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

Proceeding	91227580
Party	Plaintiff Sazerac Brands, LLC
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Attachments	Sazerac - Opposition to Motion for Extension of Time to Answer.pdf(19745 bytes)

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

In the Matter of Application Serial No. 86/789,819
For the Trademark JOHNY BOOTLEGGER FIRE SHOT and Design
Published in the *Official Gazette* on April 19, 2016

SAZERAC BRANDS, LLC,)	
)	
Opposer,)	
)	Opposition No. 91227580
v.)	
)	
BROUE-ALLIANCE INC.,)	
)	
Applicant.)	
_____)	

**OPPOSER’S OPPOSITION TO APPLICANT’S MOTION FOR EXTENSION OF TIME
TO FILE ANSWER**

Opposer Sazerac Brands, LLC (“Opposer” or “Sazerac”) hereby opposes Applicant Broue-Alliance Inc./Brew-Alliance Inc.’s (“Applicant” or “Broue-Alliance”) unconsented motion for an extension of time to file its Answer in the above-captioned proceeding.

I. INTRODUCTION

On April 25, 2016, Sazerac filed the Notice of Opposition (the “Opposition”) in this case. *See* Dkt. No. 1. This Board issued an order on April 28, 2016 setting the deadline for Applicant’s Answer as June 7, 2016, 43 days after the filing of the Opposition. *See* Dkt. No 2. Without contacting Sazerac, Applicant filed an unconsented motion for an extension of time (the “Motion”) to file an Answer, 27 days – or nearly four weeks – prior to the due date of the Answer, requesting an additional 90 days to file an Answer. *See* Dkt. No. 3. As justification for this extension, Applicant states that “[a]dditional time is required to investigate the 16 opposition claims.” *See* Dkt. No. 3 at 1. However, there are not “16” claims as Applicant avers, but *one*

claim: namely, Sazerac's claim of priority and likelihood of confusion as to those marks asserted in the Opposition and the subject JOHNY BOOTLEGGER FIRE SHOT and Design trademark. *See generally* Dkt. No. 1.

II. LEGAL STANDARD TO GRANT EXTENSIONS

Federal Rule of Civil Procedure 6 states that “[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time . . . if a request is made, before the original time or its extension expires.” Fed. R. Civ. P. 6. Here, Applicant has requested an extension 27 days prior to the date set by this Board on April 28, 2016. Dkt No. 1; Dkt. No. 3.

III. APPLICANT HAS NOT PLEADED FACTS SUPPORTING GOOD CAUSE

Applicant, whose counsel-of-record is the same counsel responsible for filing the application that is the subject of this proceeding and was aware of Sazerac's request for extension of time to file an opposition as to that same application, has requested a 90-day extension from June 7, 2016 to file an Answer in this case. Dkt No. 3. As discussed above, Applicant was already granted 43 days from entry of Sazerac's opposition to file an Answer. Dkt. No. 2. Applicant's sole justification for this request is that Sazerac has asserted “16 claims.” Dkt. No. 3. This is patently false, as Sazerac's Notice of Opposition includes only one count: for “Priority and Likelihood of Confusion.” *See* Dkt. No 2. Applicant appears to instead refer to the numbers of paragraphs contained the Notice of Opposition. *Id.* Several of these paragraphs restate the filing and prosecution history of Applicant's own application. *See e.g.*, Dkt. No. 1 at ¶ 5. Applicant's threadbare request for an extension of time to file an Answer without any supporting facts cannot meet any standard for “good cause.”

III. CONCLUSION

For the reasons set forth above, Applicant's cited facts do not meet even the lenient standard for an extension of time to file an Answer. Accordingly, the Motion should be denied.

COOLEY LLP

Date: May 17, 2016

By: /s/ Thomas M. Hadid
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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2016, I mailed the foregoing OPPOSER'S OPPOSITION TO APPLICANT'S UNCONSENTED MOTION FOR EXTENSION OF TIME TO FILE ANSWER regarding *Sazerac Brands, LLC. v. McCormick Distilling Co., Inc.* to correspondent for Applicant by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

Mr. Richard S. Gareau
Richard S. Gareau, Attorney-at-Law
2780 Mistassini
Laval, Quebec QC H7E3W1
CANADA

Date: May 17, 2016

By: /s/ Thomas M. Hadid
Thomas M. Hadid

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