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

Proceeding	91197479
Party	Plaintiff FARONICS CORPORATION
Correspondence Address	JAMES E. SHLESINGER SHLESINGER ARKWRIGHT & GARVEY LLP 5845 RICHMOND HIGHWAY, SUITE 415 ALEXANDRIA, VA 22303 UNITED STATES jim@sagllp.com, nitasantiago@sagllp.com
Submission	Motion to Extend
Filer's Name	James E. Shlesinger
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Signature	/jes/
Date	07/06/2011
Attachments	Motion and Declaration 91197479.pdf (6 pages)(223023 bytes)

thirty days for the discovery period due to a busy docket and a scheduled vacation in August. After a follow up request for a reply, Applicant's Counsel finally responded that Applicant would not consent to the thirty day extension, nor would Applicant consent to any further extensions on the case. The present motion is based on the demands of litigation of Counsel for the Opposer.

Specifically, as set forth in the Declaration of James E. Shlesinger accompanying this Motion, a client of Mr. Shlesinger's has been sued in Federal District Court for patent infringement. The suit was filed after the current scheduling order was set on March 3, 2011. No notice was given about the law suit to Mr. Shlesinger or his client before its filing in April. Mr. Shlesinger has represented his client for thirty years. He is their principal attorney, and is the principal attorney representing the client in the patent litigation. The demands of the patent litigation, have required that Opposer seek a thirty day extension of the existing scheduled dates.

With respect to a motion for an extension of time, if the motion is filed prior to the expiration period as originally set forth or previously extended, the moving party need only show good cause for the requested extension. TBMP 509.01. In this case, the good cause standard applies, since discovery is not set to close until August 29, 2011. Mr. Shlesinger notified

Applicant's Counsel on June 30, 2011, of the need for an extension of time, or two months prior to the close of discovery.

The press of other litigation has been recognized to constitute good cause for an extension of time. See Societa Per Azioni Chianti Ruffino Esportazione Vinicola Toscana v. Colli Spolentini Spoletoducale SCRL 59 USPQ2d 1383 (TTAB 2001). As set forth above, Counsel for the Opposer, represents another client in a patent infringement law suit filed subsequent to the prior entry of the scheduling order in the present case. Counsel for the Opposer is the principal attorney representing the client in the patent litigation and is also the principal attorney representing the Opposer in this proceeding.

This is not a case in which the excusable neglect standard applies, nor is it one where the party seeking an extension has waited until the waning days of the close of the deadline for discovery or testimony in order to make its request. Counsel for the Opposer, on recognizing the need for an additional time, promptly notified Applicant's Counsel of such. Applicant's Counsel waited sixteen days before responding with the statement that not only would the extension not be granted, but that her client would not consent to any further extension on the matter which, implies that an extension would not be granted regardless of the situation.

Opposer submits that the good cause standard has been satisfied, and requests that its Motion be granted.

Respectfully submitted,

FARONICS CORPORATION

Date: July 6, 2011

By: 
James E. Shlesinger
Counsel for Opposer

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CERTIFICATE OF SERVICE

It is hereby certified that this Opposer, Faronics Corporation's Motion for an Enlargement of Time of the Dates Set Forth in the Approved Scheduling Order of March 3, 2011, has been served upon Applicant by mailing a copy thereof by prepaid first class mail to Lauren Krupka, Counsel for Applicant, Aristocrat Technologies, Inc. 7230 Amigo Street, Las Vegas, Nevada 89119 this 6th day of July, 2011.

By: 
James E. Shlesinger

nsm

vacation on August 6, 2011, and had a full plate of work before then.

3. On June 30, 2011, having not heard back from Ms. Krupka, I sent a follow up e-mail to her advising as to whether she had received my June 20 message, and whether she would consent to the requested extension.

4. Ms. Krupka responded to my follow up advising that her client would not consent to a thirty day extension, would consent to a fourteen day extension but would not consent to any further extensions in the case.

5. In April, 2011, and subsequent to the only extension filed in this case, a longstanding client of my firm, and, whom I have represented for 30 years, was sued for patent infringement in federal district court. The lawsuit was filed without prior notice. The suit has put increased demands on me to such an extent that the demands of this litigation have resulted in me not being able to adequately address the present opposition proceeding.

I declare under penalty of perjury the above to be true.

Date: July 4, 2011

By: 
James E. Shlesinger