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

Proceeding	91214338
Party	Plaintiff Under Armour, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>UNDER ARMOUR, INC.,</p> <p style="text-align:center">Opposer,</p> <p style="text-align:center">v.</p> <p>VERNON J. SMITH,</p> <p style="text-align:center">Applicant.</p>	<p>Opposition No. 91214338</p> <p>Serial No.: 85/821629</p> <p>Mark: </p> <p>Filing Date: January 11, 2013</p>
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**OPPOSITION TO APPLICANT’S MOTION  
FOR AN EXTENSION OF TIME TO ANSWER**

Opposer, Under Armour, Inc. (“Under Armour”) respectfully requests that the Board deny the Motion for an Extension of Time to Answer filed by the applicant Vernon J. Smith (“Applicant”). Applicant’s Motion requests a 90-day extension. Applicant has failed to demonstrate good cause for the extraordinary relief sought. The request for such a long extension puts Applicant’s motive for its filing into question, because it should not take such a long period of time to answer the Notice of Opposition. Accordingly, the Board should deny the request. In the alternative, Opposer requests that the Applicant only be allowed a single, 30-day extension of time to Answer, after which no further extensions should be considered, as 30 days is ample time to admit or deny the allegations of the Notice of Opposition.

**I. BACKGROUND**

Since at least as early as 1996, Under Armour has continuously used and promoted (through itself, its predecessor in interest, and its licensees) the UNDER ARMOUR mark for apparel products. Under Armour has also prominently used the

mark UA in various forms, including but not limited to in block letters and in the stylized forms shown below (or variations thereof), which consist of the letter “U” vertically overlapping the letter “A,” representing the well-known “UA” acronym for “Under Armour.”



In addition to its UA Mark, Under Armour has used and promoted numerous other UA-formative marks in connection with its wide range of products and services,

including, for example, , , , and

 **BASE**

. These UA-formative marks have been used and promoted individually and/or as a family of UA marks.

Under Armour owns a multitude of valid and subsisting U.S. trademark registrations for its UA Mark many of which cover identical or similar products to those described in the opposed application. On January 11, 2013, Applicant filed a trademark application for the mark  identifying “Athletic apparel, namely, hooded sweatshirts, shirts, pants, jackets, footwear, hats and caps, athletic uniforms” in Class 25. The items identified in Class 25 directly overlap with goods identified in Under Armour’s registered trademarks.

**II. APPLICANT’S REQUEST FOR ADDITIONAL TIME TO ANSWER SHOULD BE DENIED**

Pursuant to Fed. R. Civ. P. 6(b) and 37 C.F.R. § 2.116(a), a moving party must show “good cause” for a requested extension of time to be granted. Moreover, the moving party “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 previously allotted therefore.” TBMP § 509.01(a) (citations omitted). “The Board will ‘scrutinize carefully’ any motion to extend time, to determine whether the requisite good cause has been shown.” *Id.*

Applicant’s motion should be denied because he has had ample time to do the minimal amount of work required to retain counsel or prepare an answer to the allegations of the Notice of Opposition. The motion for extension of time fails to provide any reason for the requested relief, never mind demonstrate that the extra time is not necessitated by Applicant’s own lack of diligence or unreasonable delay in taking the required action. Given the length of the extra time requested, one can only assume that the delay is of Applicant’s own doing. Certainly Applicant’s delay cannot be related to obtaining counsel or lack of appropriate counsel, considering that Applicant somewhat recently filed another trademark application (Serial No. 85/664188) aided by an attorney. Clearly Applicant has access to a trademark attorney if he chooses to use one, or if he is to proceed *pro se* has the sophistication to file an answer within the already tolled statutory period. Consequently, the Board should deny the request.

**III. IN THE ALTERNATIVE, APPLICANT SHOULD BE LIMITED TO A SINGLE 30-DAY EXTENSION OF TIME TO ANSWER**

To the extent that the Board finds that an extension is appropriate, Opposer respectfully requests that Applicant only be allowed one 30-day extension, after which time

no further extensions will be allowed. The Notice of Opposition will not require extensive work to admit or deny. Thus, 30 days is ample time for Applicant to contact counsel and prepare an answer if, in fact, he seriously intends to diligently defend this Opposition.

Respectfully submitted,

Dated: March 9, 2014

By: /s/ Aaron Y. Silverstein  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing OPPOSITION TO MOTION FOR EXTENSION OF TIME TO ANSWER, has been served on Applicant, Vernon J. Smith, by mailing said copy on March 9, 2014, via First Class Mail, postage pre-paid to:

Vernon J. Smith  
19812 Harlan Street  
Carson, California 90746

/s/ Aaron Y. Silverstein  
Aaron Y. Silverstein

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted electronically via ESTTA on the date shown below to the United States Patent and Trademark Office.

/s/ Aaron Y. Silverstein  
Aaron Y. Silverstein

Dated: March 9, 2014