

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

EJW

Mailed: January 5, 2016

Opposition No. 91222839

Randall Pich

v.

Josh Zuniga

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

This case now comes up for consideration of Applicant's contested motion (filed September 24, 2015) for an extension of time to file an answer, Applicant's first uncontested motion (filed August 25, 2015) for an extension of time to file an answer, and Opposer's motion for default judgment (filed December 31, 2015).

By way of background, in accordance with the Board's institution order mailed on July 16, 2015, answer was due in this proceeding on August 25, 2015. On that date, Applicant filed a motion to extend time to file an answer until September 25, 2015, stating that he needed additional time to research Opposer's allegations and to determine whether he has any possible defenses, and the like. Inasmuch as Applicant's August 25, 2015 motion was not opposed by Opposer, said motion is granted as conceded. Trademark Rule 2.127(a).

Turning to the contested motion, Applicant sought an additional extension of thirty days until October 24, 2015. In support thereof, Applicant repeated the

reasons set forth in his initial motion to extend time to file an answer, including that he would consider whether he will defend the case on its merits and that the motion was not being sought for delay.

Opposer promptly opposed Applicant's motion, arguing that Applicant has failed to show good cause to again extend the time for responding to the notice of opposition and that Applicant has had ample time to respond to Opposer's pleading. Opposer also informs the Board that no settlement discussions are pending.

- *Decision*

The appropriate standard for allowing an extension of a prescribed period prior to the expiration of the term is "good cause." See Fed. R. Civ. P. 6(b) and TBMP § 509 (2015) and cases cited therein. The Board is generally liberal in granting extensions before the period to act has lapsed, so long as the motion sets forth with particularity facts that constitute good cause for the requested extension, *Fairline Boats plc v. New Howmar Boats Corp.*, 59 USPQd 1479, 1480 (TTAB 2000), and the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused. See, e.g., *SFW Licensing Corp. v. Di Pardo Packing Ltd.*, 60 USPQ2d 1372, 1375 (TTAB 2001) (cursory and unsupported statements are insufficient to show good cause); *Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 USPQ2d 1848, 1851 (TTAB 2000); and *American Vitamin Products, Inc. v. Dow Brands Inc.*, 22 USPQ2d 1316 (TTAB 1992). The moving party, however, retains the burden of persuading the Board that it was diligent in meeting its responsibilities and should therefore be awarded additional time. See *National*

Football League v. DNH Management LLC, 85 USPQ2d 1852, 1854 (TTAB 2008) (citing *Sunkist Growers, Inc. v. Benjamin Ansehl Company*, 229 USPQ 147 (TTAB 1985)).

Given that Applicant requested an extension of time only until October 24, 2015, it is unclear to the Board why Applicant has not yet filed an answer. Nonetheless, the Board finds that the subject motion sets forth sufficient good cause for a brief extension of time and that Applicant has not been guilty of negligence or bad faith and the privilege of extensions has not been abused. Accordingly, Applicant's second motion for an extension of time is **granted** to the following extent. Specifically, given the passage of time, Applicant is allowed until **JANUARY 20, 2016**, to file an answer in this proceeding. No further unconsented motion to extend time to file an answer will be entertained. In view of the foregoing, Opposer's motion for default judgment is moot and shall be given no further consideration.

Trial Dates Reset

Trial dates are reset as shown in the following schedule:

Time to Answer	1/20/2016
Deadline for Discovery Conference	2/19/2016
Discovery Opens	2/19/2016
Initial Disclosures Due	3/20/2016
Expert Disclosures Due	7/18/2016
Discovery Closes	8/17/2016
Plaintiff's Pretrial Disclosures Due	10/1/2016
Plaintiff's 30-day Trial Period Ends	11/15/2016
Defendant's Pretrial Disclosures Due	11/30/2016
Defendant's 30-day Trial Period Ends	1/14/2017

Plaintiff's Rebuttal Disclosures Due	1/29/2017
Plaintiff's 15-day Rebuttal Period Ends	2/28/2017

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. *See* Trademark Rule 2.125, 37 C.F.R. § 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b), 37 C.F.R. §§ 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129, 37 C.F.R. § 2.129.

