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: September 24, 2015

Opposition No. 91222833

Avido, LLC

v.

Joseph L. Damiani

Jennifer Krisp, Interlocutory Attorney:

Opposer's appearance of counsel

The Board notes Opposer's appearance of counsel filed September 22, 2015.[1] The Board's records for this proceeding, including correspondence address and email address, have been updated accordingly.

Applicant's communication

The communication filed by Applicant on September 23, 2015 will be given no consideration. Said communication is not in the proper form or format required of all filings in Board *inter partes* proceedings (*see* Trademark Rule 2.126, "*Form of submissions to the Trademark Trial and Appeal Board*"), and does not include proof of service (*see* Trademark Rules 2.119(a) and (b), "*Service and signing of papers*").

Opposer's motion to extend

[1] The Board has entered information from the filing which is Docket No. 8.

The Board notes Opposer's unconsented motion for a thirty-day extension of dates, filed September 22, 2015.

The Board has made clear that, in general and under most circumstances, it will deny a motion to extend that is filed after an answer is filed, but before the parties hold their required discovery and settlement conference. As a general rule, the Board is unlikely to find good cause for a motion to extend during this phase of a proceeding, even upon consent or stipulation. *See* TBMP § 509.01(a) (2015); *Boston Red Sox Baseball Club LP v. Chaveriat*, 87 USQP2d 1767, 1767 n.1 (TTAB 2008); *Miscellaneous Changes to Trademark Trial and Appeal Board Rules*, 72 Fed. Reg. 42242, 42245 (August 1, 2007).

The motion now before the Board is based on counsel for Opposer's statement that he was engaged as counsel on September 22, 2015, and requires time to familiarize himself with the case. The Board finds that the motion is not based solely on a request for time to discuss settlement, and that it is reasonable for recently-retained counsel to require a reasonable amount of time to familiarize himself with this proceeding. Moreover, the Board strongly advises all parties to *inter partes* proceedings to secure legal counsel, which Opposer has done, and the record indicates that the request is presented in good faith and is not for the purpose of delay or to interrupt this proceeding.

The Board finds that, in view of the particular and unique circumstances of record, good cause has been shown for a reasonable extension of time. However, the requested extension of thirty days is excessive, unrealistic and not reasonable under

these circumstances. Accordingly, Opposer's motion to extend is granted as modified. Specifically, Opposer's motion is granted to the extent that conference, discovery and trial dates are extended for fifteen days, as follows:

Deadline for Discovery Conference[2]	**10/9/2015**
Discovery Opens	**10/9/2015**
Initial Disclosures Due	**11/8/2015**
Expert Disclosures Due	**3/7/2016**
Discovery Closes	**4/6/2016**
Plaintiff's Pretrial Disclosures	**5/21/2016**
Plaintiff's 30-day Trial Period Ends	**7/5/2016**
Defendant's Pretrial Disclosures	**7/20/2016**
Defendant's 30-day Trial Period Ends	**9/3/2016**
Plaintiff's Rebuttal Disclosures	**9/18/2016**
Plaintiff's 15-day Rebuttal Period Ends	**10/18/2016**

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 taking of testimony. Trademark Rule 2.125. Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

[2] All parties have a duty to cooperate and to conduct the discovery conference in a timely fashion. If a party does not cooperate in scheduling the discovery conference, it is recommended that the party seeking to schedule the conference contact the assigned Board attorney via telephone to facilitate the matter prior to the deadline for the conference. In such instances, the Board attorney will schedule the conference. If the uncooperative party fails to respond to a Board communication within a reasonable time, the Board will issue an order setting a date for the conference and will warn the uncooperative party that the conference will be held as scheduled. Any party that does not participate as ordered may be subject to sanctions pursuant to Trademark Rule 2.120(g). *See Patagonia, Inc. v. Azzolini*, 109 USPQ2d 1859 (TTAB 2014); *Promgirl, Inc. v. JPC Co.,* 94 USPQ2d 1759, 1762 (TTAB 2009) (the responsibility to schedule a discovery and settlement conference and to confer on each of the topics outlined in Fed. R. Civ. P. 26 and the Board's institution order is a shared responsibility).