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

Proceeding	92058912
Party	Plaintiff Pharmavite, LLC
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Attachments	92058912 Rspns Brief in Opposition 2 Res.pdf(89170 bytes)

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

PHARMAVITE, LLC)	
)	
Petitioner,)	Cancellation No.: 92058912
)	
v.)	Mark: NATURALLY MADE
)	
CARY D. PORTNER,)	U.S. Reg. No. 4,496,443
)	
Respondent.)	
)	

**RESPONSE BRIEF IN OPPOSITION TO
RESPONDENT’S MOTION FOR ADDITIONAL TIME**

Petitioner, Pharmavite LLC, by and through its undersigned attorneys, replies as follows to the Motion of Respondent Cary D. Portner (“Respondent”) for additional time to secure new counsel in connection with this proceeding.

Petitioner is generally agreeable to reasonable extensions of time in Board matters, and supports the introduction of counsel, but this proceeding has been marked with delays. At present, Respondent has had nearly four months, since at least May 27 (the Board’s Order of that date) if not before (i.e., prior counsel’s Withdrawal, served on Respondent) to secure counsel, or confirm that he will be representing himself. He has not done so.

The present Motion for additional time fails to set forth with any particularity the facts said to constitute good cause for the requested extension. See TBMP § 509.01(a). As the TBMP states, “mere conclusory allegations lacking in factual detail are not sufficient... 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." TBMP § 509.01(a) (internal cites omitted). Such requests are also "scrutinize[d] carefully... for the requisite good cause" by the Board. *Id.*

Petitioner also notes that Respondent's Motion has had the effect of giving Respondent additional time to secure new counsel, so as to potentially render the issue of securing new counsel moot. Respondent specifically advised that its "new counsel will be contacting your office on or before September 15, 2015" regarding the matter, but this has not occurred, at least to Petitioner's knowledge.

Petitioner has the right to move this case along expediently, and the Board shares the same interest. Petitioner files this responsive brief with that sole objective in mind.

For the reasons set forth above, Respondent has not met its burden of showing good cause, and therefore, Petitioner respectfully requests that the Board deny the Motion.

Proof of service of this Response is attached.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Dated: September 25, 2015



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PROOF OF SERVICE

I, Al Grossman, hereby declare that I am employed by the law firm of BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, 12400 Wilshire Boulevard, Seventh Floor, Los Angeles, California 90025-1026; that I am over 18 years of age and not a party to the within action; and that I served the following document: RESPONSE BRIEF IN OPPOSITION TO RESPONDENT'S MOTION FOR ADDITIONAL TIME this 25TH day of September 2015, by causing a true copy to be deposited in the United States Mail, first class postage prepaid to Respondent as follows:

Cary D. Portner
185 NE 4th Ave. #304
Delray Beach, FL 33483

Date: Sept 25, 2015



Al Grossman