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

Proceeding	91164191
Party	Plaintiff EYAL YANILOV
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

EYAL YANILOV
and
INTERNATIONAL KRAV MAGA
FEDERATION

Opposer,

v.

KRAV MAGA ASSOCIATION OF
AMERICA, INC.,

Applicant.

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Opposition No. 91,164,191

OPPOSER'S RESPONSE TO APPLICANT'S MOTION FOR RECONSIDERATION

Opposer's EYAL YANILOV and INTERNATIONAL KRAV MAGA FEDERATION (collectively "Opposer"), by and through its counsel, hereby moves that the Applicant's Motion for Reconsideration ("Motion") be denied and the Trademark Trial and Appeal Board's February 2, 2006 decision denying the Applicant's December 5, 2005 Motion for an Extension of the Discovery Period be sustained.

In support of Applicant's Motion, Applicant alleges that substantive settlement negotiation had taken place prior to the filing of Applicant's December 5, 2005 motion to extend the discovery period. Applicant states they "understood" that communications between Mr. John Whitman of Applicant and Opposer Eyal Yanilov had taken place prior to December 5, 2005 and that they assumed Opposer's counsel was aware of such communications. Applicant further states that had Opposer's counsel returned the Applicant's phone call of December 5, 2005 before 6:00 p.m. Pacific Standard Time, they would have been advised of Applicant's counsel's understanding of the communications.

Whether or not Opposer's counsel was aware of the communications to which Applicant refers is irrelevant to a showing of good cause in accordance with TBMP § 509.01.

TBMP § 509.01(a) states that “[a] motion to extend must set forth with particularity the facts said to constitute good cause for the requested extension; mere conclusory allegations lacking in factual detail are not sufficient.” If Applicant had intended upon relying on the referenced communication as justification for their showing of good cause under TBMP § 509.01, a more detailed accounting of the communication was clearly necessary. Instead, Applicant made a conclusory allegation with no factual detail. As such, the Trademark Trial and Appeal Board’s February 2, 2006 decision denying the Applicant’s Motion for an Extension of the Discovery Period was proper.

Applicant further states that “had Opposer’s counsel returned [Applicant’s] counsel’s December 5, 2005 telephone call before 6:00 Pacific Standard Time . . . on that date, [Applicant’s] counsel would have advised Opposer’s counsel of [Applicant’s counsel’s] understanding of such communications between the parties.” Applicant seems to imply that Opposer’s counsel is some how at fault for not promptly responding to their phone call. As the record shows, the phone call took place on the last day of the extended discovery period. Also, Opposer Eyal Yanilov resides in Israel. It should not therefore come as a surprise to Applicant that it would take longer than half a day for Opposer’s counsel to consult with Opposer regarding the requested extension of time. Besides, the mere assertion that Opposer’s counsel failed to return a phone call at the eleventh hour of discovery is not, Opposer’s counsel would argue, good cause upon which a Motion for an Extension of the Discovery Period can be based.

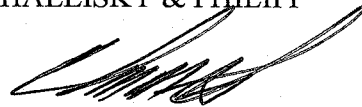
Furthermore, no mention of negotiations was discussed during the phone call of December 5, 2005 and no details regarding the alleged communication between Mr. John Whitman of Applicant and Opposer Eyal Yanilov was revealed. Again, whether or not Opposer’s counsel knew of the communication is irrelevant. It is not Opposing counsel that must be informed about communications that justify a showing of good cause under TBMP § 509.01. It is the Trademark Trial and Appeal Board that must be so informed. No such details were set out in Applicant’s Motion for an Extension of the Discovery Period of December 5, 2005.

For the record, Applicant confirms that no such communication between Mr. John Whitman and Eyal Yanilov took place on or shortly before December 5, 2005. Apart from the three phone calls between counsel for Applicant and counsel for Opposer previously mentioned, no other communications between the parties had taken place prior to December 5, 2005.

Applicant has not only failed to show good cause for the extension of the discovery period but has also failed to set forth with particularity the facts said to constitute good cause. The Trademark Trial and Appeal Board's decision denying the Applicant's Motion for an Extension of the Discovery Period was therefore proper. As such, Opposer respectfully requests that the Motion be denied and the Trademark Trial and Appeal Board's February 2, 2006 decision denying the Applicant's December 5, 2005 Motion for an Extension of the Discovery Period be sustained.

Dated this 21th day of February, 2006.

Respectfully submitted,
HALLISKY & PHILIPP



Chad M. Smith
Seann W. Hallisky
Attorneys for Opposer Eyal Yanilov and
International Krav Maga Federation

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Opposer's Response to Applicant's Motion for Reconsideration was served via first class mail, postage pre-paid upon:

Simor L. Moskowitz
Philip L. O'Neill
JACOBSON HOLMAN, PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004-2201

This 21th day of February 2006.

A handwritten signature in black ink, appearing to read "Chad M. Smith", written over a horizontal line.

Chad M. Smith