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

Proceeding	92052234
Party	Defendant jWin Electronics Corp
Correspondence Address	HYUNJUNG KIM JWIN ELECTRONICS CORP 2 HARBOR PARK DRIVE PORT WASHINGTON, NY 11050 UNITED STATES
Submission	Motion to Reopen
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Date	02/01/2011
Attachments	TTAB motion to reopen.pdf (3 pages)(103222 bytes)

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

In The Matter of Registration No. 3,709,147
For the Mark INNOVATIVE LIFESTYLE
Registered on November 10, 2009

In The Matter of Registration No. 3705744
For the Mark INNOVATIVE LIFESTYLE UNQUESTIONABLE VALUE
Registered on November 3, 2009

Bose Corporation,)	
)	
Petitioner,)	Cancellation No. 92052234 (parent)
)	Cancellation No. 92052251
vs.)	
)	
jWIN Electronics Corp.,)	
)	
Registrant.)	
)	

MOTION TO MODIFY SCHEDULING ORDER TO REOPEN DISCOVERY

Registrant, jWIN ELECTRONICS CORP., by and through its undersigned counsel, hereby moves to request an order to re-open and modify the **TRADEMARK TRIAL AND APPEAL BOARD** ("TTAB")'s exiting Scheduling Order to permit the Registrant to take some discovery. Due to the press of a heavy caseload and other matters that needed immediate attention, the undersigned inadvertently failed to file the Registrant's first set of interrogatories and discovery request. Additionally, the parties have engaged in diligent efforts to settle the case before the existing discovery deadlines in the Scheduling Order.

Since October 25, 2010, the Parties have exchanged a countless number of written or oral communications. And it is safe to assume that a settlement agreement would be finalized before the end of November 2010. Under the current Scheduling Order, the Plaintiff's 30 day trial period ends within a few weeks from now. Because the Registrant was not served properly the Petitioner's first set of interrogatories and discovery request before the end of the discovery period, the Registrant was not in a position to provide the interrogatory response or respond to the document production requests. The undersigned apologizes to the TTAB and begs its indulgence in this request. This is the Registrant' first request for modification of the Scheduling Order.

Pursuant to the Federal Rule of Civil Procedure 16(b) (4) ("Rules"), Registrant hereby moves to modify the Scheduling Order by extending the remaining deadlines by approximately

ninety (90) days. This motion should be granted because both the TTAB and the Registrant would benefit from more time to review and analyze *all* pertinent materials (including those that have yet to be produced by Petitioner) *before* the depositions of key fact witnesses.

Accordingly, the TTAB needs a full factual record to decide this case. The requested 90-day extension will assist both Petitioner and Registrant in presenting their cases. Also, the Parties' respective experts will benefit from additional time to adequately prepare their reports. Registrant, therefore, requests an extension of the remaining deadlines in this case.

The TTAB should exercise its discretion to extend the remaining deadlines under the Scheduling Order. Such an extension would be consistent with the TTAB's general practice in complex administrative proceedings. Rule authorizes the TTAB to grant a motion to extend any deadline or time specified in the Scheduling Order upon a showing of "good cause."

Good cause for a modification has been shown. As a revised timeline may allow for a better expert deposition schedule, Registrant's reasons for extending the deadline are compelling. More time to depose the experts would enable the parties to better prepare for a complex and lengthy trial. Given the practical reality of this complex proceeding, both the TTAB and the parties would benefit from more time to review and analyze *all* pertinent materials *before* the depositions of key fact witnesses. As a significant number of relevant materials have yet to be produced by Petitioner, the importance of the testimony, favors reopening discovery.

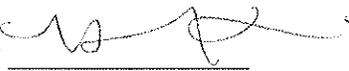
Courts prefer to resolve cases on their merits and not on procedural grounds. Without discovery, the case may not be resolved on the substance of the suit. The third factor examines the prejudice to Petitioner. Many of the expenses Petitioner might point to as evidence of prejudice are expenses that any party filing a suit would expect to incur, and they do not demonstrate the sort of prejudice Rule 16 is concerned with. Reopening discovery will not subject Petitioner to duplicative expenses, so this factor does not weigh in Petitioner's favor.

The final factor considers the effect of a continuance. Here, it would allow both parties to develop the facts of the case. Consideration of the relevant factors thus counsels in favor of permitting discovery. The TTAB should therefore reopen discovery until March 1, 2011. For the foregoing reasons, the Registrant requests that the TTAB grant the Motion to Modify Scheduling Order.

WHEREFORE, the Registrant respectfully requests to a modification of the Scheduling Order, extending the deadline for discovery.

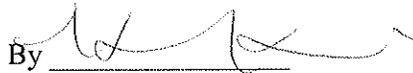
Dated: February 1, 2011

HYUNJUNG KIM
Attorney for Registrant
jWIN Electronics Corp.

By 
HYUNJUNG KIM

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing REGISTRANT'S **MOTION TO MODIFY SCHEDULING ORDER TO REOPEN DISCOVERY** is being filed electronically with the TTAB via ESTTA on this day, February 1, 2011.

By 
HYUNJUNG KIM

CERTIFICATE OF SERVICE

I hereby certify that I caused to be mailed a true and correct copy of the foregoing REGISTRANT'S **MOTION TO MODIFY SCHEDULING ORDER TO REOPEN DISCOVERY** to:

MICHELLE BROWNLEE
Attorney for Petitioner
BOSE CORPORATION
The Mountain
Framingham, MA01701

on the February 1, 2011, postage prepaid in the UPS courier service.

HYUNJUNG KIM
Attorney for Registrant
jWIN Electronics Corp.

By 
HYUNJUNG KIM