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Filing date: **01/27/2012**

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

Proceeding	91199109
Party	Plaintiff Calpis Co., Ltd.
Correspondence Address	DONNA A TOBIN BAKER AND HOSTETLER LLP 45 ROCKEFELLER PLAZA NEW YORK, NY 10111 UNITED STATES rhorowitz@bakerlaw.com,dtobin@bakerlaw.com,ejoyce@bakerlaw.com,trademarks@bakerlaw.com,jlozada@bakerlaw.com
Submission	Motion to Extend
Filer's Name	Donna A. Tobin
Filer's e-mail	dtobin@bakerlaw.com,ehorowitz@bakerlaw.com,ejoyce@bakerlaw.com,jlozada@bakerlaw.com
Signature	/Donna T. Tobin/
Date	01/27/2012
Attachments	CalpisMotionExtend.pdf (10 pages)(571404 bytes)

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

CALPIS CO., LTD. Opposer, v. CALICO JACK'S L.L.C Applicant.	))))))))))	Consolidated Opposition Nos. 91199109 and 91199111

OPPOSER'S MOTION TO EXTEND ALL DATES BY SIXTY DAYS

Opposer CALPIS CO. LTD. ("Calpis") hereby submits its Motion to extend all dates in this matter by sixty days. The motion is necessary due to Applicant's failure to respond to Opposer's request that it consent to an extension to explore settlement.

On December 22, 2011 Opposer's counsel initially contacted Applicant (who is pro se) via email to schedule the required discovery conference (Exhibit A1, p. 4). The parties then selected a date for the conference (Exhibit A2, pp. 2-3). On January 17, 2012 Opposer informed Applicant by email that it wished to explore settlement and requested an extension of all dates in this matter to facilitate those settlement discussions (Exhibit A3, pp. 1-2). Applicant did not respond, nor did it respond to subsequent email messages (Exhibits A4-A5, p.1) or voicemail messages from Opposer's counsel requesting consent to an extension.

Calpis therefore respectfully moves this Honorable Board to extend all dates in this matter by sixty (60) days to enable the parties to either conduct the required discovery conference or conduct settlement discussions.

The Board, in an Order dated December 22, 2011, reset the dates in this matter. If the Board grants Opposer's instant Motion, those dates, including the date for the Discovery Conference, would be reset as follows, or as the Board deems appropriate:

Deadline for Discovery Conference	3/27/2012
Discovery Opens	3/27/2012
Initial Disclosures Due	4/26/2012
Expert Disclosures Due	8/24/2012
Discovery Closes	9/26/2012
Plaintiff's Pretrial Disclosures	11/7/2012
Plaintiff's 30-day Trial Period Ends	12/22/2012
Defendant's Pretrial Disclosures	1/6/2013
Defendant's 30-day Trial Period Ends	2/20/2013
Plaintiff's Rebuttal Disclosures	3/7/2013
Plaintiff's 15-day Rebuttal Period Ends	4/6/2013

CONCLUSION

Opposer respectfully submits that, due to Applicant's failure to consent to an extension of time to conduct the discovery conference or explore settlement, the requested extension is necessary to provide the Parties time to consider settlement or

conduct the discovery conference and respectfully requests that the instant Motion be granted in its entirety.

Dated: January 27, 2012

BAKER & HOSTETLER LLP

By:_____

Robert B.G. Horowitz
Donna A. Tobin
45 Rockefeller Plaza
New York, New York 10111
(212) 589-4200
Attorneys for Opposer
Calpis Co., Ltd.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing motion was served on January 27, 2012 by first class mail, postage prepaid, in an envelope addressed to Applicant as follows:

Calico Jack's LLC
Attn: Sidney J. Martin
19 Autumn Lane
Carriere, MS 39426-7070

Donna A. Tobin

Exhibit A

Tobin, Donna A.

From: Horowitz, Robert B. G.
Sent: Thursday, January 19, 2012 10:05 AM
To: Sidney Martin
Cc: Tobin, Donna A.; Joyce, Eileen; DC IP Docketing
Subject: RE: Calpis Co., Ltd. v. Calico Jack's LLC, our refs.: 043523.000003_4

A5

Dear Mr. Martin:

I again inquire by E-mail about an extension, and refer to my voicemails to you of yesterday and today.

Please give me your response. My direct dial is 212 589-4240.

Thank you.

Yours,

Robert B.G. Horowitz

From: Horowitz, Robert B. G.
Sent: Wednesday, January 18, 2012 10:24 AM
To: 'Sidney Martin'
Cc: dtobin@bakerlaw.com; Eileen Joyce (ejoyce@bakerlaw.com); DC IP Docketing
Subject: RE: Calpis Co., Ltd. v. Calico Jack's LLC, our refs.: 043523.000003_4
Importance: High

A4

Dear Mr. Martin:

Please give me your reply.

Yours,

Robert B.G. Horowitz

From: Horowitz, Robert B. G.
Sent: Tuesday, January 17, 2012 12:10 PM
To: 'Sidney Martin'
Cc: dtobin@bakerlaw.com; Eileen Joyce (ejoyce@bakerlaw.com); DC IP Docketing
Subject: RE: Calpis Co., Ltd. v. Calico Jack's LLC, our refs.: 043523.000003_4
Importance: High

A3

Dear Mr. Martin:

I have been in touch with Calpis about this matter, and have proposed to them a possible means of settlement, which would need to be discussed at the discovery/settlement conference we will have.

They have asked me to request your consent to a two month extension of all dates in this proceeding, including the discovery/settlement conference. The reason is that I am traveling to Tokyo and will have a meeting with them the week of January 23 to discuss the possible settlement proposal. The lawyer and person I will meet with will then need to consider it further and present the issue to Calpis' senior management, for their further consideration.

Unlike Americans, the Japanese take a good deal of time with issues on this kind (and I represent a good number of Japanese clients)?

Would you please, therefore, give me your consent to a two month extension of all deadlines, including the discovery/settlement conference? The extension will merely maintain the status quo. If you are in agreement, I will prepare the necessary paperwork to submit to the Trademark Trial and Appeal Board.

I look forward to your reply. Thank you for your anticipated cooperation.

Yours,

Robert B.G. Horowitz

A2

From: Sidney Martin [mailto:calicoenergy@yahoo.com]
Sent: Friday, December 30, 2011 1:32 PM
To: Horowitz, Robert B. G.
Subject: Re: Calpis Co., Ltd. v. Calico Jack's LLC, our refs.: 043523.000003_4

Hi Mr. Robert,
There will be no attorney present just me and you for the telephone conference just give me a time and we can move forward on the 19th.

CALICO®

With best regards,

Calico Jack's LLC.
Sidney J. Martin III
1-504-355-9639
calicoenergy@yahoo.com
WWW.CALICO-JACKS.COM

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From: Sidney Martin <calicoenergy@yahoo.com>
To: "Horowitz, Robert B. G." <rhorowitz@bakerlaw.com>
Cc: "pandersson@leakeandersson.com" <pandersson@leakeandersson.com>
Sent: Saturday, December 24, 2011 2:08 PM
Subject: Re: Calpis Co., Ltd. v. Calico Jack's LLC, our refs.: 043523.000003_4

Ok, thats fine. I have a attorney that may be present for the meeting so I will have to confirm a time with him Monday morning for the telephone conference on January 19, 2012.

Merry Christmas!

CALICO®

With best regards, Calico Jack's LLC. Sidney J. Martin III

1-504-355-9639
calicoenergy@yahoo.com
WWW.CALICO-JACKS.COM

From: "Horowitz, Robert B. G." <rhorowitz@bakerlaw.com>
To: "'calicoenergy@yahoo.com'" <calicoenergy@yahoo.com>
Sent: Saturday, December 24, 2011 11:35 AM
Subject: Re: Calpis Co., Ltd. v. Calico Jack's LLC, our refs.: 043523.000003_4
The conference will be held by telephone, and the issues to be discussed do not require involvement of the USPTO.

From: Sidney Martin [mailto:calicoenergy@yahoo.com]
Sent: Saturday, December 24, 2011 06:16 AM
To: Horowitz, Robert B. G.
Cc: pandersson@leakeandersson.com <pandersson@leakeandersson.com>
Subject: Re: Calpis Co., Ltd. v. Calico Jack's LLC, our refs.: 043523.000003_4

Concerning:
U.S.P.T.O Discovery Meeting,
My birthday is January 19th so we might be able to get together and do something if its not to much sugar for a dime! If this day is fine with you just give me a time and I can give you a place. And the patent office has to know about this meeting.
P.S. No tricks, No trouble ;)

A2

CALICO®

With best regards, Calico Jack's LLC. Sidney J. Martin III

1-504-355-9639
calicoenergy@yahoo.com
WWW.CALICO-JACKS.COM

From: "Horowitz, Robert B. G." <rhorowitz@bakerlaw.com>
To: "calicoenergy@yahoo.com" <calicoenergy@yahoo.com>
Cc: "Tobin, Donna A." <dtobin@bakerlaw.com>; "Joyce, Eileen" <ejoyce@bakerlaw.com>; DC IP Docketing <dcipdocketing@bakerlaw.com>
Sent: Thursday, December 22, 2011 1:36 PM
Subject: re: Calpis Co., Ltd. v. Calico Jack's LLC, our refs.: 043523.000003_4

Dear Mr. Martin:

I refer to the Trademark Trial and Appeal Board's order issued today.

As I will be out of the country during the week of January 23 through 27, I would like to have the mandatory discovery conference with you some time during the week of January 16. Please let me know dates and times during that week that you will be available.

I look forward to hearing from you.

Very truly yours,

Robert B.G. Horowitz

A1

My Bio Web site V-card

T 212.589.4240
F 212.589.4201
M 917 288-1793
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Baker & Hostetler LLP
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New York, New York 10111

Baker Hostetler

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