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

gcp/jk

Mailed: July 24, 2008

Cancellation No. 92044619
Cancellation No. 92047319

EDWARD J. LAUTH III

v.

NEW EASTERN AIR LINES, INC. &
AVIATION CAPITAL PARTNERS
GROUP, LLC

Before Walters, Zervas, and Mermelstein,
Administrative Trademark Judges.

By the Board:

These consolidated proceedings are before the Board for consideration of petitioner's request (filed July 23, 2008) for reconsideration of the Board's order date July 22, 2008. Petitioner requests reconsideration of said order to the extent that it reset discovery for a period of thirty days during which either petitioner or respondents may conduct discovery limited to matters involving joined party defendant Aviation Capital Partners Group, LLC ("ACPG").

Petitioner requests that the Board reopen discovery for a period of ninety days. In support of its request, petitioner states that the time scheduled by the Board does not give petitioner fair opportunity to serve discovery requests, receive answers, file a motion to compel, if necessary, and depose an officer of ACPG.

Trademark Rule 2.120(a)(3) provides thirty (30) days in which a party must serve responses to interrogatories, requests for production of documents and things, and requests for admissions; accordingly, such responses may be, and frequently in the course of Board proceedings are, served after the close of discovery. Trademark Rule 2.120(e)(1) clearly provides for the filing of a motion to compel discovery up to the commencement of the first testimony period, as reset. Moreover, petitioner need not wait, as petitioner claims, until the end of the reset limited discovery period to notice and take the discovery deposition of a designee of ACPG pursuant to Fed. R. Civ. P. 30(b)(6). Finally, should petitioner determine that it requires additional time in which to conduct discovery, petitioner may seek an extension with the respondents' consent or upon motion to the Board demonstrating good cause. *See* Trademark Rule 2.120(a)(2).[1] In summary, petitioner's arguments are unpersuasive.

In view thereof, petitioner's request for reconsideration of the Board's order dated July 22, 2008 is <u>denied</u>.

Limited discovery and trial dates remain as reset in the Board's July 22, 2008 order. The parties are reminded of their duty to cooperate during this limited reset discovery period.

[1] In the event that any party seeks an extension, such party should (1) confer with the other parties regarding the need for an extension and whether consent can be obtained; and (2) contact the Board to arrange resolution of the motion by telephone conference prior to filing.