

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

DUNN

Mailed: February 18, 2016

Cancellation No. 92062808

Gaia Enterprises, Inc.

v.

Compass Minerals America Inc.

Elizabeth A. Dunn, Attorney (571-272-4267):

This case comes up on Respondent's motion to extend its time to answer and all subsequent dates. The motion is contested, and at Respondent's request, the Board conducted a February 17, 2016 phone hearing with the parties.

The participants were Christopher Darrow, attorney for Petitioner, Timothy Feathers, attorney for Respondent, and Elizabeth Dunn, attorney for the Board. The parties were advised that the conference procedure is informal and the conference may not be recorded, but the summary order to follow would be part of the record. *See* Trademark Rule 2.120(i)(1).

The Board's December 9, 2015 institution and trial order set January 19, 2016 as the deadline for the answer. On January 14, 2016, by automatic ESTTA order, the Board granted Respondent's motion with consent to extend its deadline for filing the answer to February 18, 2016. With its present motion Respondent seeks

another thirty day extension, making its deadline for the answer March 19, 2016. In support of its motion Respondent asserts that during the first extension the parties communicated about settlement matters, and that the second extension is necessary for counsel to consult on the substance of the answer. Petitioner opposes the extension on the ground that thirty days is excessive for preparation of the answer, and that there is no need for the entire trial schedule to be delayed.

The standard for allowing an extension of a prescribed period prior to the expiration of that period is "good cause." See Fed. R. Cir. P. 6(b). What constitutes good cause sufficient to justify the modification of a scheduling order necessarily varies with the circumstances of each case." Charles Alan Wright et al., 8B FED. PRAC. & PROC. CIV. § 1522.2 (3d ed., October 2015). "[T]he 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." *National Football League v. DNH Management LLC*, 85 USPQ2d 1852, 1854 (TTAB 2008).

After discussion, Respondent modified its motion to seek only the thirty days extension of its time to file an answer, with the remainder of the trial schedule to remain the same. While Petitioner maintained the position that thirty days was not necessary, the Board finds that Respondent has not been dilatory in seeking the extension, that Respondent has not abused the privilege of extensions, and that Petitioner has indicated no specific prejudice which would result from the extension. In view thereof, the Board finds that these circumstances constitute good cause for

the extension sought. Respondent's motion to extend its time to file its answer to March 19, 201 is hereby granted.

Inasmuch as the answer and the discovery conference deadline now fall on the same day, the parties are urged to cooperate in scheduling the conference within a reasonable time of the conference due date.

The trial schedule otherwise remains the same:

Deadline for Discovery Conference	3/19/2016
Discovery Opens	3/19/2016
Initial Disclosures Due	4/18/2016
Expert Disclosures Due	8/16/2016
Discovery Closes	9/15/2016
Plaintiff's Pretrial Disclosures	10/30/2016
Plaintiff's 30-day Trial Period Ends	12/14/2016
Defendant's Pretrial Disclosures	12/29/2016
Defendant's 30-day Trial Period Ends	2/12/2017
Plaintiff's Rebuttal Disclosures	2/27/2017
Plaintiff's 15-day Rebuttal Period Ends	3/29/2017

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.