

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

wbc

Mailed: October 2, 2015

Opposition No. 91214199

Dave Brock

v.

Nicholas Turner AKA Nik Turner

Wendy Boldt Cohen, Interlocutory Attorney:

This case now comes before the Board on Opposer's motion, filed June 29, 2015, to extend the opening of its trial period. Applicant opposes the motion. The Board has considered the parties' submissions and presumes the parties' familiarity with the factual bases for the motion, and does not recount the facts or arguments here, except as necessary to explain the decision.

Because Opposer acted prior to the expiration of its time,¹ it need only show "good cause" for the extension sought. *See* Fed. R. Civ. P. 6(b)(1)(A); TBMP § 509.01(a) (2015). A motion to extend should include a recitation of specific facts constituting good cause for the extension sought. *See Fairline Boats plc v. New Howmar Boats Corp.*, 59 USPQ2d 1479, 1480 (TTAB 2000); *Instruments SA Inc. v. ASI Instruments Inc.*, 53 USPQ2d 1925, 1927 (TTAB 1999); *Luemme, Inc. v. D. B. Plus Inc.*, 53 USPQ2d 1758 (TTAB 1999). The

¹ Opposer's trial period, as last reset, was set to begin July 9, 2015 and expire August 8, 2015.

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. Dow Brands Inc.*, 22 USPQ2d 1313 (TTAB 1992).

Opposer alleges, *inter alia*, that it is considering filing a motion for summary judgment; that its witnesses for the possible summary judgment motion are unavailable for witness statements because of travel in Europe during June, July and August; that its witnesses are “not available to give testimony during the month of July and early August, or to assist with facilitating the receipt of testimony from other witnesses;” and that most of its witnesses reside in Europe “which will necessitate reliance on written questions.” *Motion* at ¶¶ 3-5. The Board further notes Opposer has not abused the privilege for extensions as this proceeding was extended previously with Applicant’s consent.

In view thereof, Opposer has established good cause for the extension sought. The motion to extend time to respond is **granted** as modified below.

In its response, Applicant indicated that it opposes the motion but that it has agreed that “in lieu of presenting the case based on testimony in the form of written questions, that the parties submit the case during the Trial Period based upon declarations.” It is unclear from this language if Applicant is attempting to inform the Board of the parties’ stipulation to submit testimony by declaration or of any other stipulations. *See* Trademark Rule

2.123(b); *Joel Gott Wines LLC v. Rehobeth Von Gott, Inc.*, 107 USPQ2d 1424, 1427 (TTAB 2013) *L'Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1435 n.2 (TTAB 2012); *Calypso Technology Inc. v. Calypso Capital Management LP*, 100 USPQ2d 1213, 1216-19 (TTAB 2011) and TBMP § 703.01(b). Accordingly, the parties are allowed **fifteen days** from the date of this order to inform the Board of any stipulations regarding the submission of testimony or any other matter failing which, the Board will presume there are no relevant stipulations regarding testimony or any other matter about which it needs to be aware.

Dates are reset as follows:

Plaintiff's 30-day Trial Period Ends	11/20/2015
Defendant's Pretrial Disclosures	12/5/2015
Defendant's 30-day Trial Period Ends	1/19/2016
Plaintiff's Rebuttal Disclosures	2/3/2016
Plaintiff's 15-day Rebuttal Period Ends	3/4/2016

Briefs are due in accordance with Trademark Rule 2.128. An oral hearing will be set only upon written request in accordance with Trademark Rule 2.129.