

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

RK

Mailed: August 4, 2011

Cancellation No. 92052048 (parent)
92052049

Silk Water Solutions Inc.

v.

Dassa Holdings Ltd.

Yong Oh (Richard) Kim, Interlocutory Attorney:

On August 2, 2011, the Board held a telephone conference to hear argument and rule on petitioner's motion (filed July 12, 2011) to extend its testimony period and all subsequent dates. David A. Lowe, Esq., appeared as counsel for petitioner and Lisa A. Iverson, Esq., appeared as counsel for respondent.

Cancellation Nos. 92052048 and 92052049 were consolidated on August 19, 2010, and dates in the consolidated proceeding were reset in accordance with the schedule in the child proceeding. Dates were subsequently reset by way of consented motions filed by respondent, with the latest motion filed on February 15, 2011. Under that schedule, discovery closed on April 17, 2011, petitioner's pretrial disclosures were due by June 1, 2011, and petitioner's trial period closed on July 16, 2011.

On July 12, 2011, petitioner filed a motion to extend its trial period and respondent opposed the motion on July 27,

2011. During the conference, in support of its motion for extension, petitioner argued that the parties were involved in heavy settlement discussions between December 2010 and the first week of July 2011, that the parties had agreed not to pursue discovery during the negotiations and that within a week after it became apparent to petitioner that settlement was not likely, petitioner filed the present motion. Petitioner further pointed out that it has acted in good faith throughout this proceeding and has cooperated with respondent consenting to five prior extension requests filed by respondent.

In opposition, respondent argued that petitioner has not taken any discovery in this matter, that petitioner, as plaintiff, bears the burden of proving its case and therefore should have been aware of previously set deadlines, that much resources were spent in settlement negotiations such that to allow petitioner another "bite at the apple" would prejudice respondent by forcing it to expend additional resources and delay the resolution of this matter.

Because petitioner moved for an extension prior to the expiration of its testimony period, it need only establish "good cause" for the requested extension. Fed. R. Civ. P. 6(b)(1)(A); TBMP § 509 (3d ed. 2011). Generally, "the Board 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." *American Vitamin Products Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313, 1315 (TTAB 1992).

Here, petitioner's motion was timely filed and there is nothing in the record to suggest that petitioner was negligent, guilty of bad faith or is abusing the privilege of extensions. To the contrary, it appears that petitioner is now attempting to try this case expeditiously. Although respondent claims prejudice in allowing the extension, any delay and additional costs resulting therefrom is minimal. Considering that the law favors deciding cases on their merits, petitioner's motion is **GRANTED** and testimony periods are reset as follows:

Discovery Closes	CLOSED
Plaintiff's Pretrial Disclosures Due	CLOSED
Plaintiff's 30-day Trial Period Ends	9/1/2011
Defendant's Pretrial Disclosures Due	9/16/2011
Defendant's 30-day Trial Period Ends	10/31/2011
Plaintiff's Rebuttal Disclosures Due	11/15/2011
Plaintiff's 15-day Rebuttal Period Ends	12/15/2011

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

* * *