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

Proceeding	91166486
Party	Plaintiff VANITY FAIR, INC. VANITY FAIR, INC. Vanity Fair, Inc. 3411 Silverside Road201 Baynard Building Wilmington, DE 19810 UNITED STATES
Correspondence Address	NANCY H. LUTZ KELLEY DRYE & WARREN LLP 3050 K STREET, N.W. SUITE 400 WASHINGTON, DC 20007 UNITED STATES nlutz@kelleydrye.com
Submission	Motion to Extend
Filer's Name	NANCY H. LUTZ
Filer's e-mail	skalamaras@kelleydrye.com
Signature	/nancy h. lutz/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Serial No. 76/597,695  
Published in the *Official Gazette* on May 10, 2005

VANITY FAIR, INC.,

Opposer,

v.

SHANGHAI SILK GROUP CO., LTD.,

Applicant.

Opposition No. 91166486

Attorney Docket No.: 67990-62588

**OPPOSER'S MOTION TO EXTEND OPPOSER'S DISCOVERY PERIOD**

Pursuant to the Rule 2.116(a) of the Trademark Rules of Practice and Rule 6(b) of the Federal Rules of Civil Procedure Rule, Applicant seeks to extend *Opposer's* discovery period 120 days from the date of the Board's decision on the present motion and requests that the testimony dates be reset accordingly. Opposer has not sought Applicant's consent to this motion.

The standard for granting a motion to extend is whether it sets forth with particularity facts that constitute good cause. *Trademark Trial and Appeal Board Manual of Procedure ("TBMP")* § 509.01(a). See *e.g. Luemme, Inc. v. D.B. Plus Inc.*, 53 U.S.P.Q.2d 1758 (TTAB 1999); *Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 13 U.S.P.Q.2D 1719, 1720 n. 3 (TTAB 1989). Generally, the Board liberally grants extensions of time prior to the close of discovery so long as: (i) the moving party has not acted in bad faith or negligently; and (ii) the privilege of extensions

has not been abused. *American Vitamin Products, Inc. v. DowBrands, Inc.*, 22 U.S.P.Q.2d 1313 (TTAB 1992); *Hewlett Packard Co. v. Olympus Corp.*, 931 F.2d 1551, 18 U.S.P.Q.2d 1710 (Fed. Cir. 1991). As shown below, Opposer is able to show good cause and respectfully asks the Board to grant its motion.

Discovery closes on March 15, 2007. Currently, Applicant has until March 7, 2007, to respond to the Board's show cause order as to why a default judgment should not be entered against it. If Applicant responds to the order and the opposition goes forward, Opposer may wish to address Applicant's failure to respond to Opposer's outstanding discovery requests (interrogatories, requests to admit and document requests) which were served on Applicant on March 27, 2006, and serve follow-up discovery on Applicant, etc.

Opposer cannot properly mount its case and protect its interests without the ability to conduct adequate discovery. The need to extend Opposer's discovery period is not caused by any negligence or bad faith by Opposer, in fact, but is necessitated solely by Applicant's failure to respond not only to Opposer's discovery requests, but to the Board's orders.<sup>1</sup>

Opposer has filed this motion well in advance of the expiration of the discovery period in the event that Applicant responds to the Order to Show Cause. Opposer seeks 120 days rather than a shorter time because Applicant is located in China. In view of the foregoing, good cause exists to extend *Opposer's* discovery period only (and not that of Applicant) and to re-set the testimony periods so they run from the date of the Board's decision on this motion.

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<sup>1</sup> Applicant failed to comply with the October 31, 2006 order where the Board ordered Applicant to respond to Opposer's outstanding amended Notice of Opposition and discovery requests by November 30, 2006.

Alternatively, if the Board should deny the present motion, Opposer requests that the Board put Opposer in the same position it would have been in had no motion been filed. *See C.H. Stuart Inc. v. Carolina Closet, Inc.*, 213 U.S.P.Q. 506, 507 (TTAB 1980). Therefore, should the Board deny the present motion, Opposer respectfully requests that Opposer be given twenty (20) days to conduct any additional discovery from the date of the Board's order.<sup>2</sup>

Respectfully submitted,

KELLEY DRYE & WARREN LLP

February 23, 2007

By: 

Nancy H. Lutz  
Stacey C. Kalamaras  
3050 K Street, N.W.  
Washington, D.C. 20007  
Tel: (202) 342-8200  
Fax: (202) 342-8451

Attorneys for Opposer  
VANITY FAIR, INC.

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<sup>2</sup> From the date of this motion, twenty days remain until March 15, 2007, when the discovery period closes.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of OPPOSER'S MOTION TO EXTEND OPPOSER'S DISCOVERY PERIOD have been served by mail upon Kenneth Cang Li, attorney for Applicant, Shanghai Silk Group Co., Ltd., at Lin & Li, LLC, 65 Broadway, Suites 802, New York, New York 10006, the address designated by said attorney for that purpose, by depositing a true copy of same in a postpaid properly addressed envelope in an official depository under the exclusive care and custody of the United States Postal Service on February 23, 2007.

A handwritten signature in black ink, appearing to read "Gregory H. Kalanick", is written over a horizontal line.