

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Baxley

Mailed: April 6, 2016

Opposition No. 91221324

Nintendo of America, Inc.

v.

Mario Jones

Andrew P. Baxley, Interlocutory Attorney:

On March 25, 2016, Opposer filed a motion to extend discovery. In the interest of scheduling a telephone conference in connection with such motion, the Board attorney assigned to this case, on March 29, 2016, attempted to contact Applicant by telephone at his telephone number of record and was informed that his voice mail box was full. On that day, the Board attorney also sent Applicant an e-mail at e-mail address of record in the Board attorney asked Applicant to contact him immediately to schedule a telephone conference. In view of Applicant's failure to respond to said e-mail the Board, in exercising its inherent authority to control the scheduling of cases on its docket, elects to decide Opposer's motion on the merits at this time. *See* Trademark Rule 2.127(a).

Because Opposer acted prior to the close of discovery, it need only show "good cause" for the extension sought. *See* Fed. R. Civ. P. 6(b)(1)(A); TBMP § 509.01(a) (2015). 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. *See, e.g., American Vitamin Products, Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313 (TTAB 1992). However, a party, in its motion to extend, must set forth with particularity the facts said to constitute good cause for the requested extension and must establish that the requested extension is not made necessary by the party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor. *See* TBMP § 509.01(a).

After reviewing Opposer's brief in support of its motion, the Board finds that Opposer has made a sufficient showing of good cause for the extension sought. Accordingly, the motion to extend is granted. Dates are reset in accordance with the schedule set forth in that brief.