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Filing date: **02/16/2016**

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

Proceeding	91220327
Party	Plaintiff 3rd Generation Enterprises Co., Corp.
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Submission	Motion to Extend
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Date	02/16/2016
Attachments	Motion to Extend.pdf(14351 bytes)

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

In the Matter of Application Serial No. 86/337,103
Filed: July 15, 2014
Mark: CITY CLUB
Applicant: Day's Beverages Inc.
Published: December 23, 2014

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3 RD GENERATION ENTERPRISES CO. CORP.,	:	
	:	
Opposer,	:	
	:	Opposition No. 91220327
v.	:	
	:	
DAY'S BEVERAGES, INC.,	:	
	:	
Applicant.	:	
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**OPPOSER 3RD GENERATION ENTERPRISES CO. CORP.'S
MOTION TO EXTEND ALL DATES**

In accordance with Fed. R. Civ. P. 6(b), Opposer hereby moves the Board for a thirty (30) day extension of all trial dates, including the deadline for Opposer's pretrial disclosures, to be measured from the date of the Board's order on the present motion. In the event that the Board denies such motion, Opposer further moves the Board to grant Opposer a day to file and serve pretrial disclosures from the date of the decision on the motion.

As discussed more fully below, good cause exists for this motion as Opposer is attempting to engage in settlement discussions with Applicant to resolve their dispute and moot the entire opposition proceeding.

BACKGROUND

Per the Board's Order of January 13, 2016, Opposer's pretrial disclosures were due on February 14, 2016. As this date fell during the weekend and February 15 was a national holiday, the deadline for Opposer's pretrial disclosures is effectively today, February 16.

Opposer desires to engage in settlement discussions with Applicant regarding the mark CITY CLUB. Opposer's counsel communicated to Applicant's counsel by phone at 1:48 PM

EST on February 15, 2016 that Opposer would like to speak with Applicant's counsel directly regarding settlement. Following this phone call, on February 15 at 5:29 PM EST Opposer's counsel sent an email authorizing Applicant's counsel to speak with Opposer directly for the limited purpose of discussing settlement and procedural matters, such as the extension requested herein. This morning at 10:18 AM, Opposer sent Applicant's counsel an email regarding opening settlement discussions. When Opposer had not received a response by the afternoon, Opposer's counsel contacted Applicant's counsel to obtain its consent to an extension of all trial dates if Applicant wished to engage in settlement discussions. In an email sent at 2:49 PM, Applicant's counsel stated that his client would be willing to engage in settlement discussions conducted between counsel for both parties, but would not consent to the extension request. Applicant provided no basis for why it did not consent to the extension request.

DISCUSSION

The standard for allowing an extension of the trial dates prior to the expiration of the period is "good cause". Fed. R. Civ. P. 6(b) and TBMP §509. It is well understood that "the Board is liberal in granting extensions of time before the period to act has elapsed, so long as the moving party has not been guilty of negligence or bad faith and the privilege of extension is not abused." *American Vitamin Products Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313, 1315 (TTAB 1992). A motion to extend time must provide detailed factual information in support of the request. *Johnton Pump/ General Valve Inc. v. Chromalloy American Corp.*, 13 USPQ2d 1719, 1720 (TTAB 1989).

Opposer wishes to engage in settlement discussions with Applicant regarding the future of its brand CITY CLUB, and this is sufficient good cause to justify the granting of this extension request. Successful settlement discussions would eliminate the need for this opposition entirely, thereby conserving TTAB resources and saving both parties unnecessary legal fees. While Opposer has admittedly decided to pursue settlement discussions close to the deadline for its pretrial disclosures, that is not a reason to deny the request, because it is not doing so out of negligence or bad faith.

Applicant has provided no basis as to why it would not consent to this extension request, when it is willing at the same time to engage in settlement discussions. Furthermore, Opposer believes that Applicant would suffer no prejudice through the granting of this extension, as the

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below a true copy of the OPPOSER 3RD GENERATION ENTERPRISES CO. CORP.'S MOTION TO EXTEND TRIAL DATES was served by first class mail on Applicant, by its attorney, as follows:

Alex R. Sluzas
Paul & Paul
1717 Arch Street, Suite 3740
Philadelphia, PA 19103

/s/ Jonathan M. Purow

Jonathan M. Purow

Dated: February 16, 2016