

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

Mailed: October 24, 2016

Opposition No. 91221951

Geoffrey, LLC

v.

Hair Are Us, Inc.

Geoffrey M. McNutt, Interlocutory Attorney:

This case comes before the Board for consideration of Applicant's October 17, 2016, combined motion for an extension of the discovery period and for a Board order requiring that the Rule 30(b)(6) discovery deposition of Applicant currently noticed by Opposer for October 26, 2016, be rescheduled. Opposer has filed a brief in opposition to the combined motion. The Board, in its discretion, has considered the motion without awaiting a reply brief.

For purposes of this order, the Board presumes the parties' familiarity with the history of the proceeding and the arguments and evidence submitted with respect to the motion.

In its motion, Applicant has requested a thirty-day extension of the close of the discovery period, until November 30, 2016, on the ground that due to Hurricane Matthew Applicant was required to divert its attention from this proceeding to protecting its business assets from the hurricane. In response, Opposer contends that

Applicant has not shown good cause for the requested extension. Opposer argues that Applicant was not affected by the hurricane, or at least not to an extent that would require extending the close of the discovery period and rescheduling the Rule 30(b)(6) deposition previously noticed by Opposer.

The discovery period may be extended upon motion granted by the Board. Trademark Rule 2.120(a)(2); TBMP § 403.04 (2016). The party requesting the extension of time must set forth with particularity the facts said to constitute good cause for the extension and that the extension is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor. Fed. R. Civ. P. 6(b)(1); TBMP § 509.01(a). The Board generally is liberal in granting extensions of time 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 Prods. Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313 (TTAB 1992).

The Board is not persuaded that Applicant has abused the privilege of extensions. Further, there is no evidence that Applicant's request for an extension of the close of the discovery period is due to negligence or bad faith. To the contrary, the Board finds good cause for the requested extension based on the interruption of Applicant's business by the hurricane. Based on the foregoing, Applicant's motion to extend the close of the discovery period is **granted**.

The Board further **grants** Applicant's motion to reschedule the Rule 30(b)(6) discovery deposition of Applicant currently noticed by Opposer for October 26, 2016.

The parties are directed to confer in good faith and reschedule the deposition to take place on a mutually agreeable date no later than **FOURTEEN DAYS** from the mailing date of this order.

Discovery and trial dates are reset as follows:

Discovery Closes	11/30/2016
Plaintiff's Pretrial Disclosures	1/14/2017
Plaintiff's 30-day Trial Period Ends	2/28/2017
Defendant's Pretrial Disclosures	3/15/2017
Defendant's 30-day Trial Period Ends	4/29/2017
Plaintiff's Rebuttal Disclosures	5/14/2017
Plaintiff's 15-day Rebuttal Period Ends	6/13/2017

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.