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

Mailed: February 28, 2011

Opposition No. 91196444
(parent case)
Opposition No. 91196445

Penske Systems, Inc.

v.

Jonathan A. Naguit

Jennifer Krisp, Interlocutory Attorney:

On January 13, 2011, the Board, under its standard practice, allowed applicant 30 days in which to appoint new counsel or to file his notification to the Board that he represents himself in this consolidated proceeding ("proceeding" or "proceedings"). On February 11, 2011, applicant filed a motion to extend its time to answer, and to extend all subsequent dates, for the stated reason of allowing him additional time to employ new counsel. In said motion, applicant states that he "secured the express consent of all other parties to this proceeding for the extension and resetting of dates requested herein."[1]

Also on February 11, 2011, the Board's ESTTA system entered an order automatically granting applicant's motion.

[1] In addition to the other irregularities in applicant's motion noted herein, said motion erroneously resets the time to file an answer. Applicant filed his answer in both of these consolidated proceedings on September 16, 2010. Accordingly, the pleadings are closed, and applicant's time to answer will not be reset.

Opposer filed a brief in opposition to applicant's motion, stating that applicant's representation of opposer's express consent was incorrect, that applicant did not seek opposer's consent, that neither opposer nor opposer's counsel had given such consent, and that opposer does not now consent. Opposer's brief constitutes the second time in this proceeding wherein opposer has informed the Board that it did not provide its consent to what applicant filed as a consented motion.

The order of February 11, 2011 is hereby vacated and is replaced with the instant order. Accordingly, this proceeding is now before the Board for consideration of applicant's motion (filed February 11, 2011) wherein he seeks a 30-day extension of time.[2]

Pursuant to Fed. R. Civ. P. 6(b), made applicable to Board proceedings by Trademark Rule 2.116(a), in a motion to extend, the moving party must show good cause for the requested extension. *See* TBMP § 509.01 (2d ed. rev. 2004).

The Board will not tolerate either allegations of consent which are incorrect, or the unnecessary delays and expenditure of the Board's resources that are occasioned thereby, both of which indicate a breach of the duty of candor that all parties to Board proceedings are expected to demonstrate. Moreover, applicant sets forth with only minimal particularity the facts alleged to constitute good cause for the requested extension, an extension that goes far beyond the standard allowance of

[2] In the interest of expediency, the Board exercises its discretion to consider the motion prior to the expiration of time allowed to file a reply brief thereon.

thirty days. Accordingly, inasmuch as applicant has failed to demonstrate good cause for the extension it seeks, said extension request is denied.

Nevertheless, inasmuch as the current status of applicant's legal representation in this proceeding remains unresolved,[3] the following is ordered:

1) As stated, the automatically-generated order of February 11, 2011 is hereby vacated.
2) Applicant is allowed <u>four (4) days from the mailing date of this order</u> in which to file in parent case Opposition No. 91196444 either <u>an appointment of new counsel, or a paper stating that he chooses to represent himself in this proceeding</u>, in accord with the Board's January 13, 2011 order, compliance with which is now past due. Applicant shall note that the Board's allowance of four days from the mailing date of this order is granted in lieu of the Board's issuance of an order finding applicant to be in default at this time.
3) In the event that applicant files no response, the Board will issue an order requiring applicant to show cause why default judgment should not be entered against him.
4) Proceedings remain suspended pending applicant's compliance with the instant order.
5) The Board will entertain no further "consented" motion or motions for suspension or extension of time, or seeking

[3] It is noted that the Certificate of Service accompanying opposer's brief indicates service of a copy thereof on both applicant and applicant's former counsel.

any other relief, filed by applicant in this proceeding, which do not bear either the signature of one of opposer's counsel of record, or other reliable documentation clearly evidencing opposer's consent thereto. Applicant's failure to adhere to this directive may result in the Board's consideration of a motion for the imposition of sanctions. Furthermore, under its inherent authority to manage the cases on its docket, the Board may impose such sanctions upon its own initiative. *See, e.g., Carrini Inc. v. Carla Carini S.R.L.*, 57 USPQ2d 1067, 1071-72 (TTAB 2000); TBMP § 527.03 (2d ed. rev. 2004) (the Board has the inherent authority to sanction).

Resumption

Proceedings shall resume only upon order of the Board. In the event of resumption, the Board will reset disclosure, discovery and trial dates, as appropriate.