

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

Mailed: June 30, 2009

Opposition No. 91175280

MAGNADYNE CORPORATION

v.

MOVIEVISION, INC.

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

On April 9, 2009, the Board issued a final decision in this case in favor of opposer. On May 8, 2009, applicant, appearing *pro se* throughout this proceeding, filed a motion to extend the time to file a request for reconsideration. Opposer filed a response thereto on May 26, 2009.

In support of its motion, asking for sixty days from the date of the Board's determination of the motion, applicant indicates it is now seeking an attorney to review the file and file a request for reconsideration. Applicant's principal states that, due to a physical injury, the additional time is needed to find and retain legal counsel.

In response, opposer argues that the Board sustained the opposition in favor of opposer; that the parties' marks are identical; that the Board's opinion was clear; and that reconsideration is not warranted in this case because the Board did not err in reaching its decision.

The standard for allowing an extension of a prescribed period prior to the expiration of that period is good cause, and a motion to extend must set forth with particularity the facts said to constitute good cause for the requested extension. See Fed.R. Civ. P. 6(b)(1)(A). See, also, *Luemme Inc. v. D.B. Plus Inc.*, 53 USPQ2d 1758 (TTAB 1999). The Board will review any such motions in determining whether good cause has been shown, including the diligence of the moving party, and whether the moving party is guilty of negligence or bad faith and whether the privilege of extensions has been abused. *Id.* See, also, *American Vitamin Products, Inc. v. DowBrands Inc.*, 22 USPQ2d 1316 (TTAB 1992).

In this case, applicant has not sought previous periods of extension; applicant now wishes to consult with counsel and has explained that its principal's injury impeded applicant from finding an attorney; and there is no evidence that applicant is acting in bad faith or is guilty of negligence. The Board notes, too, that there is no prohibition against extending the time to file a request for reconsideration of a final decision. Opposer's objections go to the merits of a prospective request for reconsideration.

Accordingly, for good cause shown, applicant's motion for an extension of time to file a request for reconsideration is granted. However, because almost ninety days have passed since issuance of the Board's final decision (on April 9, 2009), the

extension is granted for **THIRTY DAYS** from the mailing date of this order instead of the requested sixty days. Thus, applicant's request for reconsideration is due **THIRTY DAYS** from the mailing date of this order.¹

¹ If a request for reconsideration is filed, the time for filing an appeal, or for commencing a civil action for review of the Board's decision, will expire two months after action on the request. See TBMP §543 (2d ed. rev. 2004). However, the time for filing an appeal is not extended if a request for reconsideration is not filed, unless applicant separately filed a request to extend the time to appeal with the Director through the Solicitor's Office. See TBMP §902.02 (2d ed. rev. 2004).