

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

Baxley

Mailed: May 9, 2008

Cancellation No. 92049073

Gordo Enterprises Inc.

v.

Michael Marryshow

Andrew P. Baxley, Interlocutory Attorney:

On May 5, 2008, respondent filed a motion to extend his time in which to file an answer. Inasmuch as the issue presented in the motion is simple and full briefing of such motion would delay its resolution by several weeks, the Board, in its discretion, determined that respondent's motion should be resolved by telephone conference. On the afternoon of May 9, 2008, such conference was held between petitioner's principal, John Scott Gordon, respondent's attorney, Franklin B. Molin, and Andrew P. Baxley, the Board attorney assigned to resolve interlocutory disputes in this case.

Because respondent's motion was filed prior to the expiration of his time in which to file an answer, he need only show good cause for the requested extension. Fed. R. Civ. P. 6(b); TBMP Section 509.01 (2d ed. rev. 2004). Ordinarily, the Board is liberal in granting extensions

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before the period to act has lapsed, so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused. See, e.g., *American Vitamin Products, Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313 (TTAB 1992).

The Board notes that respondent admits that he received the copy of the petition to cancel that petitioner served upon him and that petitioner contends that the parties have been in contact regarding a possible resolution of this matter. However, respondent's copy of the Board notice instituting this proceeding was returned as undeliverable by United States Postal Service. Keeping in mind the Board's liberal policy toward granting extensions, the Board finds that respondent's non-receipt of such notice constitutes good cause to extend his time in which to file an answer. Further, there is no evidence of negligence or bad faith by respondent, and, because this is the first extension sought herein, respondent has not abused the privilege of extensions.

Accordingly, respondent's motion to extend his time to answer is granted.¹ Dates herein are reset as follows.

Answer Due
Deadline for Discovery Conference

6/4/08
7/4/08

¹ The Board attorney assigned to this case should be contacted by telephone immediately upon filing of any further unconsented motions to extend so that such motions can be resolved forthwith by telephone conference.

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Discovery Opens	7/4/08
Initial Disclosures Due	8/3/08
Expert Disclosures Due	12/1/08
Discovery Closes	12/31/08
Plaintiff's Pretrial Disclosures	2/14/09
Plaintiff's 30-day Trial Period Ends	3/31/09
Defendant's Pretrial Disclosures	4/15/09
Defendant's 30-day Trial Period Ends	5/30/09
Plaintiff's Rebuttal Disclosures	6/14/09
Plaintiff's 15-day Rebuttal Period Ends	7/14/09

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.