

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

GMM

Mailed: July 8, 2015

Opposition No. 91203192

Beats Electronics, LLC

v.

Merkury Innovations, LLC

Andrew P. Baxley, Interlocutory Attorney:

On June 17, 2015, Opposer filed a motion to compel production of witnesses for discovery depositions and document production. On June 18, 2015, Applicant filed a motion to compel production of a witness for a discovery deposition. Subsequently, on June 29, 2015, Opposer filed a consent motion to extend by thirty days each party's respective deadline to file a brief in response to the other party's motion to compel.

The motion to extend is granted to the extent modified by this order.¹ Applicant's response to Opposer's motion to compel is due by August 6, 2015. Opposer's response

¹ The certificate of service of Opposer's motion to compel indicates that it was served by U.S. Mail on June 17, 2015. Accordingly, the original due date of Applicant's brief in response to that motion was July 7, 2015. *See* Trademark Rules 2.119(c) and 2.127(a). Accordingly, an extension of thirty days from that due date is through August 6, 2015. *See* Fed. R. Civ. P. 6(a).

The certificate of service of Applicant's motion to compel indicates that it was served by U.S. Mail and e-mail on June 18, 2015. The Board treats the e-mail copy as a courtesy copy. *See McDonald's Corp. v. Cambridge Overseas Development Inc.*, 106 USPQ2d 1339 (TTAB 2013). Accordingly, the original due date for Opposer's brief in response to that motion was July 8, 2015. Accordingly, an extension of thirty days from that due date is through August 7, 2015. *See* Fed. R. Civ. P. 6(a).

to Applicant's motion to compel is due by August 7, 2015. *See* Trademark Rules 2.119(c) and 2.127(a).

Proceedings are suspended pending disposition of the motions to compel, except as discussed below. The parties should not file any paper which is not germane to the motions to compel. *See* Trademark Rule 2.120(e)(2).

Neither the filing of the motion to compel nor this suspension order tolls the time for parties to make required discovery disclosures, or to respond to any outstanding discovery requests which had been served prior to the filing of the motion to compel, nor does it excuse a party's appearance at any discovery deposition which had been duly noticed prior to the filing of the motion to compel. When the motion to compel is filed after discovery has closed, but prior to the opening of the first testimony period, the time period for making pretrial disclosures is suspended. *See* Trademark Rule 2.120(e)(1); TBMP § 523.01 (2014).

The motion to compel will be decided in due course.²

² The entry of appearance (filed June 12, 2015) by Dale M. Cendali and Bonnie L. Jarrett of Kirkland & Ellis LLP as Opposer's co-attorneys is noted and entered. The attorneys from Neal, Gerber & Eisenberg LLP who have appeared herein remain as Opposer's co-attorneys of record. However, in accordance with the June 1, 2015 entry of appearance, any Board correspondence that is sent by U.S. Mail will be mailed only to the attorneys at Kirkland & Ellis, LLP. *See* TBMP § 117.02 (2014). The Board will, however, send e-mail notification of issuance of orders to the e-mail addresses of the attorneys at both firms. *See* TBMP § 117.01.