

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

Mailed: June 18, 2014

Opposition No. 91209747

Rita M. Clark d/b/a Bluewater Rentals

v.

Bluewater Key RV Ownership Park  
Property Owners Association, Inc.

Jennifer Krisp, Interlocutory Attorney:

This proceeding is before the Board for consideration of opposer's June 4, 2014 motion for an extension of time to respond to the motion for summary judgment filed by applicant on April 29, 2014.<sup>1</sup> Opposer's motion has been fully briefed.<sup>2</sup>

Relevant procedural background

Notwithstanding a later date of service of certain exhibits to applicant's motion for summary judgment, the record reflects that applicant served its motion for summary judgment on April 29, 2014 by United States Postal Service.

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<sup>1</sup> The parties should refrain from captioning their filings as "Opposition/Cancellation No. 91209747." This proceeding is appropriately designated as "Opposition No. 91209747" and the record is clear that the proceeding includes a counterclaim petition for cancellation.

<sup>2</sup> The Board, in its discretion, and to avoid further delay to this proceeding, considers the merits of opposer's motion prior to the time for filing a reply brief thereon. *See*

By operation of Trademark Rule 2.127(e)(1), opposer's brief in response thereto was due by May 29, 2014. The Board acknowledges that the parties stipulated to extend opposer's due date to June 6, 2014, and the parties' stipulation, which is of record by way of applicant's declaration of Autondria S. Minor (Minor decl., para. 21, Exh. D), is hereby approved. Opposer filed her motion for an extension of time on June 4, 2014, two days prior to the stipulated deadline. Accordingly, opposer's motion is a motion to extend, and is governed by Fed. R. Civ. P. 6(b).

### Analysis

A party who moves for an enlargement of the time in which an act is required or allowed to be done need only show good cause for the requested extension. *See* Fed. R. Civ. P. 6(b). A party moving to extend time must demonstrate that the requested extension is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor. *See* TBMP § 509.01 (2013). The moving party retains the burden of persuading the Board that it was diligent in meeting its responsibilities and should therefore be awarded additional time. *See National Football League v. DNH Mgt. LLC*, 85 USPQ2d 1852, 1854 (TTAB 2008). The movant must state with particularity the facts believed to constitute good cause for the requested extension of time; mere conclusory allegations lacking in factual detail are insufficient. *See Luemme, Inc. v. D. B. Plus Inc.*, 53 USPQ2d 1758, 1760 (TTAB 1999). Generally, the

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TBMP § 502.02(b) (2013); *Cf.* TBMP § 502.06(a) (2013); *Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 13 USPQ2d 1719, 1720 n.3 (TTAB 1989).

Board is liberal in granting extensions of time before the period to act has elapsed so long as the movant has not been guilty of negligence or bad faith, and the privilege of extensions is not abused. *See National Football League v. DNH Mgt. LLC*, 85 USPQ2d at 1854.

Here, the Board has thoroughly reviewed the arguments, points and submissions of both parties, but for efficiency does not restate them here. In summary, the record does not reflect that opposer's request for additional time was necessitated by her own lack of diligence towards litigating this proceeding, and reflects that the delay in briefing the summary judgment motion occasioned by the motion has not been unreasonable. The record does not indicate that opposer has abused the privilege of extensions in this proceeding or has employed extensions to avoid applicant's summary judgment motion or this proceeding. Opposer states with limited but satisfactory particularity the multiple reasons for her request (opposer's motion, numbered para. 5-6).

The Board notes the parties' differing positions regarding the most recent and current nature of their settlement discussions. The Board strongly encourages parties to actively pursue settlement of oppositions, regardless of the status of the litigation in the proceeding. Here, the ongoing nature of settlement discussions, or lack thereof, does not weigh substantially in favor of either party in determining the merits of opposer's motion.

With respect to the length of time requested, given the circumstances, a briefing allowance until July 11, 2014 would constitute an extension of six weeks

beyond the original due date for the brief. An extension of such length is not warranted by the circumstances set forth in opposer's motion.

In view of these findings, and on balance, the Board finds that opposer has demonstrated the requisite good cause for a limited and reasonable extension of time in which to file her brief. Accordingly, opposer's motion is granted as modified. Specifically, the motion is granted to the extent that opposer is allowed until June 30, 2014 in which to file her brief.<sup>3</sup>

The Board will entertain no further unconsented motion(s) to extend any date in the briefing of applicant's motion for summary judgment.

Proceedings otherwise remain suspended pursuant to Trademark Rule 2.127(d) (*see* Board order of May 8, 2014).

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<sup>3</sup> In accordance with Trademark Rule 2.127(e)(1), the time for filing a reply brief will not be extended.