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

Proceeding	91221951
Party	Plaintiff Geoffrey, LLC
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Submission	Opposition/Response to Motion
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Date	06/29/2015
Attachments	response to motion to extend deadline answer hair are us.pdf(389678 bytes )

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

GEOFFREY, LLC,	:	
	:	
Opposer,	:	Serial No. 86/222,809
	:	
v.	:	Opposition No. 91221951
	:	
	:	
	:	
	:	
HAIR ARE US, INC.,	:	Mark: 
	:	
Applicant.	:	
	:	

**OPPOSER'S RESPONSE IN OPPOSITION TO  
APPLICANT'S MOTION TO EXTEND TIME TO ANSWER**

Opposer, Geoffrey, LLC, by and through its attorneys, submits this Response in Opposition to Applicant's Motion to Extend Time to Answer. The Motion should be denied.

**I. PROCEDURAL HISTORY**

On September 7, 2012, Applicant Hair Are Us, Inc. ("Applicant") filed U.S. Trademark Serial No. 85/723,673 for the



mark ("HAIR ARE US and Design"). U.S. Trademark Serial No. 85/723,673 published for opposition on April 16, 2013 and Opposer Geoffrey, LLC ("Opposer") promptly filed a notice of opposition against this application on May 16, 2013. (See Opposition No. 91210675.) On July 18, 2013, the Trademark Trial and Appeal Board (the "Board") sent a notice of default to Applicant because no answer had been filed. Accordingly, the Board entered judgment by default

against Applicant, sustained Opposer's opposition, and refused registration of HAIR ARE US and Design.

On September 11, 2012, Applicant filed U.S. Trademark Serial No. 85/725,997 for the HAIR ARE US word mark. U.S. Trademark Serial No. 85/725,997 published for opposition on February 12, 2013 and Opposer promptly filed a notice of opposition against this application on March 12, 2013. (See Opposition No. 91209709.) On May 22, 2013, the Board sent a notice of default to Applicant because no answer had been filed. Accordingly, the Board entered judgment by default against Applicant, sustained Opposer's opposition, and refused registration of the mark in U.S. Trademark Serial No. 85/725,997.

On April 25, 2014, Applicant filed U.S. Trademark Serial No. 86/262,385 for the TRESSES ARE US word mark. On July 9, 2014, the Examining Attorney refused registration of the mark under Section 2(d) of the Trademark Act based on a likelihood of confusion with seven of Opposer's prior registered marks: U.S. Reg. Nos. 3,647,541

for  ; 2,282,394 for "R" US; 3,859,459 for

 ; 3,859,458 for  ; 3,942,695 for

 ; 3,724,926 for  ; and 3,724,925 for

 . Applicant failed to response to the July 9, 2014

Office Action, so a Notice of Abandonment was mailed on February 4, 2015.

In the face of three failed attempts to register its marks, Applicant filed yet another application for HAIR ARE US and Design, U.S. Serial No. 86/222,809. Opposer filed a notice of opposition with the Board and served a copy of the notice of opposition to Applicant on May 13, 2015.

On June 18, 2015, five days before the June 23, 2015 deadline to file and serve an answer to Opposer's notice of opposition, Applicant's counsel emailed Opposer's counsel requesting Opposer's consent to extend Applicant's deadline to answer. Opposer promptly responded to Applicant's counsel by email dated June 18, 2015, explaining that Opposer was unwilling to consent to the requested extension. (See Exhibit A for complete June 18, 2015 email conversation between Applicant and Opposer.) Opposer never received a response to its last email. Instead, on June 18, 2015, Applicant filed an unconsented Motion for Extension of Time to Answer with the Board and mailed a copy to Opposer.

## **II. ARGUMENT**

Pursuant to Fed. R. Civ. P. 6(b), made applicable to Board proceedings by 37 C.F.R. § 2.116(a), a party may file a motion for an enlargement of the time in which an act is required or allowed to be done. To secure the requested enlargement of time, however, the moving party must demonstrate good cause for the requested extension. T.B.M.P. § 509.01. A motion to extend must set forth with

particularity the facts said to constitute good cause for the requested extension; mere conclusory allegations lacking in factual detail are insufficient. Id. The Board will "scrutinize carefully" any motion to extend time to determine whether the requisite good cause has been shown. Id.

Ignoring the express requirements of T.B.M.P. § 509.01, Applicant has set forth no facts to demonstrate good cause for its request to extend time to answer Opposer's notice of opposition. The unsupported statement in Applicant's motion that "[u]ndersigned counsel needs additional time to confer with his Applicant" does not meet the requisite "good cause" under T.B.M.P. § 509.01. At the time of the filing, Applicant still had five days to review the notice of opposition and to prepare a complaint. Applicant never alleged that it was occupied with a serious personal matter, such as illness in the family, or any other legitimate reason as to why it could not meet the deadline.

In any event, it is highly unlikely that Applicant needed additional time beyond the five remaining days before the June 23, 2015 deadline. Considering that this is the third opposition that has been filed against its HAIR ARE US applications by Opposer (including the second one involving the exact same HAIR ARE US and Design mark), it is self-evident that Applicant already possessed a full understanding of all facts pertaining to this opposition.

In summary, Opposer has not shown the good cause necessary to grant its motion to extend time to answer. Accordingly, Opposer's motion should be denied by the Board.

**III. CONCLUSION**

For the foregoing reasons, Opposer, Geoffrey, LLC, respectfully requests that the Trademark Trial and Appeal Board deny Applicant's Motion for Extension of Time.

BLANK ROME LLP

Dated: June 29, 2015

By: /matthew homyk/  
Megan E. Spitz  
Matthew A. Homyk  
One Logan Square  
Philadelphia, PA 19103  
(215) 569-5745

Attorneys for Opposer,  
Geoffrey, LLC

**CERTIFICATE OF SERVICE**

The Undersigned, a member of the Bar of the Commonwealth of Pennsylvania, hereby certifies that on the 29th day of June, 2015, he caused a copy of the foregoing Opposer's Response to Applicant's Motion for Extension of Time to Answer to be served by first class mail on:

HARRY TAPIAS  
LOIGICA PA  
2 S BISCAYNE BLVD, STE 3760  
MIAMI, FL 33131-1815

/matthew homyk/  
MATTHEW A. HOMYK

**From:** Homyk, Matthew A.  
**To:** ["Harry Tapias"](#)  
**Cc:** [Tiffany Disney](#); [Camilo Espinosa](#); [Spitz, Megan E.](#); [Pecsenye, Timothy](#)  
**Subject:** RE: Geoffrey LLC v. Hair Are Us, Inc (Extension of Time Request)  
**Date:** Thursday, June 18, 2015 3:10:34 PM

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Dear Harry,

Since it is the general practice of the Trademark Trial and Appeal Board to allow the defendant in an opposition proceeding 40 days from the mailing date of the notification in which to file its answer, or until June 23, 2015, your client is still within the acceptable period to answer if you file the answer by next Tuesday. See TBMP § 310.03.

Five more days should be sufficient time to prepare an answer to the notice of opposition, especially considering that your client undoubtedly recalls that Geoffrey, LLC filed two essentially identical notices of opposition against its prior applications for the same mark in opposition nos. 91209709 and 91210675. If this were not the third opposition our client had been forced to file against your client's applications, we might be more willing to consent to an extra 30 days. Under the circumstances, along with the Trademark Office's clear position that "R US" and "ARE US" marks are not registrable by parties other than Geoffrey, LLC, we are unwilling to consent to your draft motion.

Please let us know if you have any questions.

Sincerely yours,  
Matt

**Matthew A. Homyk | Blank Rome LLP**  
One Logan Square 130 North 18th Street | Philadelphia, PA 19103-6998  
Phone: 215.569.5360 | Fax: 215.832.5360 | Email: [MHomyk@BlankRome.com](mailto:MHomyk@BlankRome.com)

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**From:** Harry Tapias [mailto:[harry.tapias@loigica.com](mailto:harry.tapias@loigica.com)]  
**Sent:** Thursday, June 18, 2015 12:38 PM  
**To:** Spitz, Megan E.; Homyk, Matthew A.  
**Cc:** Tiffany Disney; Camilo Espinosa  
**Subject:** Geoffrey LLC v. Hair Are Us, Inc (Extension of Time Request)

Dear Mr. Homyk and Ms. Spitz:

We represent Hair Are Us on Geoffrey LLC v. Hair Are Us, Inc.; Opposition No. 91221951. In order to better serve our client, and properly prepare an adequate response, we are seeking a motion for extension of time for 30 days to answer the opposition complaint. We would like to submit the motion as an agreed motion.

Attached is the motion in WORD format.

Please let me know if you agree.

Sincerely,

**Harry Tapias, Esq.**

Attorney | Director | Co-Founder

p 305.390.0450 | m 305.771.5644

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