

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 28, 2014

Opposition No. 91213286

Starbuzz Tobacco, Inc.

v.

SIS Resources Ltd.

**George C. Pologeorgis,  
Interlocutory Attorney;**

By order dated April 2, 2014, the Board granted applicant's attorney's request to withdraw as counsel and allowed applicant time in which to advise the Board whether it wishes to represent itself in this matter or appoint new counsel. On April 29, 2014, new counsel made an appearance on behalf of applicant. Applicant also filed a change of correspondence address on April 29, 2014. Board records have been updated accordingly to reflect applicant's new legal representation in this proceeding, as well as applicant's new correspondence address of record.

Additionally, the Board notes that applicant filed an unconsented motion on March 20, 2014 seeking to extend its time to respond to opposer's first set of interrogatories and first set of document requests. In support of its motion, applicant maintains that opposer served its discovery requests upon applicant's in-house counsel and applicant has forwarded the requests to its outside counsel.

Applicant further maintains that it needs additional time to collect documents and information called for in opposer's written discovery requests. Applicant also indicates that this its first request for an extension of time in this matter.

In its April 1, 2014, response, opposer contends applicant has failed to demonstrate any good cause or any excusable neglect to warrant applicant's request for an extension of time. Opposer further maintains that applicant's attorney at the time the motion to extend was filed did not have standing to do so since he had filed a request to withdraw as counsel.

**Decision**

The record shows that opposer served its written discovery by mail on February 13, 2014. Applicant's responses to opposer's written discovery were therefore due by March 20, 2014 and not March 17, 2014, as argued by opposer. See Trademark Rules 2.119(c) and 2.120(a)(3). Applicant filed its motion to extend on the deadline for its responses. Accordingly, the appropriate standard to apply to applicant's motion to extend is good cause and not excusable neglect, as more fully explained below.

Pursuant to Fed. R. Civ. P. 6(b), made applicable to Board proceedings by 37 CFR § 2.116(a), a party may file for an enlargement of the time in which an act is required or allowed to be done. The moving party must show good cause for the requested extension. See TBMP § 509.01 (2014). A party moving to extend time must demonstrate that the requested extension of time is not

necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time allotted therefore.

Based upon the record, the Board finds sufficient good cause for applicant's motion to extend. Moreover, the Board finds no evidence of bad faith by applicant or prejudice to opposer aside from a slight delay in the proceedings. Nor does the Board find that applicant has abused its privilege of extensions. Furthermore, the Board finds opposer's argument that applicant's counsel did not have standing to file the motion to extend unpersuasive. As noted above, applicant's previous counsel filed the motion to extend entertained herein on March 20, 2014. It was not until thirteen days later, i.e., March 31, 2014, that applicant's now previous counsel filed his request to withdraw as attorney of record. Notwithstanding, applicant's counsel remained attorney of record until the Board granted his request to withdraw on April 2, 2014. Accordingly, the filing of the motion to extend by applicant's now previous counsel on March 20, 2014 was proper.

In view of the foregoing, applicant's motion to extend its time to respond to opposer's written discovery is **GRANTED** to the extent that applicant is allowed until **thirty (30) days** from the mailing date of this order in which to respond to opposer's first set of interrogatories and first set of document requests, if it has not already done so.<sup>1</sup>

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<sup>1</sup> This grant of an extension of time to respond to opposer's written discovery does not constitute as an order to compel responses to such discovery but merely serves as a scheduling order.

**Trial Schedule**

Proceedings are resumed. Discovery is open. Trial dates are reset as follows:

Expert Disclosures Due	<b>8/28/2014</b>
Discovery Closes	<b>9/27/2014</b>
Plaintiff's Pretrial Disclosures Due	<b>11/11/2014</b>
Plaintiff's 30-day Trial Period Ends	<b>12/26/2014</b>
Defendant's Pretrial Disclosures Due	<b>1/10/2015</b>
Defendant's 30-day Trial Period Ends	<b>2/24/2015</b>
Plaintiff's Rebuttal Disclosures Due	<b>3/11/2015</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>4/10/2015</b>

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademarks Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.