

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Baxley

Mailed: August 20, 2008

Cancellation No. 92042082

Four Seasons Dairy, Inc.

v.

International Gold Star
Trading Corp.

Andrew P. Baxley, Interlocutory Attorney:

In the Board's May 27, 2008 order, respondent's thirty-day testimony period was reset to open on July 23, 2008 and close on August 21, 2008. This case now comes up for consideration of respondent's motion (filed August 15, 2008) to extend its testimony period by sixty days. Petitioner has filed a brief in response thereto.

Ordinarily, the Board is liberal in granting extensions of time before the period to act has elapsed upon a showing of good cause, so long as the moving party has not been guilty of negligence or bad faith, and the privilege of extensions has not been abused. See Fed. R. Civ. P. 6(b)(1); *American Vitamin Products, Inc. v. Dow Brands Inc.*, 22 USPQ2d 1316 (TTAB 1992); TBMP Section 509.01 (2d ed. rev. 2004). However, respondent must demonstrate that the requested extension of time is not necessitated by the party's own lack of diligence or unreasonable delay in

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taking the required action during the time previously allotted therefor. See *Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 USPQ2d 1848, 1851 (TTAB 2000).

The Board finds that the involvement of respondent's attorney in other litigation matters during respondent's testimony constitutes good cause for the extension sought. See *Societa Per Azioni Chianti Ruffino Esportazione Vinicola Toscana v. Colli Spolentini Spoletoducale SCRL*, 59 USPQ2d 1383, 1383-84 (TTAB 2001). Further, in view of the prior commitments during the month of September that petitioner's attorney noted in an August 6, 2008 e-mail to respondent's attorney and the relatively large number of witnesses that respondent intends to depose during its testimony period, the Board finds that the sixty-day extension that respondent seeks is appropriate.

In view thereof, respondent's motion to extend is granted. Remaining testimony periods are reset in accordance with the schedule set forth in that motion.¹

¹The acrimony between the parties in this case has not gone unnoticed. The parties are reminded that they and their attorneys "are required to conduct their business with decorum and courtesy. " Trademark Rule 2.192.

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