

TAB

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



TAN PRO, INC.)
)
 Opposer,)
)
 v.)
)
 ST. LOUIS TAN COMPANY, INC.)
)
 Applicant.)
)

Opposition No. 9115255
Mark: TANCO
Serial No.: 76/235824
Filed: April 5, 2001
Published: June 11, 2002

03-13-2003
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TRADEMARK TRIAL AND APPEAL BOARD

MOTION TO EXTEND DISCOVERY PERIOD
AND MEMORANDUM OF LAW IN SUPPORT THEREOF

Pursuant to 37 CFR § 2.121(a)(1), TBMP § 509, and Federal Rule of Civil Procedure 6(b), Opposer Tan Pro, Inc. ("Opposer" or "Tan Pro"), hereby moves for an extension of the discovery period of two (2) months from the date of this motion.

Under Federal Rule of Civil Procedure 6(b), 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)(1); 37 CFR § 2.121(a)(1). "Ordinarily, 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." American Vitamin Prods., Inc. v. DowBrands, Inc., 22 USPQ2d 1313 (TTAB 1992).

Discovery in this case is set to close on the date of this motion, March 10, 2003, and therefore, this motion is filed before the discovery period has elapsed. Furthermore, Opposer has not been guilty of negligence or bad faith, nor has Opposer already sought or been granted an extension in this case. Opposer served interrogatories and requests for the production of

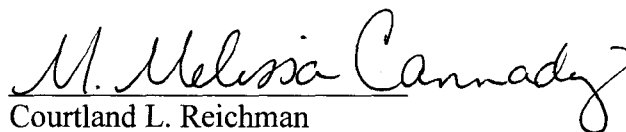
documents on Applicant St. Louis Tan Company, Inc. ("Applicant") on February 13, 2003.

Applicant has not yet served responses to Opposer's discovery requests. Opposer believes that a two month extension of the discovery period will permit the parties to present a more complete factual record to the Board. The additional discovery may include, for example, the deposition of individuals that Applicant may identify in its responses to Opposer's discovery requests. Furthermore, Opposer submits that additional discovery in this case may encourage the parties to resolve this dispute prior to the testimony period.

Accordingly, having shown good cause, Opposer respectfully requests that the discovery period in this case be extended by two months, through and including May 10, 2003.

Respectfully submitted, this 10th day of March, 2003.

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CERTIFICATE OF SERVICE

It is hereby certified that a true and complete copy of the foregoing Motion To Extend Discovery Period And Memorandum Of Law In Support Thereof was deposited in the United States Mail, postage prepaid, in an envelope addressed to:

Mr. Michael A. Thorne
Spencer, Fane, Britt & Browne LLP
120 South Central Avenue, Fifth Floor
St. Louis, Missouri 63105

This 10th day of March, 2003.


M. Melissa Cannady

CERTIFICATE OF MAILING UNDER 37 CFR § 1.8.

I hereby certify that this Motion To Extend Discovery Period And Memorandum Of Law In Support Thereof is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to:

BOX TTAB
NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

on March 10, 2003.

M. Melissa Cannady

[Typed name of person signing certificate]

M. Melissa Cannady

[Signature of person signing certificate]

3/10/03

[Date of signature]