

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Baxley

Mailed: June 20, 2006

Opposition No. **91125329**

Terry P. Gaudreau and TNT  
Fireworks, Inc.

v.

American Promotional Events,  
Inc.

**Andrew P. Baxley, Interlocutory Attorney:**

This case now comes up for consideration of opposers' motion (filed May 16, 2006) to extend discovery. Applicant has filed a brief in opposition thereto.

The standard for allowing an extension of a prescribed period prior to the expiration of that period is "good cause." See Fed. R. Civ. P. 6(b) and TBMP section 509 (2d ed. rev. 2004). The Board is generally liberal in granting extensions before the period to act has lapsed, 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. Dow Brands Inc.*, 22 USPQ2d 1313 (TTAB 1992).

The Board finds that opposers have made an adequate showing of good cause for an extension of the discovery period, albeit for less than the 120 days that they seek.

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In view thereof, the motion to extend the discovery period is hereby granted.

The Board notes that, during this proceeding, each side has opposed a motion to extend the discovery period that its adversary filed; and that applicant was advised in the Board's March 26, 2006 order that it will not be permitted any further extensions of the discovery period without "either a showing of extraordinary circumstances or opposers' written consent thereto."<sup>1</sup> Accordingly, the parties are advised that no further extensions of the discovery period will be permitted without the written consent of all parties to this proceeding.<sup>2</sup>

Discovery and testimony periods are hereby reset as follows.

DISCOVERY PERIOD TO CLOSE:	<b>8/18/06</b>
Plaintiff's 30-day testimony period to close:	<b>11/16/06</b>
Defendant's 30-day testimony period to close:	<b>1/15/07</b>
Plaintiff's 15-day rebuttal testimony period to close:	<b>3/1/07</b>

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served

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<sup>1</sup> Opposers objected to the motion to extend discovery which applicant filed on June 10, 2005 and which the Board granted in a March 26, 2006 order.

<sup>2</sup> The Board notes that this proceeding has been pending for more than four years. Opposers, as the plaintiffs herein, have a duty to move this proceeding forward to trial without undue delay.

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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 Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.