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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052146
Party	Defendant Juan E. Rodriguez
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Submission	Motion to Extend
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Date	04/23/2012
Attachments	Mot to extend time to respond to motion to compel FINAL.pdf (5 pages)(86266 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 3,542,236
Registered: December 2, 2008
Mark: PINAR DEL RIO

CORPORACION HABANOS, S.A., and)	
EMPRESA CUBANA DEL TABACO,)	
d/b/a CUBATABACO,)	
)	Cancellation No.: 92052146
Petitioners,)	
)	
v.)	
)	
JUAN E. RODRIGUEZ,)	
Registrant.)	
)	

**REGISTRANT'S MOTION FOR EXTENSION OF TIME
TO RESPOND TO PETITIONERS' MOTION TO COMPEL**

COMES NOW Juan E. Rodriguez ("Rodriguez" or "Registrant") and hereby moves for a two (2) week extension of time to file a response to Petitioners' Motion to Compel. As grounds for such relief, Registrant offers the following factual and legal support:

FACTS SUPPORTING GOOD CAUSE IN SUPPORT OF RELIEF SOUGHT.

The undersigned has been working with Registrant and other persons affiliated with Registrant's business in an effort to obtain and produce all discovery that may be due in response to Petitioners' discovery requests. Nearly a week ago, Registrant Juan Rodriguez suffered a severe medical emergency requiring immediate surgery and a lengthy hospital stay. In fact, Mr. Rodriguez currently remains in the hospital and is undergoing rehabilitative care. His recovery remains uncertain.

The Registrant's response to Petitioners' Motion to Compel is due today April 23, 2012. Because of Mr. Rodriguez' medical conditions and other facts, the undersigned is experiencing difficulty in preparing a proper response to the allegations set forth in the Petitioners' motion to compel.¹ Moreover, the undersigned requires additional time to prepare the response to the Petitioners' motion for sanctions. Based upon the serious nature of those allegations, the undersigned respectfully requests that the Registrant's response be due two (2) weeks from today.

ADDITIONAL FACTS SUPPORTING GOOD CAUSE FOR RELIEF SOUGHT.

The undersigned is a solo practitioner that has litigated against counsel for Petitioners for nearly ten (10) years. Because of the existence of other legally related cases between the undersigned and counsel for Petitioners, the undersigned also needs additional time to respond because of workload relating to the filing of an appeal to the Board's recent decision in Corporacion Habanos v. Guantanamera Cigar Co., Cancellation No. 91152248. In that case, counsel for Petitioner recently filed a "Notice of Request to Amend Opinion." Because of that filing, the uncertainty of when action on that request would occur, and what the final TTAB opinion would read, the undersigned's appeal filing has been delayed, but has nonetheless required the undersigned to expend a considerable

¹ The undersigned contacted counsel today in an effort to obtain consent to the extension of time. Counsel for Petitioners denied consent because Registrant's discovery responses set forth that Abraham Flores was the person who collected information and provided responses to discovery and who had ultimate responsibility for the PINAR DEL RIO brand. While that may be the case, it is Mr. Juan Rodriguez who is the listed Registrant and who also needs to be consulted regarding the defense of this case. As he has been hospitalized due to a life threatening medical emergency, the undersigned's ability to prepare a proper response has been frustrated.

amount of time preparing for same.² Because the present case (and other cases relating to 2(e)(3)) will surely be driven by the ultimate findings of the appeals and/or Supreme Court in the Guantanamo case, the undersigned sets forth that the requested additional time will not prejudice the Petitioners. While the undersigned understands the Petitioners' desire to obtain discovery which it may be entitled to is legitimate, it is respectfully put forth that the exceptional and unique circumstances described herein are sufficient good cause to support the relief sought. It is respectfully suggested that judicial resources as well as the parties' resources will be saved and justice will be served.

MEMORANDUM OF LAW

Rule 6(b)(1) of the Federal Rules of Civil Procedure states that:

When an act may or must be done within a specific time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; (B) on motion made after that time has expired if the party failed to act because of excusable neglect.

By Registrant's calculation, the deadline to file and serve a response to Petitioners' Motion to Compel is today, April 23, 2012. As such, Registrant may move under Rule 6(b)(1)(A), and for good cause, for an enlargement of time to file its response brief. Registrant asserts that good cause set forth above exists for the enlargement of time. The two (2) week enlargement of time sought in this motion will allow the Registrant time to

² 37 C.F.R. Section 2.145(d)(1) sets forth that: "...If a request for rehearing or reconsideration or modification of the decision is filed within the time specified in §§ 2.127(b), 2.129(c) or § 2.144, or within any extension of time granted thereunder, the time for filing an appeal or commencing a civil action shall expire two months after action on the request." Since the TTAB has not yet acted upon the Petitioner's "Notice of Request to Amend Opinion" the deadline to file the appeal has yet to be set.

respond to the Petitioner's Motion to Compel and will give the Registrant adequate time to supplement discovery responses, if necessary. The proposed two (2) week enlargement of time will limit attorneys' fees and will serve to conserve judicial resources. In any event, the instant Motion is not made for improper purpose or merely for delay.

WHEREFORE, Registrant respectfully requests that the Board grant an enlargement of the time for Registrant to file and serve a response brief to Petitioners' Motion to Compel up to and including Monday, May 7, 2012.

April 23, 2012

/s/Frank Herrera
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CERTIFICATE OF GOOD FAITH

The undersigned contacted counsel for Petitioners today in an effort to obtain his consent to the relief sought herein. Counsel for Petitioners does not agree to the relief sought herein.

/s/Frank Herrera
FRANK HERRERA

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served on Petitioners by mailing, postage prepaid, said copy on April 23, 2012 via US Mail, to the counsel of record, namely:

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/s/Frank Herrera
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