

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

Mailed: December 31, 2013

Opposition No. 91204124

Threshold Enterprises, Ltd.

v.

Robert Campbell

**George C. Pologeorgis,
Interlocutory Attorney:**

This case now comes before the Board for consideration of opposer's motion (filed December 20, 2013) to extend its time by thirty days to respond to applicant's motion for summary judgment filed on November 27, 2013.

The motion is fully briefed.¹

Opposer's Motion to Extend

For the reasons set forth below, opposer's motion to extend is

GRANTED.

In support of its motion, opposer maintains that good cause exists for the requested extension in light of the following: (1) other litigation demands

¹ Applicant's sur-reply filed on December 30, 2013 has been given no consideration in our determination herein. *See* Trademark Rule 2.127(a) (after the movant's reply brief, "[t]he Board will consider no further papers in support of or in opposition to a motion."

on opposer's primary counsel, including two state court litigation matters, an investigation by the Federal Trade Commission, a death penalty appeal, and an evaluation of a potential challenge to California regulations, (2) opposer's primary counsel unexpectedly had to travel due to a family medical emergency, (3) the need to evaluate applicant's responses to opposer's written discovery, the responses of which are germane to applicant's motion for summary judgment; and (4) opposer's primary counsel will be out of the country for ten days during the Christmas holidays, i.e., from December 24, 2013 to January 4, 2013.

In response, applicant argues that (1) opposer has failed to establish good cause for its extension request, and (2) has presented its motion for an improper purpose, namely, to (a) harass applicant, (b) cause unnecessary delay, and (c) needless increase in the cost of this proceeding. Applicant further contends that opposer's request for an extension of time has been necessitated by opposer's own lack of diligence or undue delay in taking the required action during the time previously allotted therefor.

The appropriate standard for allowing an extension of a prescribed period prior to the expiration of the term is "good cause." *See* Fed. R. Civ. P. 6(b) and Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 509 (3d ed. rev. 2 2013) and cases cited therein. Generally, the Board is liberal in granting extensions of time before the period to act has elapsed so long as the moving party has not been guilty of negligence or bad faith and

the privilege of extensions is not abused. Moreover, the moving party must demonstrate that the requested extension is not necessitated by the moving party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted. *See National Football League v. DNH Management LLC*, 85 USPQ2d 1852 (TTAB 2008).

Following a careful review of the parties' arguments and the record herein, the Board finds that opposer has satisfactorily explained its need for additional time to respond to applicant's motion for summary judgment and, therefore, has shown good cause sufficient to justify its extension request. The Board does not find that opposer has been negligent or has acted in bad faith. Further, since this is opposer's first **unconsented** request for an extension, it has not abused the privilege of extensions. The Board also finds that the record does not demonstrate that the requested extension was necessitated by opposer's own lack of diligence or unreasonable delay. Indeed, the Board has previously held that the press of other litigation matters may constitute good cause for granting an extension request. *See Societa Per Azioni Chianti Ruffino Esportazione Vinicola Toscana v. Colli Spolentini Spoletoducale SCRL*, 59 USPQ2d 1383, 1383-84 (TTAB 2001). The Board further finds that the intervening family medical emergency and a pre-planned vacation during the Christmas holidays also constitute sufficient good cause for the requested extension. Finally, the Board finds that granting opposer's extension request would not prejudice applicant aside

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from a slight delay in making a final determination of applicant's motion for summary judgment. Accordingly, opposer's motion to extend is **GRANTED**.

In view thereof, opposer is allowed until **February 3, 2014** in which to respond to applicant's motion for summary judgment.

A reply brief, if filed, must be filed in accordance with Trademark Rule 2.127(e).

Proceedings otherwise remain suspended pending the disposition of applicant's motion for summary judgment.