

ESTTA Tracking number: **ESTTA590774**

Filing date: **03/05/2014**

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

Proceeding	92057484
Party	Plaintiff Shirley's World, L.P.
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Date	03/05/2014
Attachments	Consented Motion.pdf(14244 bytes)

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

**In the Matter of Registration No. 3418196 and Registration No. 4191275
(Consolidated Proceedings)**

Shirley's World, L.P.,

Cancellation No.
92057484 (Parent Case)

Cancellation No.
92057506

Petitioner,

- against -

Earl C.J. Prater,
Respondent

**PETITIONER'S CONSENTED MOTION
TO REOPEN AND EXTEND DEADLINES FOR 60 DAYS**

I. The Parties' Request.

Pursuant TBMP §501.01 and §509.01, Petitioner, Shirley's World, L.P., on the one hand, and Respondent, Earl C.J. Prater, on the other hand (collectively, the "Parties"), have agreed to reopen the deadline to serve Initial Disclosures, and to extend all remaining deadlines prescribed by the Board in these consolidated proceedings by sixty (60) days.¹ Accordingly, the Parties request an order that the dates for this consolidated proceeding be reset, as follows:

Initial Disclosures Due:	4/21/2014
Expert Disclosures Due:	8/19/2014
Discovery Closes:	9/18/2014
Plaintiff's Pretrial Disclosures:	11/2/2014
Plaintiff's 30 Day Trial Period Ends:	12/17/2014

¹ Pursuant to TBMP §501.02, Respondent has given his oral consent to this Motion.

Defendant's Pretrial Disclosures:	1/1/2015
Defendant's 30 Day Trial Period Ends:	2/15/2015
Plaintiff's Rebuttal Disclosures:	3/2/2015
Plaintiff's 15 Day Rebuttal Period Ends:	4/1/2015

This extension is requested so as to provide the Parties with a window of opportunity to attempt to negotiate a settlement of the contested issues raised in these proceedings without the need to proceed before the Board.

II. Good Cause Exists To Grant This Consented Motion.

This Motion is made prior to the expiration of all deadlines, with the exception of the February 20, 2014 deadline to serve initial disclosures.

The standard for allowing an extension of a prescribed period prior to the expiration of that period is good cause. See Fed. Rule Civ. Proc. 6(b)(1). Ordinarily, 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. DowBrands, Inc., 22 USPQ 2d 1312, 1314 (TTAB 1992). Moreover, as made applicable by Trademark Rule 2.116(a), the relevant provisions of Fed. Rule Civ. Proc. 6(b) permit the Board in its discretion to reopen a past deadline where the failure to act is shown to be due to excusable neglect. American Vitamin Products, 22 USPQ 2d at 1313.

Here, good cause exists to grant the stipulated extension as to all deadlines, including the past deadline to serve initial disclosures. The Parties verbally on February 18, 2014 – two days before initial disclosures were due – to an extension of time. A stipulation was not presented to the Board at that time, however, because the Parties sought clarification from the Interlocutory Attorney assigned to these proceedings as to how to achieve a global extension of all deadlines

(not only the deadline to serve initial disclosures). Thereafter, the Parties engaged in good faith negotiations regarding the appropriate length of time to extend all deadlines. Those negotiations lasted longer than expected due to a variety of reasons, none of which were based upon bad faith, negligence, or tactics solely designed to delay.

III. Conclusion.

The Parties respectfully request that the Board agree to their stipulated sixty (60) day extension of time for all deadlines at issue so that they may take the time needed to explore potential settlement opportunities.

Dated: March 4, 2014

EISNER JAFFE
GORRY CHAPMAN & ROSS

By: /s/ Jackie M. Joseph
Jackie M. Joseph
Attorneys for Petitioner, Shirley's World,
L.P.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PETITIONER'S CONSENTED MOTION TO REOPEN AND EXTEND DEADLINES FOR 60 DAYS** was served upon Respondent in this action addressed as follows:

Mr. Earl C.J. Prater
Respondent, acting on his own behalf
P.O. Box 51542
Sparks, NV 89435-1542

BY MAIL. I am readily familiar with the firm's practice of collection and processing correspondence for mailing with the U.S. Postal Service. Under that practice such envelope(s) is deposited with the U.S. Postal Service on the same day this declaration was executed, with postage thereon fully prepaid at 9601 Wilshire Boulevard, Suite 700, Beverly Hills, California 90210, in the ordinary course of business.

Executed on March 5, 2014, at Beverly Hills, California.

EISNER JAFFE
GORRY CHAPMAN & ROSS

By: /s/ Jackie M. Joseph
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