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

Proceeding	91191371
Party	Plaintiff ClearChoice Holdings, LLC
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Submission	Stipulated/Consent Motion to Reopen
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Date	01/10/2012
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CLEAR CHOICE HOLDINGS, LLC,

Opposer,

v.

DALE D. GOLDSCHLAG, DDS

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Opposition No. 91191371

**OPPOSER'S CONSENT MOTION
TO EXTEND DEADLINES AND TO REOPEN**

Opposer, Clear Choice Holdings, LLC, files this Consent Motion to Extend Deadlines and to Reopen and, in support thereof, respectfully shows as follows:

I. INTRODUCTION

On December 9, 2011, the following deadlines were set:

Date	Deadline
December 9, 2011	Discovery Closes
January 24, 2012	Plaintiff's Pretrial Disclosures
March 8, 2012	Plaintiff's 30-day Trial Period Ends
March 23, 2012	Defendant's Pretrial Disclosures
May 6, 2012	Defendant's 30-Day Trial Period Ends
May 21, 2012	Plaintiff's Rebuttal Disclosures
June 22, 2012	Plaintiff's 15-Day Rebuttal Period Ends

After these deadlines were set and as the parties were discussing potential settlement and attempting to set the deposition of Applicant. The parties are continuing to negotiate settlement and to attempt to schedule the deposition of Applicant.

II. ARGUMENT AND AUTHORITIES

“Rule 16(b) provides that once a scheduling order has been entered, it ‘may be modified only for good cause and with the judge’s consent.’ *Marathon Financial Ins., Inc. v. Ford Motor Co.*, 591 F. 3d 458, 470 (5th Cir. 2009) (quoting Fed. R. Civ. P. 16(b)). In the present case, there is good cause to amend the scheduling order.

In the present case, there is good cause to amend the schedule to allow time for the deposition of Applicant and to permit time for settlement negotiations. Clear Choice is continuing its attempts to secure the deposition of Applicant. This deposition is essential to Clear Choice’s preparation of its case, and Clear Choice will be severely prejudiced if it is not permitted to take the deposition. Therefore, reopening discovery solely for the purpose of the deposition of Applicant is appropriate. Also, a thirty day extension is appropriate to allow time for settlement negotiations to continue.

III. CONCLUSION

As stated above, there is good cause to amend the schedule in this matter according to allow for the deposition of Applicant and for settlement negotiations to continue. Therefore, Clear Choice requests that the deadlines be extended for thirty days to permit time for the deposition and negotiations as follows:

Date	Deadline
February 9, 2011	Discovery Closes
March 24, 2012	Plaintiff’s Pretrial Disclosures
May 8, 2012	Plaintiff’s 30-day Trial Period Ends
May 23, 2012	Defendant’s Pretrial Disclosures
July 6, 2012	Defendant’s 30-Day Trial Period Ends

July 21, 2012	Plaintiff's Rebuttal Disclosures
August 22, 2012	Plaintiff's 15-Day Rebuttal Period Ends

Respectfully submitted,

/s/ Brian A. Colao

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of Clear Choice Holdings, LLC's Opposer's Emergency Motion To Amend Schedule was served via email and Certified Mail, Return Receipt Requested to the party listed below at the address indicated on this the 10th day of January, 2011.

Adam B. Kaufman
Adam B. Kaufman & Associates, PLLC
585 Stewart Ave., Suite 302
Garden City, NY 11530

/s/ Brian A. Colao

Brian A. Colao

CERTIFICATE OF CONFERENCE

Counsel for Plaintiff has conferred with counsel for Defendants, on January 10, 2011 and Defendants agree to the relief requested.

/s/ Brian A. Colao

Brian A. Colao