

ESTTA Tracking number: **ESTTA358494**

Filing date: **07/16/2010**

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

Proceeding	91191309
Party	Plaintiff David K. Aberizk
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Submission	Motion to Extend
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Date	07/16/2010
Attachments	Aberizk_Motion_for_60_day_extension_discovery_and_trial_dates.pdf (4 pages) (29826 bytes)

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

In the Matter of Application Serial No. 77/592,570
For: ICI ICI SERVICES and Design
Date of Filing: October 14, 2008

David K. Aberizk,)	Opposition No. 91191309
)	
Opposer,)	OPPOSER'S MOTION FOR 60 DAY
)	EXTENSION OF DISCOVERY AND
v.)	TRIAL DATES
)	
ICI Services Corporation,)	
)	
Applicant.)	
)	
)	
)	
)	
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VIA ELECTRONIC SYSTEM FOR
TRADEMARK TRIALS AND APPEAL (ESTAS)

Opposer, David Aberizk, through his counsel, has attempted to obtain the consent of Applicant's counsel, Kathleen Holmes, in early June for an extension of discovery and trial dates, but Opposer's counsel did not receive a reply, and was instead served with a first set of discovery. Opposer has thereafter sought the consent of Applicant's new lead counsel, Thomas F. Bergert, by telephone on July 15 and 16, 2010, to extend the discovery and trial dates in the above opposition proceeding by sixty (60) days, but has been unable to obtain consent. The parties, through their respective counsel, have been conceptually addressing possible settlement scenarios, are currently in active settlement negotiations, and Opposer has exchanged a written proposal for potential resolution of the dispute while concurrently responding to and exchanging discovery, but additional time is required for both purposes. Opposer requires additional time to

complete its responses to outstanding discovery requests. Applicant's First Set of Interrogatories, Requests for Production and Requests for Admissions were served on Opposer on June 16, 2010. Opposer's Responses are due July 21, 2010, Discovery period is set to close Sunday July 18, 2010 which carries over to Monday July 19, 2010. Opposer will need additional time to gather appropriate documentation that goes back some ten (10) years. On the other hand, Opposer has propounded its discovery Interrogatories and Requests for Production to the Applicant and is awaiting Applicant's Responses, which are due approximately a week later. In the event this matter does not settle promptly, Opposer requires the opportunity to conduct further follow up discovery, if needed, based on the nature of the responses to be provided by the Applicant to help narrow the issues in this proceeding. It is believed that counsel has refused the request for extension to place pressure on ensuring settlement exchange. Nonetheless, a written settlement proposal was conveyed to Applicant's counsel on July 16, 2010.

This is the first request for extension of discovery and trial dates filed by either of the parties in the proceeding. Therefore, Opposer requests a sixty (60) day extension of discovery and trial dates, such that the new dates will be as follows:

Discovery Closes	September 16, 2010
Plaintiff's Pretrial Disclosures	October 31, 2010
Plaintiff's 30-day Trial Period Ends (opening thirty days prior thereto)	December 15, 2010
Defendant's Pretrial Disclosures	December 30, 2010
Defendant's 30-day Trial Period Ends (opening thirty days prior thereto)	February 13, 2011
Plaintiff's Rebuttal Disclosures	February 29, 2011
Plaintiff's 15-day Rebuttal Period Ends (opening fifteen days prior thereto)	March 30, 2011

This motion is being made to provide the parties with further time to engage in meaningful settlement discussions to determine if this proceeding can be resolved during this extension period and to complete the discovery process particularly from the perspective of the Opposer. This extension is not entered into for purposes of delay. It was explained to Applicant's counsel that existing pressure on Opposer by refusing to consent to the first reasonable request for extension would likely delay his client's registration longer than were Applicant to consent to the motion as the parties endeavor to position the matter for resolution.

It is, therefore, respectfully requested that having shown good cause, and this motion being filed prior to the expiration of discovery period, that Opposer's Motion for 60 Day Extension of Discovery and Trial Dates be granted.

Respectfully Submitted,



Attorney for Opposer
DAVID K. ABERIZK

Dated: July 16, 2010

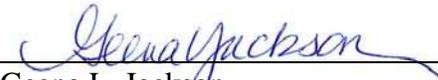
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **OPPOSER'S MOTION FOR 60 DAY EXTENSION OF DISCOVERY AND TRIAL DATES** is being mailed on July 16, 2010 by First Class Mail to Applicant's counsel as follows:

Thomas F. Bergert, Esq.
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Charlottesville, Virginia 22902
tbergert@williamsmullen.com

Dated: July 16, 2010

By: 
Geena L. Jackson