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Filing date: **05/21/2013**

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

Proceeding	91210049
Party	Plaintiff Vranken-Pommery Production
Correspondence Address	DENISE I MROZ WOODCOCK WASHBURN LLP 2929 ARCH STREET, CIRA CENTRE 12TH FLOOR PHILADELPHIA, PA 19104-2891 UNITED STATES trademarks@woodcock.com, dmroz@woodcock.com
Submission	Other Motions/Papers
Filer's Name	Denise I. Mroz
Filer's e-mail	trademarks@woodcock.com, dmroz@woodcock.com
Signature	/Denise I. Mroz/
Date	05/21/2013
Attachments	Motion to Oppose Extension Request.PDF(300022 bytes)

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

Vranken-Pommery Production,

Opposer,

v.

Amuse Bouche LLC,

Applicant.

In Re: 91210049

Serial No.: 85605301

Filed: April 23, 2012

Published: December 4, 2012

Mark: DIAMANT BRUT

Opposition No.:

**OBJECTION TO APPLICANT'S MOTION FOR EXTENSION OF TIME TO ANSWER
NOTICE OF OPPOSITION**

Opposer, Vranken-Pommery Production ("Opposer"), by and through its attorneys, hereby objects to the Motion for Extension of Time to Answer Notice of Opposition, filed by Amuse Bouche LLC ("Applicant"), on May 13, 2013.

The standard for allowing an extension of a prescribed period prior to the expiration of that period is "good cause." *See* Fed. R. Civ. P. 6(b)(1)(A); TBMP Section 509.01(a) (3d ed. 2011). 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 of negligence or bad faith and the privilege of extensions is not abused. *See, e.g.,* American Vitamin Products, Inc. v. DowBrands Inc., 22 USPQ2d 1313 (TTAB 1992).

In the instant case, Applicant has requested an extension of ninety (90) days. Opposer contends that this request is excessive, unwarranted, and was not filed in good faith because:

(1) prior to the filing of the instant opposition, Applicant essentially ignored Opposer's efforts to contact Applicant regarding the matter, and

(2) Applicant did not attempt to obtain Opposer's consent to its extension request until the day its answer to the Notice of Opposition was due and, then, Applicant sent its request at such a late hour that Opposer's counsel had no opportunity to consult with Opposer.

As alleged in the Notice of Opposition, Opposer is physically located in Reims, France, which is in the Central European Summer Time Zone (or CEST). During daylight savings time, CEST is six (6) hours ahead of the Eastern Standard Time Zone (EST).

Prior to filing its Notice of Opposition, Opposer attempted to contact Applicant via correspondence sent on January 22, 2013, February 8, 2013, and March 28, 2013. Copies of these letters are attached hereto as Exhibits A, B, and C, respectively. Applicant failed to reply to these inquiries until March 29, 2013, mere days before Opposer's April 3rd opposition deadline.

After the opposition was filed, Applicant made no effort to contact Opposer until May 13, 2013 – the date on which its answer was due – to discuss the timing of Applicant's answer. On May 13th, Applicant's counsel contacted Opposer's counsel via email at 3:21 pm (EST), requesting a ninety (90) day extension of the answer deadline. A copy of this email is attached as Exhibit D.

By the time Applicant sent its request, it was 9:21 pm (CEST) in Reims, France. As such, Opposer's counsel had no opportunity to discuss the request with Opposer, and, therefore, declined to stipulate to the extension.

Applicant proceeded to file the extension despite Opposer's refusal to consent.

To date, Applicant has made no effort to move forward in this matter, yet it claims in its request that it requires "additional time for investigation and to consider possible alternative to

proceeding with the opposition.” Applicant should not be allowed to waste away its answer period and then obtain an excessive amount of time to answer.

In view of the above, Opposer requests that the TTAB deny the Applicant’s extension request. However, if the TTAB is unwilling to place Applicant in default in the instant matter, Opposer requests that any extension granted be limited to no more than thirty (30) days and that no further extensions be granted without Opposer’s consent.

Respectfully submitted,



Date: May 21, 2013

Denise I. Mroz
Woodcock Washburn LLP
Cira Centre, 12th Floor, 2929 Arch Street
Philadelphia, PA 19104-2891

Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Denise I. Mroz, hereby certified that a true and correct copy of the foregoing Notice of Opposition was served on Applicant:

Edward S. Wright
Law Office of Edward S. Wright
1100 Alma Street, Suite 207
Menlo Park, CA 94025-3344

Postage prepaid by first class mail on May 21, 2013. Executed on May 21, 2013, at Philadelphia, Pennsylvania.

A handwritten signature in black ink, appearing to read "Denise I. Mroz", is written over a light gray rectangular background.

Denise I. Mroz

EXHIBIT A



PHILADELPHIA OFFICE
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891
215.568.3100
FAX: 215.568.3439

January 22, 2013

DENISE I. MROZ
PHILADELPHIA OFFICE
215-557-5999
dmroz@woodcock.com

Via Overnight Delivery

Edward S. Wright, Esq.
Law Offices of Edward S. Wright
1100 Alma Street, Suite 207
Menlo Park, CA 94025-3344

Re: U.S. Trademark Application for DIAMANT BRUT
Applicant: Amuse Bouche LLC
Serial No. 85605301

Dear Mr. Wright:

We are U.S. trademark counsel for Vranken-Pommery Production (“Vranken-Pommery”) of Reims, France. Vranken-Pommery is the owner of U.S. Trademark Registration No. 2,337,013 for the mark DIAMANT BLEU for “wines of French origin, namely, champagne.” This registration issued in April 2000. Vranken-Pommery also uses the marks DIAMANT BLANC and DIAMANT ROSE to identify different styles of its champagne wines. For convenience, throughout this letter, we collectively refer to these marks as “the DIAMANT Marks.”

The wines identified by the DIAMANT Marks have been available for purchase in the U.S. for nearly ten years. During this time, our client has made a huge investment of time and money in the DIAMANT Marks. With regard to its worldwide use, our client’s DIAMANT BLEU mark was first used in France in 1966.

It has come to our attention that your client, Amuse Bouche LLC, filed an intent-to-use trademark application with the U.S. Trademark Office for the mark DIAMANT BRUT for sparkling wine.

Due to the similarities between the marks and the identical nature of the goods, Vranken-Pommery is concerned that Amuse Bouche’s adoption and use of the mark DIAMANT BRUT will cause confusion with and dilute the strength of the DIAMANT Marks.

In view of the above, Vranken-Pommery requests that Amuse Bouche expressly abandon the DIAMANT BRUT mark, including the aforementioned U.S. trademark application.



Edward S. Wright, Esq.
January 22, 2013
Page 2

Vranken-Pommery would prefer to resolve this matter amicably but requires that it be resolved promptly. Our client recently requested a 90-day extension of the deadline for opposing Amuse Bouche's trademark application. We hope we can come to a resolution during this extension period. As such, we ask that your client provide the request information by no later than **February 1, 2013**.

We look forward to hearing from you.

Very Truly Yours,

A handwritten signature in cursive script that reads 'Denise I. Mroz'. The signature is written in black ink and is positioned to the right of the typed name.

Denise I. Mroz

EXHIBIT B

Mroz, Denise Incorvaia (Woodcock Washburn)

From: Mroz, Denise Incorvaia (Woodcock Washburn)
Sent: Friday, February 08, 2013 10:53 AM
To: 'twright@claim1.com'
Subject: US Application for DIAMANT BRUT in the name of Amuse Bouche
Attachments: Letter to Edward S. Wright 012213.pdf

Dear Mr. Wright: Please see the attached and advise if we can expect a response to our January 22nd correspondence.

My best,

Denise I. Mroz

Partner

Woodcock Washburn LLP

Cira Centre, 12th Floor

2929 Arch Street

Philadelphia, PA 19104-2891

215.564.8361

Fax: 215.568.3439

Email: dmroz@woodcock.com

www.woodcock.com

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EXHIBIT C

Mroz, Denise Incorvaia (Woodcock Washburn)

From: Mroz, Denise Incorvaia (Woodcock Washburn)
Sent: Thursday, March 28, 2013 1:02 PM
To: 'twright@claim1.com'
Subject: RE: US Application for DIAMANT BRUT in the name of Amuse Bouche
Attachments: Letter to Edward S. Wright 012213.pdf

Dear Mr. Wright: We have yet to receive a response to our January 22nd letter. A courtesy copy of this correspondence is attached hereto.

Please confirm whether Amuse Bouche will withdraw its pending U.S. trademark application for DIAMANT BRUT by no later than **Friday, March 29, 2013**. If Amuse Bouche will not withdraw this filing, please advise whether it consents to electronic service of our client's Notice of Opposition and, if so, whether the Notice of Opposition should be sent to the email account: twright@claim1.com.

Regards,

Denise I. Mroz

Partner

Woodcock Washburn LLP

Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891
215.564.8361
Fax: 215.568.3439
Email: dmroz@woodcock.com
www.woodcock.com

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From: Mroz, Denise Incorvaia (Woodcock Washburn)
Sent: Friday, February 08, 2013 10:53 AM
To: 'twright@claim1.com'
Subject: US Application for DIAMANT BRUT in the name of Amuse Bouche

Dear Mr. Wright: Please see the attached and advise if we can expect a response to our January 22nd correspondence.

My best,

Denise I. Mroz

Partner

Woodcock Washburn LLP

Cira Centre, 12th Floor

2929 Arch Street

Philadelphia, PA 19104-2891

215.564.8361

Fax: 215.568.3439

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EXHIBIT D

Mroz, Denise Incorvaia (Woodcock Washburn)

From: Ted Wright <twright@claim1.com>
Sent: Monday, May 13, 2013 3:21 PM
To: Mroz, Denise Incorvaia (Woodcock Washburn)
Cc: 'Marie Cerimeli'
Subject: Amuse Bouche/Diamant Brut

Ms. Mroz –

Would you have any objection to a 90 day extension of the term for response to the Notice of Opposition in this matter?

Ted

Law Offices of Edward S. Wright
1100 Alma Street, Suite 207
Menlo Park, CA 94025
Telephone: (650) 330-0830
Facsimile: (650) 330-0831

From: Mroz, Denise Incorvaia (Woodcock Washburn) [<mailto:dmroz@woodcock.com>]
Sent: Wednesday, April 03, 2013 8:40 AM
To: Ted Wright
Cc: 'Marie Cerimeli'
Subject: RE: Amuse Bouche/Diamant Brut

Thanks, Mr. Wright. Our copy is already in the mail, but we appreciate the ability to serve electronically in the future.

Regards,
Denise I. Mroz

From: Ted Wright [<mailto:twright@claim1.com>]
Sent: Wednesday, April 03, 2013 11:33 AM
To: Mroz, Denise Incorvaia (Woodcock Washburn)
Cc: 'Marie Cerimeli'
Subject: Amuse Bouche/Diamant Brut

Ms. Mroz –

Thank you for the courtesy copy. No need to send a service copy by mail. I will treat the email copy as the service copy and will be happy to accept email service of all future documents in the matter. I trust you will do the same.

Ted Wright

Law Offices of Edward S. Wright
1100 Alma Street, Suite 207
Menlo Park, CA 94025
Telephone: (650) 330-0830
Facsimile: (650) 330-0831

From: Mroz, Denise Incorvaia (Woodcock Washburn) [<mailto:dmroz@woodcock.com>]
Sent: Wednesday, April 03, 2013 8:25 AM
To: Ted Wright

Cc: 'Marie Cerimeli'
Subject: Amuse Bouche/Diamant Brut

Re: U.S. Trademark Application for DIAMANT BRUT
Applicant: Amuse Bouche LLC
Serial No. 85605301

Dear Mr. Wright:

Enclosed please find a courtesy copy of the Notice of Opposition filed by our client, Vranken-Pommery Production, on April 3, 2013. A copy is being served to you via first class U.S. mail.

Sincerely,
Denise I. Mroz
Partner
Woodcock Washburn LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891
215.564.8361
Fax: 215.568.3439
Email: dmroz@woodcock.com
www.woodcock.com

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