

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

FSW/rk

Mailed: July 21, 2009

Opposition Nos. **91186206**

General Motors Corporation

v.

California Motors LLC

**Frances S. Wolfson, Interlocutory Attorney:**

On June 5, 2009, following the close of the discovery period but before opposer's pretrial disclosures were due, opposer filed a combined motion to extend its time to respond to written discovery requests and to extend remaining trial dates. Applicant filed an opposition to the motion to extend. In addition, applicant filed a motion for summary judgment on June 17, 2009.

The appropriate standard for allowing an extension of a prescribed period prior to the expiration of the term is "good cause." See Fed. R. Civ. P. 6(b); Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 509 (2d ed. rev. 2004). Generally, 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 has not been abused. See Fed. R. Civ. P. 6(b)(1); *American Vitamin Products, Inc. v. DowBrands Inc.*, 22 USPQ2d 1316 (TTAB 1992); TBMP § 509.01 (2d ed. rev. 2004).

The Board finds that opposer has shown good cause to extend its time to respond to the discovery requests as well as to extend the trial dates in this proceeding. On June 1, 2009, opposer filed for bankruptcy,<sup>1</sup> which it contends "is the fourth largest in U.S. history and the largest for any industrial corporation," requiring "salaried employees at nearly all levels of the business to direct their focus and efforts toward the bankruptcy." *Opposer's Brief*, p. 2. Applicant does not dispute the fact of opposer's bankruptcy, but argues that opposer has failed to identify "any specific custodian of relevant documents" who has had undue difficulty in meeting opposer's discovery deadline, or their "current work status." *Applicant's Motion* pp.1-2. Given the extent of the bankruptcy, causing "significant disruption to the day-to-day business" of opposer, *Opposer's Brief*, p. 2, opposer need not have named specific employees or their current work status to show good cause for the extension. Moreover, there is no indication that opposer

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<sup>1</sup> *In re General Motors Corporation*, Action No. 09-50026 in the U.S. Bankruptcy Court for the Southern District of New York. It should be noted that the automatic stay provisions of Section 362 of the United States Bankruptcy Code are not invoked in this case. See TBMP § 510.03(a) (2d ed. rev. 2004).

has been guilty of negligence or bad faith or that it has abused the privilege of extensions herein. As of the date opposer's motion was filed, both parties had yet to respond to discovery requests propounded during the discovery period. A stay of the opening of opposer's testimony period also allows for completion of discovery before trial.

For the above reasons, good cause has been shown for the requested extension. Accordingly, the motion to extend trial dates is **GRANTED**. The parties have **TWENTY DAYS** from the mailing date of this order to respond to any outstanding discovery requests.

In view of the extension to respond to outstanding discovery requests, applicant's motion for summary judgment, which is based on opposer's alleged failure to respond to requests for admissions, is moot. However, should opposer fail to respond to applicant's discovery requests as ordered herein, applicant may renew the motion for summary judgment.

Trial dates are reset as follows:

Plaintiff's Pretrial Disclosures Due	<b>8/25/2009</b>
Plaintiff's 30-day Trial Period Ends	<b>10/9/2009</b>
Defendant's Pretrial Disclosures Due	<b>10/24/2009</b>
Defendant's 30-day Trial Period Ends	<b>12/8/2009</b>
Plaintiff's Rebuttal Disclosures Due	<b>12/23/2009</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>1/22/2010</b>

The parties are reminded that a copy of the transcript of testimony together with copies of documentary exhibits,

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must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.