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

Proceeding	92058315
Party	Defendant M22, LLC
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Attachments	07-22-15 Response to Motion to Extend Time.pdf(398320 bytes)

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

State of Michigan

Petitioner,

Proceeding No: 92058315

v.

M22, LLC

Registrant.

REGISTRANT'S COMBINED RESPONSE TO PETITIONER'S MOTION TO EXTEND TIME TO FILE DISCOVERY RESPONSES AND BRIEF IN SUPPORT

NOW COMES Registrant, M22, LLC, by and through its attorneys Revision Legal, PLLC, and for its Response to Petitioner's Motion to Extend Time to File Discovery Responses pursuant to TBMP § 403.4, 37 CFR § 120(a)(3), and Fed. R. Civ. P. 33(b)(2), 34(b)(2)(A), and 36(a)(3).

1. On February 9, 2015, Registrant served on Petitioner the first of two separate Notices of Deposition, to which Petitioner objected based on its filing of a dispositive Motion for Judgment on the Pleadings. That motion was rejected on March 2, 2015.
2. On February 27, 2015, Registrant served on Petitioner the first of two First Sets of Interrogatories and Request for Production of Documents (Exhibit 1, *Registrant's First Set of Interrogatories and Request for Production of Documents*).

3. On June 23, 2015, Registrant served on Petitioner the second of two separate Notices of Deposition, to which Petitioner objected based on various arguments.
4. Also on June 23, 2015, Registrant served on Petitioner the second of two First Sets of Interrogatories and Requests for Production of Documents, identical to the set served on February 27, 2015, (Exhibit 2, *Petitioner's Motion to Extend Time, Exhibit 1*) with a July 23, 2015 deadline.
5. On July 7, 2015, Petitioner sent a letter to Registrant that Petitioner describes as a "good faith effort" to extend the deadline for production of documents and answers to interrogatories by three weeks, from July 23, 2015 to August 14, 2015 (Exhibit 2, *Petitioner's Motion to Extend Time, Exhibit 2*). This letter was mostly a list of unspecific substantive objections to Registrant's interrogatories and request for production of documents, followed by a request for Registrant to grant Petitioner a 30-day extension to meet its request.
6. On July 8, 2015, Registrant refused to grant Petitioner an extension.

ARGUMENT

The TTAB (Board) has the authority to grant or a deny an extension of time to respond to discovery requests pursuant to TBMP § 403.4, 37 CFR § 120(a)(3), and Fed. R. Civ. P. 33(b)(2), 34(b)(2)(A), and 36(a)(3). The Board should not grant Petitioner's Motion to Extend Time in this matter because Petitioner has known the

types of documents and answers sought by Registrant for five months, and its continued efforts to delay this matter are unwarranted.

Registrant served the exact same First Set of Interrogatories and Request for Production of Documents on Petitioner on February 27, 2015 as it did on June 23, 2015. Petitioner has had **five months** to gather this information, and asking for three extra weeks now is unwarranted. All of Petitioner's arguments for a three-week extension focus on the availability of employees within the month timeframe between June 23, 2015 and July 23, 2015. But Petitioner has known exactly what Registrant would request for production since late February 2015, when it objected to and successfully delayed the initiation of discovery by filing a long-shot Motion for Judgment on the Pleadings. Petitioner's unwise decision to hold off collection of the information requested in late February based on an unlikely ruling in its favor on its Motion for Judgment on the Pleadings should not garner Petitioner more time, when it has had plenty. This is just another example of Petitioner attempting to drag out a proceeding that has already seen two and a half years of Petitioner's foot-dragging and is just now entering discovery. Registrant refused to grant Petitioner an extra month to respond as it requested in its July 7, 2015 letter, and Registrant asks this Board to similarly refuse to grant Petitioner's request for a three-week extension and DENY Petitioner's Motion to Extend Time to File Discovery Responses.

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CERTIFICATE OF SERVICE

I, John Di Giacomo, an attorney, hereby certify that I served a true and correct copy of this Response to Motion for Protective Order on counsel of record via electronic mail on July 22, 2015.

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