012, Opposer served a supplemental production of documents responsive to Applicant's discovery directed to the alleged misuse of the registration symbol ® by Opposer and/or one of its licensees which is the basis for the unclean hands defense pleaded in ¶ 29 of Applicant's Answer and

Counterclaims filed on December 20, 2010. The extension of the discovery period sought by the present motion will afford Applicant an opportunity to take additional discovery directed to the documents served on June 13, 2012.

We respectfully submit that the additional sixty-day extension of the discovery period and other trial dates set forth in the Board's decision of May 21, 2012 is necessary for Opposer to conclude its discovery in an orderly fashion and to be in a position to effectively present its case during the testimony period. As noted above, the extension also will afford Applicant an opportunity for additional discovery as well. Under these circumstances, the extension should not be considered prejudicial to Applicant.

The present motion seeks an extension of sixty (60) days. The length of that extension is necessary to accommodate conflicts arising from due dates and prior commitments in other contested proceedings and civil actions being handled by the undersigned counsel for opposer.

In light of both the complexity of the issues presented in this opposition and the fact that proceedings were suspended for over one year until the Board's decision of May 21, 2012, we respectfully submit that this one additional extension would not be prejudicial to the parties and would facilitate an orderly and effective presentation of relevant evidence during the parties' respective testimony periods.

The undersigned counsel contacted counsel for Applicant and requested consent to the extension for the reasons indicated above. Counsel for Applicant

declined to provide the requested consent even though the extension would also benefit Applicant.

IV. CONCLUSION

For all of the reasons stated above, Opposer respectfully requests the Board extend the current discovery period and the other trial dates set forth in the Board's decision of May 21, 2012 for an additional period of sixty (60) days.

Respectfully submitted,

BRINK'S NETWORK, INC.

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