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

Proceeding	91173301
Party	Defendant Ulises Valdez and Adelina Valdez
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Date	04/17/2008
Attachments	Opposition to extension motion p1.pdf (1 page)(25659 bytes) Opposition to extension motion p2.pdf (1 page)(44877 bytes) Opposition to extension motion p3.pdf (1 page)(45587 bytes) Opposition to extension motion p4.pdf (1 page)(29935 bytes) Exhibit A to Opposition to Extension Motion.pdf (1 page)(385660 bytes) Exhibit B to Opposition to Extension.pdf (1 page)(445513 bytes) Certificate of service for filing opposition to extension.pdf (1 page)(13909 bytes)

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

Federacion National de Cafeteros de)
Colombia, a/k/a National Federation of)
Coffee Growers of Colombia,)
)
Opposer,)
) Opposition Nos., 91173301,
) 91173312, 91175127, & 91175126
) 91173313
v.)
)
Ulises Valdez and Adelina Valdez,)
)
)
Applicant.)
_____)

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

**APPLICANTS ULISES VALDEZ AND ADELINA VALDEZ'S OPPOSITION TO
OPPOSER'S MOTION FOR EXTENSION TO REPLY TO MOTION FOR JUDGMENT**

Opposer, which has conducted no discovery, nor taken any testimony in this case, is now seeking to further delay the resolution of this case with a "token" Motion for Extension of Time to Reply to Applicants' Motion for Judgment. Opposer's Motion is comprised of "conclusory allegations," and in no way constitutes a "good cause" showing for further extending this Opposition. As a result, Opposer's Motion should be denied.

I. Opposer's Continued Failure To Prosecute Its Claim

As is noted in Applicant's Motion for Involuntary Dismissal, Opposer's testimony period expired on March 1, 2008 per order dated December 6, 2007. Opposer has failed to take any testimony, failed to file any notice of reliance, and has failed to file any other evidence with the Board. In addition, Opposer has neither propounded any discovery upon Applicants, nor responded to any of Applicants' discovery requests within the time required. In response to Applicant's Motion for Involuntary Dismissal, Opposer has brought its Motion for Extension of Time to Reply. This Motion consists of the following conclusory statement: "Opposer is located in Columbia and communications have to go through house counsel in Columbia to commercial people in Columbia and back through the same channels to Opposer's counsel in the United States."

As with Opposer's prior requests for extensions to respond to Applicants' discovery requests (which despite those requests being granted, Opposer ultimately failed to produce any discovery responses), Counsel for Opposer consistently blames Opposer's "location in Columbia" for its failure to prosecute this Opposition. As is noted in its Opposition, Opposer (Federacion Nacional de Cafeteros de Columbia, a/k/a National Federation of Coffee Growers of Columbia), is the owner/application of at least 8 different trademark registrations, with a number of distinct "classes" of goods. See Opposition, ¶ 4. Opposer also pleads in its Opposition that it has been selling its coffee products in the United States since 1960, and has since then sold "coffee containers" in the "hundreds of millions of units." See Opposition ¶ 6. Opposer also has its own "Juan Valdez" website, which both promotes its brand and also has a "contact us" webpage, which provides both e-mail addresses to contact "Juan Valdez," and a New York based

telephone number (i.e., “212-421-8300”). See Opposer’s webpage, attached as Exhibit A. In sum, Opposer clearly has substantial assets to fund both a multitude of trademark filings in the United States, in addition to having its own U.S. based promotional office. Of course, Opposer was also able to retain its Counsel, which by its own admission on its firm website “has grown to become one of the largest firms in the United States specializing exclusively in intellectual property law.” See homepage of Oblon, Spivak, McClelland, Maier & Neustadt, P.C., attached as Exhibit B.

Given the substantial assets of both Opposer and its Counsel, it strains credibility that communications cannot take place between them, in a timely fashion. In today’s age of technological innovation, communications are conducted almost instantly via telephone, fax, and e-mail. Documents can both be sent in electronic form via e-mail attachment, or at the very least, sent via International air freight in a matter of days. At the very least, Opposer’s Counsel could have provided some detailed reasons for its delay in receiving “communications” from Columbia. As is noted above, the moving party for a Motion to Extend must provide “good cause” for obtaining the extension, and may not rely upon purely “conclusory allegations.” By merely indicating that “Opposer is located in Columbia,” this is exactly the type of “conclusory allegation” which is not permitted. The Board has made clear that it will “scrutinize carefully any [motions to extend], when determining whether good cause has been shown, including the diligence of the moving party.” See e.g., *Luemme Inc., v. DB Plus Inc.*, 53 USPQ 2d, 1758, 1760 (TTAB 1999).

Opposer has made no effort to prosecute its case before the Board. At this point, it is merely trying to delay the inevitable, a ruling on the underlying Motion in Applicants’ favor. Given the fact that Opposer has propounded no discovery in this case, nor taken any testimony,

this entire Opposition appears to be for the purpose of delay. As is noted in their Answer, Applicant's were poor immigrants to this country, who through ability and hard work, have established themselves as producers of high end wine. Since October of 2006, Opposer has prevented Applicants from realizing their dream of having their own wine label, by failing to prosecute its Opposition in any manner. As such, Applicant's respectfully request that the Board deny Opposers' Motion to Extend, and rule in Applicant's favor on the underlying Motion for Involuntary Dismissal.

II. Conclusion

Opposer has failed to show "good cause" as to why the Board should not rule upon Applicant's Motion for Involuntary Dismissal. As such, the consolidated Opposition should be dismissed with prejudice pursuant to Trademark Rule 2.132(a). See *Fairline Boats PLC, v. New Howmar Boats Corp.*, 59 USPQ2d 1479, 1480 (TTAB 2001).

DATED this 17th day of April, 2008.

Respectfully submitted,

Ulises Valdez and Adelina Valdez

By: 

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CONTACT US



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For information on Juan Valdez Cafe please contact juan.valdez@juanvaldezcafe.com or submit the form below with the subject "JuanValdez Cafe"

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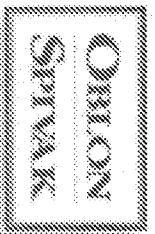
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Firm Overview

Founded in 1963, Ohlen, Spivak, McClelland, Maier & Neustadt has grown to become one of the largest firms in the United States specializing exclusively in intellectual property law. We attribute our steady growth to our founders' passion for quality service and uncompromising scientific expertise.

We offer a team of internationally known experts in every field of intellectual property law, all enthusiastically committed to the goal of client service. Our accomplished professionals are experienced in every technical discipline and hold doctorates and other advanced degrees in biotechnology, computer and software engineering, physics, chemistry, and many other fields.

Our practice groups are organized to assure efficient quality services and to focus individual or team attention on every matter. Seasoned professionals and bright fresh talent bring unique insight, balanced judgment and a keen understanding of new technologies to each area of practice. From litigation to licensing, from prosecution to mark works, the professionals at Ohlen, Spivak, McClelland, Maier & Neustadt are at your service.

Exhibit B

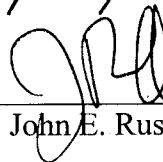
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANTS ULISES VALDEZ AND ADELINA VALDEZ'S OPPOSITION TO OPPOSER'S MOTION FOR EXTENSION TO REPLY TO MOTION FOR JUDGMENT was mailed on April 17, 2008, first-class postage prepaid, to counsel for Opposer:

David J. Kera, Esq.
Roberta S. Bren, Esq.
Oblon, Spivak, McClelland, Maier, & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

Date: _____

04/17/2008



John E. Russell, Esq.