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

Proceeding	92053501
Party	Plaintiff Christian M. Ziebarth
Correspondence Address	RICHARD F CHRISTESEN 6905 S 1300 E #233 MIDVALE, UT 84047-1817 UNITED STATES rchristesen_now@yahoo.com, trademark.vgt@gmail.com
Submission	Other Motions/Papers
Filer's Name	Kelly K. Pfeiffer/
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Signature	/Kelly K. Pfeiffer/
Date	01/28/2013
Attachments	Motion to Ext Deadlines - Amended Pfeiffer Declaration 1-28-13.pdf (5 pages) (36834 bytes)

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

In the Matter of Registration No. 1043729
Date of Registration: July 13, 1976

CHRISTIAN M. ZIEBARTH
Petitioner,

Cancellation No.: 92053501

v.

DEL TACO, LLC
Registrant.

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

**AMENDED DECLARATION OF KELLY K. PFEIFFER FILED IN SUPPORT OF
PETITIONER’S MOTION TO EXEND ALL REMAINING DEADLINES BY 30 DAYS;
IN THE ALTERNATIVE, MOTION TO ALLOW PETITIONER 30 ADDITIONAL
DAYS TO AMEND OR SUPPLEMENT PRETRIAL DISCLOSURES**

I, Kelly K. Pfeiffer, hereby declare as follows:

1. I am the attorney of record for Petitioner CHRISTIAN M. ZIEBARTH (hereinafter “Petitioner”) in this pending Cancellation Proceeding No. 92053501.
2. This declaration is submitted to show that Petitioner’s instant motion is supported by good cause and is not for the purpose of delay.
3. On the evening of Monday, January 21, 2013 at approximately 9:00 p.m., I spoke with Petitioner for the first time regarding potentially representing him in this proceeding.

4. On Tuesday, January 22, 2013, at approximately 3:30 p.m., Pacific Standard Time, I received signed authorization from Petitioner to represent him in this proceeding.
5. Since Monday evening, I have diligently worked to obtain all prior documentation in this proceeding from both Petitioner and prior counsel, Richard Christensen, in order to get up to speed as quickly as possible.
6. At approximately 2:00 p.m. (PST) on Wednesday, January 23rd, I spoke with Ms. April Besl, counsel for Registrant DEL TACO (“Registrant”). While discussing this matter, I brought up the subject of Del Taco’s first document production to Petitioner which supposedly contained documents that I have not yet seen and that are not in Mr. Christensen’s possession. Ms. Besl informed me that, back in early 2011, tens of thousands of pages of documents were produced to Petitioner by Registrant via a CD. After speaking with Petitioner, I have determined that Mr. Ziebarth does have possession of a CD produced to Knobbe Martens on May 23, 2011, but he, along with technical professionals from whom he has sought assistance, are unable to view any documents contained therein; it has been concluded that the CD is corrupt and unreadable. It is unclear whether the CD in Mr. Ziebarth’s possession is the original CD produced to Knobbe Martens or whether it is a copy that Knobbe Martens burned from the original.
7. To date, I do not have the ability to view the pertinent documents from Registrant, but I am in the process of attempting to resolve this issue quickly and informally with Registrant. I am hopeful that the parties can work this out without Petitioner having to resort to seeking relief from the Board, as Petitioner is offering to incur the costs and expenses associated with seeking a re-production of the corrupted CD. Without the ability to review that vast document production from Registrant, I do not feel that I can adequately put forward a complete and thorough case for Petitioner.

8. Petitioner and I respectfully request that the Board issue an order extending all remaining deadlines in this proceeding by a period of 30 days in light of the fact that I am appearing the day before Petitioner's Pretrial Disclosures are due to Registrant. I request more time to get up to speed on this matter and prepare all necessary documents, as well as time to request and obtain the tens of thousands of pages of documents produced by Del Taco to Petitioner's original counsel back in early 2011.

9. Petitioner and I request that the Board re-set all remaining deadlines as follows:

Petitioner's Pretrial Disclosures Due	2/24/13
Petitioner's 30-day Trial Period Ends	4/10/13
Registrant's Pretrial Disclosures Due	4/25/13
Registrant's 30-day Trial Period Ends	6/9/13
Petitioner's Rebuttal Disclosures Due	6/24/13
Petitioner's 15-day Rebuttal Period Ends	7/23/13

10. In the alternative, as the Board was unable to rule on this motion because it was not fully briefed prior to Petitioner's January 24, 2013 deadline for Petitioner's Pretrial Disclosures, Petitioner and I hereby request in the alternative that we be given an additional 30 days within which to amend and/or supplement his Pretrial Disclosures to Registrant. We request that the Board order that Petitioner be given a deadline of February 24, 2013 to amend and/or supplement his Pretrial Disclosures to Registrant.

I declare under penalty of perjury and the laws of the the United States of America that the foregoing is true and correct. Executed on the 28th day of January 2013, at Aliso Viejo, California.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of her own knowledge are true; and all statements made on information and belief are believed to be true.

/Kelly K. Pfeiffer/
Kelly K. Pfeiffer
Counsel for Petitioner CHRISTIAN M. ZIEBARTH

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **AMENDED DECLARATION OF KELLY K. PFEIFFER FILED IN SUPPORT OF PETITIONER'S MOTION TO EXEND ALL REMAINING DEADLINES BY 30 DAYS; IN THE ALTERNATIVE, MOTION TO ALLOW PETITIONER 30 ADDITIONAL DAYS TO AMEND OR SUPPLEMENT PRETRIAL DISCLOSURES** was served upon April L. Besl, DINSMORE & SHOHL, LLP, attorney of record for the Registrant in this action by depositing one copy thereof in the United States mail, first-class postage prepaid on January 28, 2013 and addressed as follows:

April L. Besl, Esq.
DINSMORE & SHOHL, LLP
255 East Fifth Street
Cincinnati, OH 45202

/Kelly K. Pfeiffer/ _____
Kelly K. Pfeiffer
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Attorney for Petitioner CHRISTIAN M. ZIEBARTH