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

Proceeding	91179933
Party	Plaintiff Universal American Financial Corp.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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UNIVERSAL AMERICAN CORP.)
by change of name from Universal)
American Financial Corp.)
)
OPPOSER)
)
v.)
)
LAWTON PRINTING, INC.)
)
APPLICANT)
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Opposition No.: 91179933
(Serial No. 78/795,258)

MOTION FOR EXTENSION OF TIME OF DISCOVERY PERIOD AND TRIAL DATES

Opposer respectfully requests an extension of the discovery and trial dates. Opposer attempted to contact Applicant's counsel in order to obtain his consent, but counsel was not available. Instead, Opposer will establish good cause for this request by showing that Opposer has been diligent in meeting its responsibilities, and that an extension would not prejudice the Applicant. Furthermore, delay has been partially exacerbated by the fact that the Applicant changed counsel on January 14, 2008.

The appropriate standard for allowing an extension of a prescribed period prior to the expiration of the term is "good cause." See Fed. R. Civ. P. 6(b) and Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 509 (2d ed. rev. 2004) and cases cited therein. Generally, the Board is liberal in granting extensions of time before the period to act has elapsed so long as the requested extension of time is not "necessitated by the party's own lack of diligence or unreasonable delay" in taking the required action. TBMP § 5.01(a).

Presently, there are three motions pending before the Trademark Trial and Appeal Board ("Board") in this proceeding. Opposer's Motion to Consolidate combined with a Motion for Extension of Time of Discovery Period and Trial Dates. Opposer also filed a Motion to Amend the Notice of Opposition. The parties expected that the Board would rule on the motions, particularly the Motion to Consolidate, prior to the discovery deadline in order to conserve resources and costs.

Opposer requested an extension of the discovery period to allow time for the Board to rule on Opposer's Motion to Consolidate which was filed December 12, 2007. If the motion were granted, the extension would have conserved the time and resources of the Board and the parties by limiting the need to serve multiple sets of discovery. This was Opposer's first request to extend discovery in the proceeding. The request was not made in bad faith.

Opposer also filed a Motion to Amend the Notice of Opposition in Opposition No. 91179933 on March 31, 2007. The Motion to Amend was made to rectify the accidental inclusion of page number three from Opposition No. 911799963 into Opposition No. 91179933. If the amendment were allowed, the Notice of Opposition would thereby incorporate correct page number two.

Furthermore, at this point in the proceedings, Lawton Printing, Inc. would not suffer any prejudice or inconvenience by an extension of these proceedings. When the Board did not act on Opposer's pending motions, Opposer served its first set of discovery in both cases on March 19, 2008. To date, the applicant has failed to respond even though the deadline for its discovery responses has passed. In order to rectify this situation, Opposer's counsel contacted opposing counsel in a good faith effort to obtain responses to its discovery requests. Unfortunately, Applicant's Counsel was unavailable. Instead of filing a motion to compel discovery responses,

Opposer needs time to speak with Applicant's counsel in order to make a good faith effort to work out any differences that the parties may have. *MacMillan Bloedel Ltd. v. Arrow-M Corp.*, 203 USPQ 952, 953 (TTAB 1979) (party seeking discovery is required to make good faith effort to determine why no response has been made before coming to Board with motion to compel).

Last month, shortly after the Opposer served its discovery requests, the Applicant proposed a resolution of this matter. Since that time, Applicant has not had an opportunity to respond to Opposer's counter-offer. Therefore, an extension of the discovery deadline may also allow time for the parties to work out a settlement of this dispute.

Opposer hereby requests that the discovery period which was set to close on April 27, 2008, be extended three (3) months and that all other dates regarding testimony and rebuttal be reset based upon the three (3) months extension of the discovery period to the following dates.

	<u>Revised Due Date</u>
THE PERIOD FOR DISCOVERY TO CLOSE.....	July 27, 2008
Testimony period for party in position of plaintiff to close (opening thirty days prior thereto).....	October 26, 2008
Testimony period for party in position of defendant to close (opening thirty days prior thereto).....	December 24, 2008
Rebuttal testimony period for party in position of plaintiff to close (opening fifteen days prior thereto).....	February 8, 2009

WHEREFORE, for the good cause stated above, Opposer prays that the Board will grant this Motion for Extension of Time of Discovery Period and Trial Dates.

Respectfully submitted,

UNIVERSAL AMERICAN CORP.
F/K/A UNIVERSAL AMERICAN FINANCIAL CORP.

/RMF/

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CERTIFICATE OF SERVICE

I hereby certify that one copy of the foregoing Motion for Extension of Time of Discovery Period and Trial Dates is being forwarded this 28th day of April, 2008 to Applicant, by first class mail, postage prepaid and addressed to:

Mark W. Hendricksen, Esq.
Wells St. John P.S.
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/RMF/

Ruth Mae Finch