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

Proceeding	91210494
Party	Defendant Meenaxi Enterprise, Inc.
Correspondence Address	JUNGLIN LEE LEE LEE & ASSOCIATES PC 2531 JACKSON ROAD, SUITE 234 ANN ARBOR, MI 48103 UNITED STATES jj@llapc.com
Submission	Other Motions/Papers
Filer's Name	JungJin Lee
Filer's e-mail	jj@llapc.com
Signature	/jjl/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

M/s. RUCHI SOYA INDUSTRIES LIMITED.,)
Opposer,) Opposition No. 91210494
v.) Serial No. 85712990
MEENAXI ENTERPRISE, INC.,) Mark: NUTRELA & Design
Applicant.)

**RESPONSE TO OPPOSER’S MOTION FOR A 60-DAY EXTENSION OF DISCOVERY PERIOD
AND TESTIMONY PERIODS FOR GOOD CAUSE**

Applicant, MEENAXI ENTERPRISE, INC., a (hereinafter “Applicant”), owner of Federal Trademark Application Serial No. 85712990 for the mark “NUTRELA,” a design plus words mark, by and through Counsel, JungJin Lee, Esq., files this response to the OPPOSER’S MOTION FOR A 60-DAY EXTENSION OF DISCOVERY PERIOD AND TESTIMONY PERIODS FOR GOOD CAUSE filed ex parte on January 06, 2014 on behalf of M/s. RUCHI SOYA INDUSTRIES LIMITED., an Indiana Corporation (hereinafter “Opposer”), and assigned Opposition No. 91210494, requests that the motion be denied for reasons below.

Opposer states the following:

“Opposer certifies that it repeatedly sought the consent of the Applicant, but Applicant’s counsel has not returned any of Opposer’s telephone calls or emails.”

While Opposer’s statement is accurate, Applicant finds it in bad faith to not explain the details of the “repeated requests” to the Trademark Trials and Appeals Board.

Applicant’s Counsel and Opposer’s Counsel had a telephonic Discovery Conference on July 11, 2013. Since that time, Applicant and Applicant’s Counsel did not receive any correspondence of any

kind, whether it was phone calls, mail or emails from Opposer's Counsel until over five and a half months later, on Thursday, December 26, 2013 when Opposing Counsel sent an email requesting consent for an additional 60 days extension to discovery. Applicant's Counsel's Office was closed for the Christmas Holiday.

Subsequently, Opposing Counsel then sends the Opposer's Discovery request on Friday, December 27th. Again the Applicant's Counsel's Office was closed for the Christmas Holiday.

Opposing Counsel then sends an email on Friday Jan 03, 2014 requesting response. Our offices were closed early on Friday Jan 03, 2014 due to the pending "polar vortex" storm.

Opposing Counsel then calls and leave two messages on Monday, January 06, 2014 when most of the Midwest businesses were closed (including our office) due to the severe winter storms. Notices were given to our employees not to leave their home due to the severity of the storm. Even postal deliveries were delayed for several days.

Then on the same day, January 06, 2014, Opposing Counsel files an ex parte Motion to Extend without consent and serves Applicant notice via First Class Mail.

The "repeated requests" were over a 12 day time span when the Opposing Counsel should have know or anticipated that offices would be closed. Of those 12 days, our offices were reasonably and expected to be closed for 9 of those days.

Opposing counsel states that the requisite good cause was given to grant the extension of time.

As explained in *National Football League v. DNH Management, LLC*, 85 USPQ2d 1852 (TTAB 2008) [precedential] "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 (2d ed. rev. 2004)* and cases cited therein." The Board goes on to

explain that they are usually liberal in granting an extension "so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused. The moving party, however, retains the burden of persuading the Board that it was diligent in meeting its responsibilities and should therefore be awarded additional time. See *Sunkist Growers, Inc. v. Benjamin Ansehl Company*, 229 USPQ 147 (TTAB 1985). " The NFL waited until the twelve days before the close of the discovery period before filing a motion to extend. In this immediate case, the Opposer waited until one day before the close of the discovery period before filing a motion to extend and did not contact Applicant until 12 days before the end of discovery knowing or should have known that most of those days, the office would be closed. The NFL made repeated contacts over the discovery time frame. In this immediate case, Opposer made no attempts to contact the Applicant for over five (5) months. The Board found that the NFL "*have not made the minimum showing necessary to establish good cause to support an extension of the discovery period for any length of time.*"

Wherefore, Applicant respectfully requests that the Trademark Trial and Appeal Board deny OPPOSER'S MOTION FOR A 60-DAY EXTENSION OF DISCOVERY PERIOD AND TESTIMONY PERIODS FOR GOOD CAUSE in all respects.

Respectfully Submitted,
Meenaxi Enterprises, Inc.

By: /JungJin Lee/
JungJin. Lee, Esq.
Attorney for Applicant

Lee, Lee & Associates, P.C.
2531 Jackson Road, Suite 234
Ann Arbor, MI 48103
Tel: 866-400-2507
Fax: 800-689-7978
Email: jj@llapc.com

CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2014, a true and correct copy of the foregoing Response to
OPPOSER'S MOTION FOR A 60-DAY EXTENSION OF DISCOVERY PERIOD AND TESTIMONY PERIODS FOR
GOOD CAUSE was served upon:

Howard N. Aronson
Robert B. Golden
Lackenbach Seigel Building
One Chase Road
Scarsdale, New York 10583
rgolden@LSLLP.com
haronson@LSLLP.com

By First Class Mail.

I further certify that the foregoing paper is being filed electronically via the Electronic System for
Trademark Trials and Appeals (ESTTA).

Date: January 10, 2014

/JungJin Lee/
JungJin Lee