

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

Baxley

Mailed: June 21, 2016

Opposition No. 91205896

*Beau L. Tardy*

*v.*

*Wild Brain Entertainment, Inc.*

**Andrew P. Baxley, Interlocutory Attorney:**

Pursuant to the schedule set forth in the Board's August 29, 2015 order, Applicant's brief on the case was due by June 7, 2016. *See* Trademark Rule 2.128(a)(1). On June 3, 2016, Applicant filed a motion to extend its time to file such brief until July 5, 2016.<sup>1</sup> The motion has been fully briefed.<sup>2</sup>

Because Applicant acted prior to the expiration of its time to file a brief on the case, it need only show "good cause" for the extension sought. *See* Fed. R. Civ. P. 6(b)(1)(A); TBMP § 509.01(a). The Board is generally liberal in granting extensions before the period to act has lapsed, so long as the moving party has not been guilty

---

<sup>1</sup> A party that moves for an extension without the consent of its adversary should not request an extension through a certain date. The better practice is to request an extension of a specified duration to run from the date of the Board's decision. *See* TBMP § 509.02 (2015).

<sup>2</sup> Under the circumstances, Applicant could have contacted the Board attorney assigned to this case by telephone upon filing of the motion to extend to request that the motion be resolved by telephone conference. *See* Trademark Rule 2.120(i)(1); TBMP § 502.06(a). Use of the telephone conference procedure could have resulted in a decision on that motion by the due date for Applicant's brief on the case.

of negligence or bad faith and the privilege of extensions is not abused. *See, e.g., American Vitamin Products, Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313 (TTAB 1992).

After reviewing the parties' arguments, the Board finds that Applicant has made the requisite showing of good cause for the extension sought.<sup>3</sup> *See Societa Per Azioni Chianti Ruffino Esportazione Vinicola Toscana v. Colli Spolentini Spoletoducali SCRL*, 59USPQ2d 1383, 1384 (TTAB 2001) (the press of other litigation matters may constitute good cause for an extension). Accordingly, Applicant's motion to extend is granted.

Applicant is allowed until **July 5, 2016** to file its brief on the case. Opposer's reply brief on the case is due in accordance with Trademark Rule 2.128(a)(1)

---

<sup>3</sup> Moreover, the Board prefers to have a brief on the case in the record from a party that wishes to file one, where possible. "The brief is a party's opportunity to present, in a systematic and coherent manner, and in a form which is permanent and can be referred to, a discussion of the facts in light of the law, its strongest affirmative arguments, and a rebuttal of its adversary's arguments." TBMP § 801.01.