

**UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513**

KSK/sw

Mailed: August 29, 2002

Cancellation No. 31,904

Bell, Inc.

v.

Bell Packaging Corp.

Karen Kuhlke, Interlocutory Attorney:

This case now comes up for consideration of petitioner's contested motion, filed on June 12, 2002, for an extension of the testimony periods. The motion has been fully briefed.

Petitioner requests an extension of time in which to schedule and conduct testimony depositions. Petitioner states that on February 21, 2002 the parties stipulated to a sixty-day extension in order to assemble a settlement proposal. Thereafter, on May 7, 2002, "as the end of the opposer's testimony period was approaching Mr. Gipple [petitioner's attorney] called Ms. Nesser [respondent's attorney] and was told that she had the settlement proposal ready, was awaiting her client's approval and expected to get it in the next few days [and] [a] 30 day extension was stipulated." Finally, on June 11, 2002, "as the end of opposer's testimony period approached, still no settlement

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proposal had been received by Mr. Gipple who therefore called Ms. Nesser" and was informed that "respondent was no longer interested and would stipulate to no further extension." Petitioner argues that the extension is necessary as a result of respondent's abrupt termination of settlement discussions three days before the close of the testimony period.

In response, respondent argues that petitioner has not shown good cause inasmuch as petitioner "has taken no action" in the cancellation proceeding.

The standard for allowing an extension of a prescribed period prior to the expiration of that period is "good cause." See Fed. R. Civ. P. 6(b) and TBMP Section 509.

Under the circumstances of this case, petitioner's undisputed allegation of on-going bi-lateral settlement negotiations which were abruptly terminated by respondent constitute good cause sufficient to justify an extension of the testimony periods. Accordingly, petitioner's motion is granted.

In view thereof, trial dates are reset as shown below.

30-day testimony period for party in position of plaintiff to close:	October 21, 2002
30-day testimony period for party in position of defendant to close:	December 20, 2002
15-day rebuttal testimony period to close:	February 3, 2003

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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 Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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