

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

Baxley

Mailed: July 30, 2009

Opposition No. 91190654

OMS Investments, Inc.

v.

Hidden Creations

**Andrew P. Baxley, Interlocutory Attorney:**

On July 21, 2009, applicant sole proprietorship, who is appearing *pro se* herein, filed a motion for a sixty-day extension of time in which to file an answer. On July 27, 2009, opposer filed a consented motion to extend wherein it indicated that the parties had agreed to extend applicant's time to answer to August 9, 2009. The Board, in a July 28, 2009 order, granted opposer's motion and extended the due date for applicant's answer to August 9, 2009.

On the morning of July 30, 2009, applicant's principal contacted the Board attorney assigned to this case by telephone and appeared puzzled that she was only granted a fourteen-day extension. To eliminate any confusion regarding the parties' cross-motions to extend, the Board attorney determined that a telephone conference should be convened. See Trademark Rule 2.120(i)(1); TBMP Section 502.06(a) (2d ed. rev. 2004). On the afternoon of July 30,

2009, such conference was held between opposer's attorney Christine M. Klink, applicant's principal Gail E. Smith, and Board attorney Andrew P. Baxley.

In the conference, opposer's attorney indicated that, while applicant consents to an extension of applicant's time to answer, it consented only to a fourteen-day extension; and that its July 27, 2009 consented motion to extend was based on a misunderstanding between the parties. In response, applicant's principal noted that she earlier consented to a sixty-day extension of time for opposer to file its notice of opposition and contended that she need more than a fourteen-day extension to prepare an answer to the notice of opposition.

Applicant is representing itself herein, and its principal appears to have limited litigation experience.<sup>1</sup>

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<sup>1</sup> The applicant sole proprietor intends to represent itself in this proceeding. While Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in inter partes proceedings before the Board to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

In addition, applicant is reminded that, under Trademark Rules 2.119(a) and (b), every submission filed in this proceeding must be served upon opposer's attorney, and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all submissions that applicant files henceforth in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made, e.g., by first-class mail. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

In defending this opposition, applicant should review the Trademark Rules of Practice, online at <http://www.uspto.gov/web/offices/tac/tmlaw2.pdf>, and the

In addition, the notice of opposition, including electronic cover sheet and exhibits, is 167 pages in length. Thus, the Board finds that the fourteen-day extension to which opposer has consented is insufficient and that a forty-day extension is appropriate.<sup>2</sup> See Fed. Civ. P. 6(b); TBMP Section 509 (2d ed. rev. 2004).

Accordingly, applicant's motion to extend is granted to the extent modified by this order, and opposer's motion to extend is moot. The July 28, 2009 order is vacated, and dates herein are reset as follows.

Time to Answer	9/4/09
Deadline for Discovery Conference	10/4/09
Discovery Opens	10/4/09
Initial Disclosures Due	11/3/09
Expert Disclosures Due	3/3/10
Discovery Closes	4/2/10
Plaintiff's Pretrial Disclosures	5/17/10
Plaintiff's 30-day Trial Period Ends	7/1/10
Defendant's Pretrial Disclosures	7/16/10
Defendant's 30-day Trial Period Ends	8/30/10
Plaintiff's Rebuttal Disclosures	9/14/10
Plaintiff's 15-day Rebuttal Period Ends	10/14/10

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

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Trademark Board Manual of Procedure, online at <http://www.uspto.gov/web/offices/dcom/ttab/tbmp/index.html>.

The Board expects parties, whether or not they are represented by counsel, to comply with the Trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure.

<sup>2</sup> The Board will entertain a motion for a further extension of time to answer, if necessary.

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Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.