

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

Lykos

Mailed: September 11, 2009

Cancellation No. 92051170

O2Micro International Limited

v.

O2 Holdings Limited

Angela Lykos, Interlocutory Attorney

This case now comes before the Board for consideration of respondent's motion (filed August 6, 2009) to extend its time to answer the petition to cancel by thirty days. The motion is fully briefed.

Respondent, as the moving party, argues that it needs additional time to pursue settlement discussions with petitioner. As originally set in the Board's institution order, respondent's answer was due August 8, 2009. Consistent with its request, respondent filed its answer on September 8, 2009. Petitioner, in opposition thereto, contends that the parties have not actively started settlement discussions, and the mere fact that the parties were willing to entertain settlement proposals does not constitute good cause. Petitioner further asserts that respondent's motion to extend serves only to delay this proceeding. In reply, respondent maintains that

petitioner's assertions that the parties were not engaged in settlement discussions or aware of a desire to commence substantive talks are disingenuous, given that petitioner's foreign counsel suggested that respondent submit settlement proposals.

The appropriate standard for allowing an extension of a prescribed period prior to the expiration of the time period is "good cause." See Fed. R. Civ. P. 6(b) and TBMP § 509 (2d ed. rev. 2004) and the authorities cited therein. The Board generally is liberal in granting extensions of time before the period to act has elapsed 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); and *Sunkist Growers, Inc. v. Benjamin Ansehl Company*, 229 USPQ 147 (TTAB 1985). Moreover, the Board is reluctant to grant judgments by default, since the law favors deciding cases on their merits. See *Paolo's Associates Limited Partnership v. Paolo Bodo*, 21 USPQ2d 1899 (Comm'r 1990).

The Board is persuaded that respondent's reason constitutes good cause to warrant an extension of the time period to file an answer. The record before us does not demonstrate that respondent is guilty of negligence or bad faith in requesting its extension. Respondent had a good

faith belief that the parties were going to begin the process of exchanging settlement proposals. Moreover, given that this is respondent's first extension request, and respondent filed its answer within the requested timeframe, respondent has not abused the privilege of extensions.

Respondent's motion to extend is granted, and its answer is noted and accepted for the record.

Dates are reset below:¹

Deadline for Discovery Conference	10/10/09
Discovery Opens	10/10/09
Initial Disclosures Due	11/9/09
Expert Disclosures Due	3/9/10
Discovery Closes	4/8/10
Plaintiff's Pretrial Disclosures	5/23/10
Plaintiff's 30-day Trial Period Ends	7/7/10
Defendant's Pretrial Disclosures	7/22/10
Defendant's 30-day Trial Period Ends	9/5/10
Plaintiff's Rebuttal Disclosures	9/20/10
Plaintiff's 15-day Rebuttal Period Ends	10/20/10

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 Rules 2.128(a) and (b).

¹ The petitioner's consented motion (filed September 3, 2009) to extend the deadline to hold the discovery conference in this case is approved. See Trademark Rule 2.127(a).

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