

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

Baxley

Mailed: May 17, 2010

Opposition No. **91178747**

Mine Design a d.b.a. of Amal
Flores

v.

Votivo, Ltd. and Votivo, LLC

Andrew P. Baxley, Interlocutory Attorney:

On April 1, 2010, the Board issued an order in which it (1) denied applicants' request for reconsideration of the Board's September 19, 2008 order denying applicants' motion for summary judgment based on opposer's alleged lack of standing and (2) suspended proceedings pending final determination, including any appeals or remands, of the parties' mediation before the United States Court of Appeals for the Ninth Circuit on February 24, 2010 in connection with the civil action styled *Votivo, Ltd. v. Mine Design*, Case No. CV 03-6017-DT, originally filed in the United States District Court for the Central District of California.

On May 7, 2010, opposer timely filed a motion to extend time to file a request for reconsideration of the Board's suspension of the civil action to thirty days after

conclusion of the mediation in that civil action. Such motion is based on that ongoing mediation. See Trademark Rules 2.127(b) and 2.196. Although applicant's time to respond to that motion has not lapsed, the Board, in exercising its inherent authority to control the scheduling of cases on its docket, elects to decide that motion at this time. See Trademark Rule 2.127(a).

Any request for reconsideration of the April 1, 2010 order must be based on the record as of the issuance of that order.¹ See TBMP Section 518. Under the present circumstances, the Board finds that the mere fact that mediation between the parties is ongoing does not constitute good cause to extend time for filing a request for reconsideration of that order until after the conclusion of that mediation.² See Fed. R. Civ. P. 6(b)(1)(A); TBMP Section 509.01(a). Accordingly, opposer's motion to extend is denied.³

¹ The premise underlying a request for reconsideration is that the Board erred in the order or decision at issue and that such order or decision requires appropriate change. A request for reconsideration may not be used to raise new arguments or introduce new evidence. See TBMP Section 518.

² Moreover, the Board has inherent authority to suspend cases on its docket; such authority may be exercised upon the Board's own initiative. See TBMP Section 510.01. Thus, as a practical matter, the Board rarely grants reconsideration of suspension orders.

³ Rather, if, after the conclusion of the mediation, opposers believe that resumption of this proceeding is warranted, they may file a motion to resume proceedings in which they present all

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Proceedings herein remain suspended in accordance with the April 1, 2010 order.

appropriate arguments and evidence in support thereof. See TBMP Section 510.02(b).