

ESTTA Tracking number: **ESTTA749480**

Filing date: **06/01/2016**

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

Proceeding	92062050
Party	Defendant Vend Limited
Correspondence Address	LINDA K MCLEOD KELLY IP LLP 1919 M STREET NW, SUITE 610 WASHINGTON, DC 20036 UNITED STATES linda.mcleod@kelly-ip.com, lindsay.allen@kelly-ip.com, docketing@kelly-ip.com, jacob.mersing@kelly-ip.com
Submission	Motion to Extend
Filer's Name	Linda K. McLeod
Filer's e-mail	linda.mcleod@kelly-ip.com, lit-docketing@kelly-ip.com, larry.white@kelly-ip.com
Signature	/Linda K. McLeod/
Date	06/01/2016
Attachments	Vend - Motion for Extension of Time.pdf(145820 bytes)

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

<p>KAMAL KARMAKAR,</p> <p style="text-align: center;">Petitioner</p> <p style="text-align: center;">v.</p> <p>VEND LIMITED,</p> <p style="text-align: center;">Respondent.</p>	<p>Cancellation No. 92062050</p> <p>Registration No. 4657862</p> <p>Mark: </p> <p>Registered: Dec. 16, 2014</p>
--	---

MOTION TO EXTEND TIME TO SERVE RESPONDENT’S DISCOVERY RESPONSES

Pursuant to Fed. R. Civ. P. 6(b), TBMP §§ 403.04, 509.01 et. seq., Vend Limited (“Respondent”), through its undersigned counsel, respectfully requests an additional **16 days**, up to and including **June 22, 2016**, to serve its responses and objections to Petitioner Kamal Karmakar’s (“Petitioner”) First Set of Interrogatories, First Request for Production of Documents, and First Set of Request for Admissions.

I. BACKGROUND

On April 17, 2016, Petitioner served its first set of written discovery on Respondent, including 80 Requests for Admission, 26 Requests for Production of Documents, and 20 numbered Interrogatories, several of which contain multiple, discrete sub-parts (which may exceed the 75 interrogatories allowed under the rules). Respondent’s objections and responses to Petitioner’s discovery were initially due May 23, 2016.

On May 13, 2016, Respondent—a foreign corporation based in Auckland, New Zealand—contacted counsel to request an extension of time to respond to Petitioner’s discovery requests given the voluminous number of requests and need for additional time to confer with a foreign-based client. Petitioner’s counsel indicated the extension “should not be a problem,” but that he would confer with Petitioner to confirm.

On May 17, 2016, Petitioner’s counsel agreed to a two-week extension up to June 6, 2016 while he continued to confer with Petitioner on our initial extension request. Ultimately, on May 20, 2016, Petitioner declined to extend Respondent’s response deadline beyond the 14-day extension and, as a result, Respondent’s responses are currently due June 6, 2016.

In view of the foregoing, Respondent informed Petitioner on May 20, 2016 that it would file the instant motion requesting an extension of time to respond to Petitioner’s discovery up to and including **June 22, 2016**.

II. MOTION TO EXTEND STANDARD

Where good cause is shown, “[t]he time for responding to a request for discovery may be extended . . . on motion (pursuant to Fed. R. Civ. P. 6(b)) granted by the Board, or by order of the Board. TBMP §§ 403.04, 509.01; *Societa Per Azioni Chianti v. Colli Spolentini Spoletoducale SCRL*, 59 USPQ2d 1383, 1383 (TTAB 2001) (“To prevail on its motion, opposer must establish good cause for the requested extension of time.”). Generally, 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. *See, e.g., American Vitamin Products Inc., v. DowBrands Inc.*, 22 USPQ2d 1313 (TTAB 1992).

III. GOOD CAUSE EXISTS TO EXTEND RESPONDENT'S DISCOVERY RESPONSE DEADLINE

Respondent's discovery responses are currently due June 6, 2016. Good cause exists to grant Respondent's first request to extend time for Respondent to serve responses and objections to Petitioner's discovery requests for a total period of 30-days.

As noted above, Petitioner served voluminous discovery requests, including 80+ Requests for Admissions and lengthy interrogatories and document requests, all of which require more time to prepare responses and objections. Indeed, some of Petitioner's discovery requests appear to relate to litigation pending between the parties in foreign countries, which are likely objectionable in this U.S. proceeding. Counsel needs more time to confer with Respondent regarding such foreign proceedings and objections based on them.

Further, Respondent is a foreign corporation, with headquarters in Auckland, New Zealand, and counsel needs additional time to review the discovery responses and objections with Respondent. Counsel's foreign-based client contact has been out of the office on a planned absence during the response period. Thus, a reasonable extension is necessary in order to have sufficient time to review and revise Respondent's discovery responses and objections, and confer with a counsel foreign-based client contact.

Finally, this is Respondent's first request for an extension of time from the Board in this proceeding and discovery does not close until July 30, 2016. Thus, Petitioner will not be prejudiced by a brief extension of Respondent's discovery response deadline.

Accordingly, Respondent requests that its responses and objections to Petitioner's First Set of Interrogatories, First Set of Request for Admissions, and First Set of Request for Production of Documents, be extended for an additional 16-days up to and including **June 22, 2016**.

Respectfully Submitted,

Dated: June 1, 2016

 /Linda McLeod/
Linda K. McLeod
linda.mcleod@kelly-ip.com
Jason M. Joyal
jason.joyal@kelly-ip.com
KELLY IP, LLP
1919 M Street, NW
Suite 610
Washington, D.C. 20036
Telephone: (202) 808-3570
Facsimile: (202) 354-5232

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2016, a true and correct copy of the foregoing MOTION TO EXTEND TIME TO SERVE RESPONDENT'S DISCOVERY RESPONSES was served by United States first-class mail, postage prepaid, on Petitioner's at the following address of record:

BRUCE MARGULIES
NEIFELD IP LAW PC
5400 SHAWNEE ROAD SUITE 310
ALEXANDRIA, VA 22312

/Larry L. White/
Larry L. White
Litigation Case Manager