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

Proceeding	91205692
Party	Defendant VMR PRODUCTS, LLC
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Attachments	Motion for Extension of Time to File Answer 07.26.2012.pdf ( 5 pages )(44669 bytes )

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

Grand River Enterprises Six Nations  
Ltd.,

Opposer,

v.

VMR Products LLC d/b/a V2 CIGS,

Applicant.

Opposition No.: 91205692

Mark: VAPOR COUTURE

Serial No.: 85/450,714

**MOTION FOR EXTENSION OF TIME TO FILE ANSWER**

VMR Products LLC d/b/a V2 Cigs (“Applicant”), a company organized under the laws of Florida with a principal place of business in Miami, Florida, by and through its undersigned counsel, hereby files this Motion for Extension of Time to File an Answer to the Notice of Opposition filed by Grand River Enterprises Six Nations Ltd.’s (“Opposer”) on June 19, 2012. Applicant requests that the deadline for filing an Answer in Opposition No. 91205692 be extended for a brief period of thirty (30) days.

**I. FACTUAL BACKGROUND**

Applicant is the owner of Trademark Application Serial No. 85/450,714 for the mark VAPOR COUTURE in connection with “electronic cigarettes for use as an alternative to traditional cigarettes, not including smokeless tobacco; and smokeless cigarette vaporizer” in International Class 034.

On June 19, 2012 Opposer filed a Notice of Opposition against Applicant.

Pursuant to the Scheduling Order issued by the TTAB, Applicant’s Answer is due on July 30, 2012. Accordingly, Applicant’s request for an extension of time is timely

filed.

On Tuesday, July 24, 2012 counsel for the Applicant contacted counsel for the Opposer, Mark A. Koch, and requested that the parties schedule a time for a telephone conference to engage in discussions regarding the Opposition. Counsel for Applicant requested a thirty (30) day extension of time to file an Answer to allow the parties sufficient to time to engage in such discussions.. Applicant is also desirous of additional time to review and respond to the substance of Opposer's positions.

On Thursday, July 26, 2012, Mr. Koch denied Applicant's counsel's request for a telephone conference, as well as denied counsel's request for a thirty (30) day extension of time to file an Answer.

Mr. Koch provided no reason or explanation as to why Applicant's first request for an extension was not reasonable or warranted under the circumstances.

Notwithstanding Opposer's refusal to grant Applicant's reasonable request, Applicant hereby moves for an additional thirty (30) days to file an Answer.

This is Applicant's first and only request for an extension of time.

## **II. ARGUMENT**

The time for filing an answer may be extended or reopened by stipulation of the parties, approved by the Board, or on motion granted by the Board, or by order of the Board. *See* TBMP § 310.03(c); TBMP § 509. Pursuant to Fed. R. Civ. P. 6(b), made applicable to Board proceedings by 37 CFR § 2.116(a), a party may file a motion for an enlargement of the time in which an act is required or allowed to be done. TBMP § 509.01(a). If the motion is filed prior to the expiration of the period as originally set or previously extended, the motion is a motion to extend, and the moving party need only

show good cause for the requested extension. *Id.*

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 extension is not abused. *National Football League v. DNH Management LLC*, 85 USPQ2d 1852, 1854 (TTAB 2008).

Good cause exists for granting Applicant's modest request for an additional thirty (30) days to file an Answer.

First, Applicant's Answer is due on July 30, 2012. Accordingly, Applicant's request for an extension of time is timely filed. TBMP § 509.01(a).

In addition, this is Applicant's first and only request for an extension of time. There has not been a continuous pattern of extension requests, nor has Applicant been guilty of negligence or bad faith. *National Football League*, 85 USPQ2d at 1854. As such, Opposer cannot claim any prejudice by Applicant's delay in filing an answer.

Moreover, the present request takes place at the inception of the opposition proceedings. Motions to extend or re-open the time to answer and motions to extend time to file final briefs on the case are treated more liberally than motions to extend or re-open during discovery or trial periods. *National Football League*, 85 USPQ2d at 1854 (denying extension request, in part, because it was at the discovery stages, and not pleading stages, of the proceeding). Again, Opposer will not suffer any prejudice by Applicant's modest request for an extension of time.

Finally, and most notably, Applicant has expressed a desire to discuss the matter directly with Opposer in the interest of potentially avoiding a lengthy and costly TTAB proceeding. Applicant does not believe that these discussions and proposals can be



**CERTIFICATE OF ELECTRONIC FILING**  
**AND CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **MOTION FOR EXTENSION OF TIME TO FILE ANSWER** is being submitted electronically via the Electronic Filing System for Trademark Trial and Appeals on this 26 day of July, 2012.

I further hereby certify that a true and complete copy of the foregoing **MOTION FOR EXTENSION OF TIME TO FILE ANSWER** has been served on Applicant by mailing said copy on this 26 day of July, 2012 by First Class Mail, postage prepaid and by electronic mail to:

Koch@bellnet.ca  
Mark A. Koch  
583 Main Street East  
Hamilton, ON L8M1J4

On behalf of:  
Grand River Enterprises Six Nations Ltd.

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/glh/  
Gregory L. Hillyer  
Attorney for Opposer