

Baxley

Mailed: March 26, 2015

Opposition No. 91216725

Zenith-Mart Inc.

v.

Godswill H. Oletu d/b/a Zenithmart

**Andrew P. Baxley, Interlocutory Attorney:**

In a February 6, 2015 order, the Board granted Opposer's attorney's request to withdraw as Opposer's counsel in this case and allowed Opposer until March 8, 2015 either to appoint a new attorney or to state that it is representing itself. On March 6, 2015, Opposer filed an unconsented motion to extend its time to comply with the February 6, 2015 order by sixty days.<sup>1</sup> Applicant has filed a brief in opposition thereto. Although Opposer's time in which to file a reply brief has not lapsed, the Board, in its discretion, elects to decide the motion to extend at this time. *See* Trademark Rule 2.127(a).

Because Opposer acted prior to the expiration of time to act under the February 6, 2015 order, it need only show "good cause" for the extension

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<sup>1</sup> In the Board's August 15, 2014 discovery conference memorandum, the Board stated that, "[i]f either party files an unconsented motion to extend or suspend, the movant should telephone the Board attorney assigned to this case upon filing so that the Board attorney can schedule a telephone conference in connection with that motion." The Board attorney assigned to this case has no recollection of Opposer's telephoning the Board attorney to advise him that the motion to extend had been filed.

sought. *See* Fed. R. Civ. P. 6(b)(1)(A); TBMP § 509.01(a) (2014). The 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.

Bearing in mind that the Board is generally liberal toward granting extensions and that Opposer's motion is only the second extension that either party has sought herein, the Board finds that Opposer's need "to meet its financial obligation to be able to hire and retain the services of an Attorney" constitutes good cause to extend Opposer's time to comply with the February 6, 2015 order, albeit for less than the sixty days that Opposer seeks.<sup>2</sup>

In view of the following, the motion to extend is granted to the extent that Opposer is allowed until **April 23, 2015** to file a submission in which either its new attorney enters an appearance or Opposer states that it is representing itself.<sup>3</sup> If Opposer does not comply with this order, the Board will presume that Opposer is representing itself.<sup>4</sup> Proceedings shall resume on **April 24, 2015** under the following schedule:

Expert Disclosures Due

**5/25/2015**

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<sup>2</sup> Opposer is advised that the Board may be less lenient in granting further extensions in this case.

<sup>3</sup> In view of Applicant's objection, the Board will not further extend Opposer's time to comply with the February 6, 2015 order. Opposer brought this proceeding and, in doing so, took responsibility for moving this case forward without undue delay.

<sup>4</sup> The Board notes the hostile tone of the correspondence between the parties that Applicant submitted as exhibits to its brief in opposition. The parties are reminded that they "are required to conduct their business [in this case] with decorum and courtesy." Trademark Rule 2.192.

Discovery Closes	<b>6/24/2015</b>
Plaintiff's Pretrial Disclosures Due	<b>8/8/2015</b>
Plaintiff's 30-day Trial Period Ends	<b>9/22/2015</b>
Defendant's Pretrial Disclosures Due	<b>10/7/2015</b>
Defendant's 30-day Trial Period Ends	<b>11/21/2015</b>
Plaintiff's Rebuttal Disclosures Due	<b>12/6/2015</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>1/5/2016</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 Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129. If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.