

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

cv

Mailed: February 9, 2012

**Opposition No. 91199109**  
**(PARENT CASE)**

Opposition No. 91199111

Calpis Co., Ltd.

v.

Calico Jack's LLC

**Jennifer Krisp, Interlocutory Attorney:**

The Board notes opposer's motions (filed January 27, 2012, and January 30, 2012) to extend the discovery conference, discovery, disclosure and trial dates. It also notes that the January 30, 2012 filing indicates applicant's consent to the requested extension.

Opposer filed the motion after the answer was filed, and before the parties held their discovery and settlement conference which is required under Trademark Rules 2.120(a)(1) and (a)(2).

The Board has specifically noted that it does not grant a motion to extend or suspend for settlement where such motion is filed between the filing of an answer and the deadline for the discovery conference, "precisely because the discovery conference itself provides an opportunity to

discuss settlement." *Miscellaneous Changes to Trademark Trial and Appeal Board Rules*, 72 Fed. Reg. 42242, 42245 (Aug. 1, 2007). As stated in the Notice of Final Rulemaking:

[I]f a motion to extend or suspend for settlement talks, arbitration or mediation is not filed prior to answer, then the parties will have to proceed, after the answer is filed, to their discovery conference, one point of which is to discuss settlement. It is unlikely the Board will find good cause for a motion to extend or suspend for settlement if the motion is filed after answer but prior to the discovery conference, precisely because the discovery conference itself provides an opportunity to discuss settlement.

*Id.*, at 42245.

Opposer has not demonstrated extraordinary circumstances or other reasons for the extension that suggest that varying from the Board's general practice is warranted in this proceeding. Accordingly, the motion is denied.

The parties are allowed ten (10) days from the mailing date of this order in which to hold their mandatory discovery conference. All other dates remain as set in the Board's December 22, 2011 order. See Trademark Rule 2.120(a)(2).