

ESTTA Tracking number: **ESTTA184679**

Filing date: **01/04/2008**

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

Proceeding	91177156
Party	Defendant Bryan Broehm
Correspondence Address	BRYAN BROEHM 331 GAZETTA WAY WEST PALM BEACH, FL 33413-1053 UNITED STATES webmaster@stainedillusions.com
Submission	Other Motions/Papers
Filer's Name	Bryan C. Broehm
Filer's e-mail	webmaster@stainedillusions.com, bcbroehm@comcast.net
Signature	/Bryan C. Broehm/
Date	01/04/2008
Attachments	010408_email to Opposition.txt (4 pages)(7792 bytes)

Below is a copy of my most recent email communication with the Opposer's Attorney, further exemplifying my reasoning for requesting that their request for an extension of the Discovery Period be denied. I am submitting this for your further consideration. Thank you for your time and assistance.

January 4, 2008:

Linda,

I really don't see the necessity for your adversarial comments regarding my most recent email. I have offered you a litany of dates that have apparently been undesirable to you. There really is no point in continuing to try to offer dates to you that you will most likely deny, until it becomes relevant or necessary.

Furthermore, my responses to the Interrogatories were not the cause for your needing an extension. Your original first requested date of November 26th, 2007 for a deposition was in itself already outside of the discovery period, which I have just learned today actually expired on November 24th. I am postulating that perhaps because that was on a weekend date, there is a provision in the regulatory documents that allow for the expiration to be on the following business day if the actual date falls on a weekend or holiday. Even if that is the case, why would you wait until the very last day to propose a deposition? Surely you have proposed depositions in the past on dates that the party to be deposed could not attend. Being that I notified you on November 14th, that I would not be available on the 26th, which presumably was the very last allowable day, wouldn't it have been more propitious to then attempt a reschedule that was on a date prior to the deadline?

For you to suggest that my responses were the cause for the need to extend the discovery period is simply preposterous. What if they had been absolutely perfect responses, meeting all of your needs and answered all your questions to your satisfaction? Would that have changed the fact that I still was not available for deposition on the very last day of the discovery period? Not at all. We would still be in this very same situation.

I have provided my best good-faith effort to comply at every juncture regarding this unnecessary opposition. I am not being uncooperative. I have provided you with a list of available dates into the middle of January. If it does become relevant and necessary for me to provide available dates later than those already given, I will absolutely cooperate and provide them at that time. Until then, let's wait on the decision of the TTAB.

Respectfully,

Bryan C. Broehm

-----Original Message-----

From: McLeod, Linda [mailto:Linda.McLeod@finnegan.com]
Sent: Friday, January 04, 2008 2:56 PM
To: Bryan Broehm
Cc: Kelly, David; Nicoletti, Dana
Subject: RE: H-D Michigan, Inc. v. Bryan Broehm

Bryan,

We have not received an order from the TTAB regarding the requested extension. However, we note that you did not oppose the motion, and thus the Board has the discretion to grant the motion as conceded under the Trademark Rules. Moreover, as you recall, we were forced to file

the extension request because you failed to provide full and complete discovery responses. We also filed the extension because you were unavailable for the deposition on the date originally noticed. We have been working in good faith to find a mutually agreeable deposition date for both parties. Indeed, we sent this recent e-mail correspondence as a follow-up to our earlier message sent December 18th, because you once again failed to respond.

In order to save the time and resources of both the parties and the Board, and to avoid any unnecessary motion practice, we ask that you provide alternative dates to us. If we do not hear back from you and/or

we are unable to confirm a mutually agreeable deposition date, we will seek immediate relief from Board, including but not limited to a request

for a telephone hearing on a motion to compel your attendance at the deposition.

Regards, Linda

-----Original Message-----

From: Bryan Broehm [mailto:webmaster@stainedillusions.com]
Sent: Friday, January 04, 2008 2:41 PM
To: McLeod, Linda
Subject: RE: H-D Michigan, Inc. v. Bryan Broehm

Linda,
Hello. As of this date, I have yet received anything from the TTAB indicating that an extension has been granted. Can you advise? Thank you.

Sincerely,
Bryan C. Broehm

-----Original Message-----

From: McLeod, Linda [mailto:Linda.McLeod@finnegan.com]
Sent: Friday, January 04, 2008 8:17 AM
To: webmaster@stainedillusions.com; Valusek, Judy
Cc: Kelly, David
Subject: Re: H-D Michigan, Inc. v. Bryan Broehm

Bryan, please let us know your availability for a deposition end of January and first two weeks of February. It would be helpful if you provide alternative dates to accomodate both paeries.

----- Original Message -----

From: McLeod, Linda
To: 'Bryan Broehm' <webmaster@stainedillusions.com>; Valusek, Judy
Cc: Bonny, Anna; Kelly, David
Sent: Tue Dec 18 15:47:37 2007
Subject: RE: H-D Michigan, Inc. v. Bryan Broehm

Bryan,
Thank you for sending the supplemental documents. We will review them and get back to you if we need any additional information to complete discovery.

In the meantime, please let us know a range of available dates for your deposition in January (after January 8th). If you provide a number of date options, we can find a mutually agreeable time and date.

Regards, Linda

From: Bryan Broehm [mailto:webmaster@stainedillusions.com]
Sent: Friday, December 14, 2007 11:43 PM
To: Valusek, Judy
Cc: McLeod, Linda
Subject: RE: H-D Michigan, Inc. v. Bryan Broehm

Judy,

Attached is a document containing my good faith effort to supplement my original responses, as requested. I will also be sending via USPS a printed copy of this document along with the signed Verification of Interrogatory Responses form, as requested. Please let me know if I may be of any additional assistance or can cooperate in any other manner. Thank you for your time and patience.

Respectfully,

Bryan C. Broehm

From: Valusek, Judy [mailto:Judy.Valusek@finnegan.com]
Sent: Friday, December 07, 2007 1:27 PM
To: Bryan Broehm
Cc: McLeod, Linda; Kelly, David
Subject: H-D Michigan, Inc. v. Bryan Broehm

Please review the attached letter from Linda McLeod.

Judy Valusek
Assistant to Laurence R. Hefter and Linda K. McLeod
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