



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

THE PEP BOYS MANNY, MOE & JACK )  
OF CALIFORNIA, )  
 )  
Opposer, )  
 )  
v. )  
JET-PEP, INC., )  
 )  
Applicant. )

Opposition No. 150,819

**OPPOSER'S MOTION FOR EXTENSION OF  
DISCOVERY PERIOD FOR OPPOSER ALONE  
AND FOR ALL OUTSTANDING TRIAL DATES**

COMES NOW the Opposer, The Pep Boys Manny, Moe & Jack of California, by and through counsel, and moves the Trademark Trial and Appeal Board ("Board") for an order resetting the dates established by the Board's November 18, 2003 Order by extending the discovery period for Opposer only by forty-five (45) days, and all trial dates by a like period.

**Background**

On September 9, 2002, Opposer served written discovery on Applicant. Opposer repeatedly consented to the extension of the deadline for Applicant to respond to such discovery, and a suspension of this proceeding, on the basis that Applicant was interested in pursuing settlement.<sup>1</sup>

On November 18, 2003, the Board resumed proceedings and required the parties to respond to any outstanding written discovery. Applicant belatedly served discovery responses out of time

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<sup>1</sup> This apparent interest was first communicated to Opposer's counsel in October of 2002. Over one year later, Applicant changed its mind regarding settlement.



and produced no documents. The responses were clearly deficient, and Opposer's counsel has written to Applicant's counsel setting forth these deficiencies.

The discovery period closes today, February 18, 2004.

**Argument**

Opposer requests a reasonable extension of the discovery schedule *for itself only* for the following reasons.

Applicant's written discovery responses were clearly deficient, and Opposer has detailed such deficiencies for Applicant in an effort to resolve these disputes without the Board's intervention. However, Applicant should not be allowed to benefit from its deficient responses by depriving Opposer of the ability to conduct follow up discovery. Thus, the discovery period should be extended and extended for Opposer only.

This request is not made for the purpose of unduly delaying proceedings in the Patent and Trademark Office.

For the foregoing reasons, Opposer respectfully requests the Board to grant the present Motion and extend the discovery period for Opposer alone by forty-five (45) days and to extend all outstanding trial dates by forty-five (45) days.

Respectfully submitted,

THE PEP BOYS MANNY, MOE & JACK OF  
CALIFORNIA

By: \_\_\_\_\_



Marsha G. Gentner  
Matthew J. Cuccias  
JACOBSON HOLMAN, PLLC  
400 Seventh Street, N.W.  
Washington, D.C. 20004  
(202)638-6666  
Attorneys for Opposer

Dated: February 18, 2004  
Attorney Docket No. I-4565

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of February, 2004, a true copy of the foregoing **OPPOSER'S MOTION FOR EXTENSION OF DISCOVERY PERIOD FOR OPPOSER ALONE AND FOR ALL OUTSTANDING TRIAL DATES** to Applicant was served by first-class mail, postage prepaid, upon counsel for Applicant:

James M. Pacious  
Collier Shannon Scott, PLLC  
3050 K Street, N.W.  
Washington, DC 20007

