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

Mailed: September 1, 2011

Cancellation No. 92050920

Intellect Technical
Solutions, Inc.

v.

Milena Soni

Jennifer Krisp, Interlocutory Attorney:

This proceeding is before the Board for consideration of respondent's motion (filed August 12, 2011) for an extension of time to file a trial brief. The motion has been fully briefed.[1]

A party may file a motion for an enlargement of the time in which an act is required or allowed to be done. If the motion is filed prior to the expiration of the period as originally set or previously reset, the motion is a motion to extend, and the moving party need only show good cause for the requested extension. *See* Fed. R. Civ. P. 6(b). A

[1] The Board, in its discretion, and to avoid further delay to this proceeding, considers the merits of respondent's motion prior to the time for filing a reply brief thereon. *See* TBMP § 502.02(b)(3d ed. 2011); *Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 13 USPQ2d 1719, 1720 n.3 (TTAB 1989).
Petitioner's final brief, filed July 15, 2011, is noted. Respondent's change of correspondence, filed August 18, 2011, is noted.

party moving to extend time must demonstrate that the requested extension of time is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor. *See* TBMP § 509.01 (3d ed. 2011).

A party moving for an extension of a prescribed period retains the burden of persuading the Board that it was diligent in meeting its responsibilities and should therefore be awarded additional time. *See National Football League v. DNH Mgt. LLC,* 85 USPQ2d 1852, 1854 (TTAB 2008). The movant must state with particularity the facts said to constitute good cause for the requested extension of time; mere conclusory allegations lacking in factual detail are insufficient. See *Luemme, Inc. v. D. B. Plus Inc.*, 53 USPQ2d 1758, 1760 (TTAB 1999).

By operation of the Board's December 16, 2010 order and Trademark Rule 2.128(a), respondent's final brief on the merits was due by August 14, 2011.[2] On August 12, 2011, respondent moved for a four-week extension of said date, until September 12, 2011.

Regarding the facts stated to constitute good cause, respondent seeks the extension due to the conflicting travel

[2] The due date for said brief was not August 15, 2011. Rather, by operation of Trademark Rule 2.196, a brief filed on August 15, 2011 would have been considered timely. *See* TBMP § 112 (3d ed. 2011).

plans of its lead counsel from August 13, 2011 through August 24, 2011, and unavailability to prepare a response by August 15, 2011. In opposition to the motion, petitioner asserts, inter alia, that the request lacks sufficient factual detail, and that respondent deliberately waited until the last moment to seek an extension and to seek petitioner's consent for an extension.

With respect to respondent's diligence, respondent filed the request with the Board, and sought consent therefor from petitioner, on August 12, 2011, merely two days prior to the due date for the final brief. Moreover, pursuant to respondent's motion, the period of lead counsel's travel actually commenced August 13, 2011, merely one day prior to the due date for the final brief. Accordingly, the record reveals that respondent waited until the final days of its briefing period to seek an extension. Respondent fails to explain how, only two days before the due date, a date of which counsel was aware since December 16, 2010, counsel was in a position to require an additional four weeks. Furthermore, the stated duration of travel terminated on August 24, 2011, some length of time, namely nineteen days, before respondent's requested extended due date.

The Board finds that respondent's motion lacks detail, and what detail is provided casts doubt on the degree of care, diligence and attention given to this proceeding by

respondent's counsel at the briefing stage. Respondent has failed to fully explain what amounts to a relatively short but clearly unreasonable delay. Nevertheless, the Board acknowledges the reason provided, namely, respondent's travel plans.

In view thereof, the Board finds that respondent has demonstrated good cause for a minimal extension of time. In view of the circumstances, and on balance, respondent's motion for an extension of time is granted as modified – respondent's final brief shall be due September 6, 2011.

The Board will grant no further unconsented motions to extend the briefing period.

Petitioner's reply brief, if any, shall be due September 21, 2011. *See* Trademark Rule 2.128(a).

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.