

ESTTA Tracking number: **ESTTA546150**

Filing date: **07/01/2013**

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

Proceeding	92057242
Party	Plaintiff Elite Motorcycle Tours
Correspondence Address	DANA P JOZEFczyk MERCHANT & GOULD PC PO BOX 2910 MINNEAPOLIS, MN 55402-9944 UNITED STATES djozefczyk@merchantgould.com, jsaadeh@merchantgould.com
Submission	Opposition/Response to Motion
Filer's Name	Dana P. Jozefczyk
Filer's e-mail	djozefczyk@merchantgould.com, jsaadeh@merchantgould.com
Signature	/Dana P. Jozefczyk/
Date	07/01/2013
Attachments	2013 07 01 Opposition to Extension of Time.PDF(104433 bytes)

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

Elite Motorcycle Tours)	
)	Cancellation No. 92057242
Petitioner,)	
)	Mark: ELITE MOTORCYCLE TOURS
v.)	
)	Reg. No.: 4,278,733
Bruce Odiorne II,)	
d/b/a Elite Motorcycle Tours)	Reg. Date: January 22, 2013
)	
)	
Registrant)	
<hr/>		

MOTION TO OPPOSE REGISTRANT’S MOTION FOR EXTENSION OF TIME

Petitioner, Elite Motorcycle Tours, (“Petitioner”) hereby opposes Registrant Bruce Odiorne’s (“Registrant’s”) Motion for a sixty (60) day Extension of Time to Answer Petitioner’s Petition for Cancellation.

The time period for replying to a cancellation petition can only be extended by motion upon showing of good cause or excusable neglect. TBMP §502.02(b). “A motion to extend must set forth with *particularity* the facts said to constitute good cause for the requested extension; mere conclusory allegations lacking in factual detail are not sufficient.” (emphasis added) TBMP §509.01(a). *See SFW Licensing Corp. v. Di Pardo Packing Ltd.*, 60 USPQ2d 1372, 1373 (TTAB 2001) (opposers had not come forward with “detailed facts” required to carry their burden explaining their inaction); *Instruments SA Inc. v. ASI Instruments Inc.*, 53 USPQ2d 1925, 1927 (TTAB 1999) (cursory or conclusory allegations that were denied unequivocally by the nonmovant and were not otherwise supported by the record did not constitute a showing of good cause); *Luemme, Inc. v. D. B. Plus Inc.*, 53 USPQ2d 1758, 1760-61 (TTAB 1999) (sparse

motion contained insufficient facts on which to find good cause); *Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 13 USPQ2d 1719, 1720 n.3 (TTAB 1989) “Moreover, a party moving to extend time must demonstrate that the requested extension of time is not necessitated by the party’s own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor.” *See* TMBP §509.01(a); *National Football League v. DNH Management LLC*, 85 USPQ2d 1852, 1854 (TTAB 2008) (“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 extension is not abused” and the moving party has the burden of persuading the Board that it was diligent in meeting its responsibilities; motion denied because opposer failed to make the minimum showing necessary to establish good cause to extend discovery.) “The Board will ‘scrutinize carefully’ any motion to extend time, to determine whether the requisite good cause has been shown.” *See id.* If a motion for an extension of time to respond is denied, the time for responding to the motion remains 37 C.F.R. §2.127(a), unless otherwise ordered.

On June 28, 2013, the day that Registrant’s Answer was due, Registrant filed a Motion for a sixty day Extension of Time to Answer. Registrant’s Motion consists of the following “I would like to request a 60 day extension of time to file an answer to the cancellation petition.” Registrant’s Motion is a single sentence and contains no facts on which the Board could find good cause. In addition, Registrant never contacted Petitioner to discuss any circumstances necessitating an extension.

In light of the above, Petitioner requests that the Board deny Registrant’s Motion for Extension of Time. As the period to answer has since expired, Petitioner requests that the Board enter an order for Default Judgment in favor of Petitioner.

Respectfully submitted,

ELITE MOTORCYCLE TOURS

By its Attorneys,

Date: July 1, 2013

/s/ Dana P. Jozefczyk

Dana P. Jozefczyk

MERCHANT & GOULD P.C.

80 South Eighth Street, Suite 3200

Minneapolis, Minnesota 55402-2215

(303) 357-1645

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing MOTION TO OPPOSE REGISTRANT'S MOTION FOR EXTENSION OF TIME was served upon Registrant and the following attorney of record for Registrant by electronic mail, this 1st day of July, 2013:

Bruce Odiorne, II
2788 County Road 302
Durango, Colorado 81301
tau4969@yahoo.com
United States

/s/ Dana P. Jozefczyk

Dana P. Jozefczyk