

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

77,699,074

FN HERSTAL )  
 )  
 Opposer )  
 )  
 v. )  
 )  
 SAEILO ENTERPRISES, INC., )  
 )  
 Applicant. )

Opposition No.: 91193064



05-14-2012

U.S. Patent & TMO/TM Mail Rpt Dt. #72

**FIRST MOTION BY OPPOSER TO EXTEND TIME BY  
FIFTEEN (15) DAYS TO RESPOND TO OUTSTANDING DISCOVERY**

Opposer FN Herstal, S.A., by and through its attorneys, Ladas & Parry LLP, move for a fifteen (15) day extension of time to respond to outstanding discovery, specifically Applicant's set of outstanding Interrogatories and Requests for Production of Documents. The Opposer asserts the following rationale in support of this first Motion for an extension to respond to outstanding discovery:

The parties have been involved in serious settlement negotiations with recent further and continuing progress on potential settlement. The position of the parties has been in prior matters to focus at potential settlement. For potentially advancing or even concluding settlement counsel for the Opposer requested certain materials from counsel for Applicant. Counsel for Opposer has even offered to meet with foreign representatives of the Opposer and with counsel for Applicant at the INTA conference for advancing settlement. However, it appears that

certain materials were not yet available or provided by Applicant, by or during the conference to further advance settlement with this further extension of time for responding to discovery not becoming necessary. The resolution of settlement could alleviate the need for further efforts in discovery.

This extension is requested in that counsel for Applicant advises that her client has not provided any further consent to extending discovery responses which based upon prior agreed scheduling are now becoming due. This relatively short further extension for the discovery responses will allow some time for the further pursuit of settlement with the materials to be received from Applicant's counsel to enable settlement considerations.

Additional grounds for this extension is to allow for counsel for Opposer and his client's European representatives to meet at the INTA conference regarding discovery responses. This fifteen (15) day first extension will allow counsel to personally confer with his client's European representatives both on the upcoming discovery responses and on potentially furthering settlement.

Additionally, as further grounds for this extension Opposer's counsel needs additional time for the preparation of the detailed discovery responses should settlement efforts not shortly bring fruition and should Opposer thereby need to prepare such discovery responses. Responses to the outstanding discovery

it has been determined requires extensive input from both U.S. and foreign operations associated with the Opposer's underlying entities involved. Opposer itself is a large entity with a multitude of foreign operations. Furthermore, the discovery sought that could be produced appears to extend over a number of years back in time, with the Opposer being required to review most U.S. and foreign operations and extensive records going back many years, with already extending back more than about a decade or so in time. It has been noted that certain persons now involved were only relatively recently involved with both the U.S. and foreign operations, which causes Opposer additional difficulties in locating appropriate records and determining that full and comprehensive responses are being provided. A number of persons need to be involved and consulted with for responding to the discovery. Furthermore, the discovery itself is somewhat complex with twenty-five (25) different Interrogatories alone, as well as forty-five (45) Requests for Documents. The discovery is further somewhat complicated because it seeks discovery on matters extending not only back in time on issues of potential priority, but where those records and information that would be required for responding are only available after consulting with multiple sources for the required information.

A further possible objection to outstanding discovery needs to also potentially be resolved prior to the providing of outstanding discovery responses. This issue pertains to that

essentially counsel for the Opposer had no advance notice that Applicant would proceed with the serving of the underlying discovery. No date or circumstances were decided upon on concerning when to begin advancing discovery as the parties were engaged in settlement negotiations. Counsel for the Applicant served an Initial Disclosure Statement and discovery by mail, but did not give advance warning that it would proceed in doing so, and the discovery/scheduling conference did not address the situation on when to begin discovery. Counsel for the Opposer was under the impression that a further discussion would occur prior to the commencement of discovery or at least about discovery responses being required, given that the parties were engaged in settlement negotiations. Potentially, the additional time will likely resolve an overall issue as to Applicant having proceeded to issuing unilateral discovery without prior consultation, or an agreement reached on overall timing or planning during a typical scheduling conference.

Further grounds for this extension include the convenience of counsel and his client. Counsel for the Opposer has been engaged in significant business travel during the time period when these responses have become due, including out of state travel on a Court hearing and for the week of the International Trademark Association conference. Furthermore, foreign representatives of the Opposer have also similarly been involved in foreign travel to the United States for attending the INTA

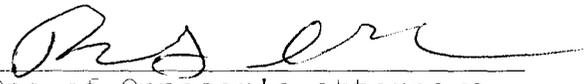
conference. Furthermore, lead counsel for Opposer has had other multiple deadlines on Court matters, including District Court proceedings on matters seeking injunctive relief, as well as involving deadline situations regarding other client matters. Under such circumstances this extension is also being requested for the convenience of counsel. The length of this extension as being for fifteen (15) days also is taken into account that foreign representatives of the Opposer and its lead counsel are attending the INTA conference during the time period when these responses are becoming due. The length of this extension and the ability to confer at the conference will also assist in convenience with scheduling for both counsel and his client representatives, so as to allow counsel and the client to properly confer towards completing discovery responses.

It should also be noted that this is only the first extension which was not agreed upon in connection with discovery responses and that the extension is only for a relatively short time period which allows counsel for the Opposer and the foreign based principals to return to their respective offices following the INTA conference and be able to confer regarding the preparation of these responses.

For the foregoing rationale, it is respectfully requested that this extension be granted and the discovery responses which without this extension would have become due on today's date, May

8, 2012, would under this extension of fifteen (15) days now be due on and including May 23, 2012.

Respectfully submitted,

By:   
One of Opposer's attorneys

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail addressed to ATTN: TTAB - No Fee, Assistant Commissioner for Trademarks, U.S. Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on May 8, 2012.

  
One of Opposer's attorneys

**CERTIFICATE OF SERVICE**

The undersigned, one of Opposer's attorneys, hereby certifies that on May 8, 2012, he caused a true and correct copy of the proposed FIRST MOTION BY OPPOSER TO EXTEND TIME BY FIFTEEN (15) DAYS TO RESPOND TO OUTSTANDING DISCOVERY to be served upon Applicant via First Class mail, postage pre-paid, at the following address:

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