

ESTTA Tracking number: **ESTTA624391**

Filing date: **08/29/2014**

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

Proceeding	91212176
Party	Defendant Kevco Intellectual Properties LLC
Correspondence Address	RICHARD L HILL DURHAM JONES & PINEGAR 4844 NORTH 300 WEST, SUITE 300 PROVO, UT 84604-5670 UNITED STATES ipmail@djplaw.com, ewynn@djplaw.com, trademarks@hjslaw.com
Submission	Motion to Reopen
Filer's Name	Richard L. Hill
Filer's e-mail	ipmail@djplaw.com,pvtrademarks@djplaw.com
Signature	/Richard L. Hill/
Date	08/29/2014
Attachments	4 Motion to Reopen & Extend-Opposition No. 91212176 29Aug14.pdf(120797 bytes) 4 Supporting Brief-Opposition No. 91212176 29Aug14.pdf(185422 bytes)

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

In the matter of Trademark Application Serial No. 85/676,823

Trademark: **BADDASS NUTRITION**

International Class: 44

CARDILLO, INC.)

Opposer)

vs.)

KEVCO INTELLECTUAL PROPERTIES LLC)

Applicant)

Opposition No. 91212176

MOTION TO REOPEN AND RESET

Applicant, Kevco Intellectual Properties LLC, hereby moves under 37 CFR § 2.121(e) to reopen the time for the Applicant to serve its pretrial disclosure and extend the deadline for Applicant to serve its pretrial disclosure until October 15, 2014, and to reset the Applicant's testimony period for a reasonable time thereafter. Applicant's request is due to Opposer's failure to serve its own pretrial disclosure upon the Applicant or to provide notice of Opposer's intention not to take any testimony during its trial period. Applicant's brief in support of this motion is attached.

KEVCO INTELLECTUAL PROPERTIES LLC

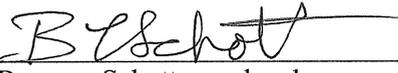
By: 
Richard L. Hill, Attorney for Applicant
Durham Jones & Pinegar
4844 North 300 West, Suite 300
Provo, Utah 84604
801-375-6600

Date 8/29/14.

CERTIFICATE OF SUBMISSION AND SERVICE

I hereby certify that the foregoing Motion to Reopen Time for Defendant's Pretrial Disclosures, with accompanying brief attached, is being submitted to the Trademark Trial and Appeal Board via online submission on the following date: 8/29/2014

I hereby certify that a copy of the foregoing Motion to Reopen Time for Defendant's Pretrial Disclosures, was sent to counsel for the Opposer via U.S. Postal Service for First Class Mail delivery, on the following date: 8/29/2014 addressed to: Cheryl A. Clarkin, Barlow, Josephs & Holmes, Ltd., 101 Dyer St. 5th floor, Providence, RI, 02903

Signature: 
Breanna Schott, paralegal

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Trademark: **BADDASS NUTRITION**

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CARDILLO, INC.)	
)	
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)	Opposition No.91212176
vs.)	
)	
KEVCO INTELLECTUAL PROPERTIES LLC)	
)	
Applicant)	
)	

BRIEF IN SUPPORT OF MOTION TO REOPEN AND RESET

Applicant, Kevco Intellectual Properties LLC, submits this brief in support of its motion to reopen the time for the Applicant to serve its pretrial disclosures and to extend the deadline for the Applicant's to serve its pretrial disclosure until October 15, 2014, and to reset the Applicant's testimony period for a reasonable time thereafter, under 37 CFR § 2.121(e).

According to the Board's Scheduling Order, dated August 27, 2013, the deadline for Opposer to submit its pretrial disclosures was June 18, 2014 and Opposer's trial period ended on August 2, 2014. Applicant did not receive Opposer's pretrial disclosure. Applicant received no notice that the Opposer did not intend to submit testimony evidence. During Opposer's trial period, Applicant received a single piece of evidence from Opposer, namely Opposer's Notice of Reliance upon its trademark registration, U.S. Registration No. 3,750,229, for BADA\$\$SUPPLEMENTS.COM.

According to 37 CFR § 2.121(e), an adverse party who does not receive the required pretrial disclosures may make a motion to the Board to “delay or reset any subsequent pretrial disclosure deadlines and/or testimony periods.” Also stated in 37 CFR § 2.121(e) is the requirement for a party to give notice in its pretrial disclosure if it does not plan to take testimony from any witnesses. Applicant did not receive the required pretrial disclosures from Opposer or any notice regarding Opposer’s intention not to take testimony during its trial period. Therefore, Applicant hereby requests the Board to reopen Applicant’s time to make its own pretrial disclosures, to extend Applicant’s deadline to make its pretrial disclosures until October 15, 2014, and to reset the beginning of Applicant’s trial period for a reasonable time thereafter.

KEVCO INTELLECTUAL PROPERTIES LLC

By: 
Richard L. Hill, Attorney for Applicant
Durham Jones & Pinegar
4844 North 300 West, Suite 300
Provo, Utah 84604
801-375-6600

Date 8/29/2014.

CERTIFICATE OF SUBMISSION AND SERVICE

I hereby certify that the foregoing Brief in Support of Applicant’s Motion to Reopen and Reset, with accompanying motion attached, is being submitted to the Trademark Trial and Appeal Board via online submission on the following date: 8/29/14

I hereby certify that a copy of the foregoing Brief in Support of Applicant’s Motion to Reopen and Reset, was sent to counsel for the Opposer via U.S. Postal Service for First Class Mail delivery, on the following date: 8/29/14 addressed to: Cheryl A. Clarkin, Barlow, Josephs & Holmes, Ltd., 101 Dyer St. 5th floor, Providence, RI, 02903

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