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

Proceeding	91180212
Party	Defendant IDEA AG
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Submission	Stipulated/Consent Motion to Extend
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Date	06/11/2008
Attachments	Consented MTE.pdf (5 pages)(132089 bytes) Exh A to Consented MTE.pdf (2 pages)(35632 bytes)

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

SCHERING CORPORATION,

Opposer,

v.

IDEA AG,

Applicant.

Opposition No.: 91/180,212

App'n Serial No. 77/070,074

Mark: DIRACTIN

The Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT'S CONSENTED MOTION TO EXTEND TIME TO RESPOND TO
DISCOVERY REQUESTS PROPOUNDED BY OPPOSER

Applicant IDEA AG ("Applicant"), through its undersigned counsel, hereby respectfully submits the following *consented* motion, pursuant to Fed. R. Civ. P. 6(a) and Rules 2.116 and 2.120 of the Trademark Rules of Practice of the United States Patent and Trademark Office (35 C.F.R. Part 2), requesting an extension of time for Applicant to respond to Opposer Schering Corporation's ("Opposer") First Request for the Production of Documents and Things and Opposer's First Set of Interrogatories to Applicant and Opposer's First Request for Admissions ("Opposer's Discovery"), wherein said extension is to continue the deadline to respond from June 17, 2008 to and including August 18,

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Atty. Docket No. 108-007TUS

2008. Applicant further requests that all testimony periods and other pending dates be extended sixty (60) days from the presently scheduled dates.

As set forth below in more detail, Applicant had previously filed a motion to extend in this matter. By filing the instant *consented* motion to extend, Applicant is hereby withdrawing the prior motion, and superseding it with the consented motion to extend.

I. BACKGROUND

On May 29, 2008, Applicant filed a motion to extend via the Board's online filing service. In addition to filing a brief, Applicant also submitted three exhibits supporting the motion. Applicant received confirmation of the filing via the Board's online filing service. Applicant believed that the motion to extend had been received by the Board. On, June 9, 2008, however, Applicant first learned that the brief was not properly uploaded, through no fault of Applicant, and thus was not received by the Board—although the exhibits had been properly uploaded and received by the Board. Applicant promptly re-filed the motion to extend on June 9, 2008, and contacted Opposer's counsel to request a stipulation regarding an extension to respond to that discovery. Opposer kindly agreed to the stipulation on June 11, 2008. A true and correct copy of the email from Opposer's counsel consenting to the extension is filed herewith as Exhibit A. Thus, Applicant is hereby withdrawing its prior motion to extend, and is superseding it with this *consented* motion to extend.

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II. *CONSENTED* MOTION TO EXTEND

In accordance with Fed. R. Civ. P. 6(a), and 37 C.F.R. §§ 2.116 and 2.120, Applicant respectfully requests an extension of time for responding to Opposer's Discovery, from the current deadline June 17, 2008, to and including August 18, 2008. Applicant further requests that all testimony periods and other pending dates be extended sixty (60) days from the presently scheduled dates. Opposer has consented to this extension. See Exhibit A.

Applicant has made every effort to be diligent with respect to its conduct during the trademark proceedings in connection with the mark DIRACTIN, by, *e.g.* timely filling all submissions well in advance of the required deadlines without any prior request for an extension. Applicant also respectfully notes that Opposer served Opposer's Discovery on the Applicant (which is located in Germany) past the stated discovery deadline of May 10, 2008 (*i.e.* on Monday, May 12, 2008), taking advantage of the provisions of 37 C.F.R. § 2.196 in order to effect a timely submission of documents. Applicant does not seek an extension of time for purposes of delay; rather Applicant presently does not have enough time to complete discovery and testimony during the assigned period.

Applicant considers the extension period to be reasonable and an appropriate amount of time to prepare an adequate response, given the extensive nature of and the scope of information demanded by Opposer's Discovery requests, and logistical issues related to the fact that Applicant is a German company, and responding to Opposer's Discovery may require translation of a significant amount of materials. The extension period will also allow the parties to negotiate and enter into a protective order that will protect the confidential information anticipated to be produced by Applicant in response to Opposer's Discovery.

III. CONCLUSION

For the foregoing reasons, Applicant hereby respectfully requests that the Board grant Applicant's present *consented* motion to extend, granting Applicant additional time to respond to Opposer's Discovery, and resetting the current deadline for said responses from June 17, 2008, to and including August 18, 2008. Applicant further requests that all testimony periods and other pending dates be extended sixty (60) days from the presently scheduled dates.

DATED: June 11, 2008

IDEA AG



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing APPLICANT'S *CONSENTED* MOTION TO EXTEND TIME TO RESPOND TO DISCOVERY REQUESTS PROPOUNDED BY OPPOSER was served on counsel for Opposer, this 11th day of June, 2008, by sending same via U.S. Mail, prepaid, to:

David J. Kera, Esq.
Beth A. Chapman, Esq.
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314

DATED: June 11, 2008

A handwritten signature in blue ink that reads "Ryan Smith". The signature is written in a cursive style and is positioned above a horizontal line.

EXHIBIT A

Eric J. Sidebotham

From: David J. Kera [DKera@oblon.com]
Sent: Wednesday, June 11, 2008 9:31 AM
To: Eric J. Sidebotham
Subject: Schering Corporation v. IDEA AG
Attachments: logo.jpg

Dear Mr. Sidebotham:

Schering Corporation hereby consents to an extension of time of sixty days from June 17 for IDEA to respond to Opposer's discovery. The new date is therefore August 16, but since August 16 is a Saturday, the effective new date is August 18, 2008.

If you file a revised motion, you should set out expressly the new dates for the testimony periods.

If you do not want to use the TTAB's standard protective order, please propose a protective order.

Sincerely yours,



David J. Kera

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