

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

Mailed: November 20, 2009

Opposition No. 91189287

TechSmith Corporation

v.

Whitehurst, Timothy

**Linda Skoro, Interlocutory Attorney**

This case now comes up on opposer's motion to suspend for settlement negotiatons and/or extend its time to respond to discovery, filed October 9, 2009. Applicant has objected.

Opposer contends that the parties have been involved in settlement negotiations, which applicant denies. Accordingly the motion to suspend for settlement negotiations is hereby denied.

As good cause for the extension of the discovery response date, opposer states that it had a good faith belief that the parties were engaged in settlement negotiations and needs additional time to complete collecting the information and respond.

We believe that an extension of the period to respond to discovery is warranted. While the better practice is to continue preparing discovery responses while discussing

settlement, opposer also indicated that the discovery requests were extensive and counsel wanted to discuss the requests over the telephone and applicant requested it be done by email. Thus, we find that opposer had a good faith belief in settlement and an extension of the response period is warranted.

Further, the Board ordinarily is liberal in granting extensions 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. Opposer has shown good cause sufficient to justify an extension of its discovery response period. Accordingly, opposer is allowed THIRTY DAYS from the mailing date of this order within which to serve its responses on applicant's counsel.

Because there may have been some confusion as to the running of the dates while this matter was being decided, the remaining dates are hereby reset as indicated below.

Expert Disclosures Due	<b>January 22, 2010</b>
Discovery Closes	<b>February 21, 2010</b>
Plaintiff's Pretrial Disclosures	<b>April 7, 2010</b>
Plaintiff's 30-day Trial Period Ends	<b>May 22, 2010</b>
Defendant's Pretrial Disclosures	<b>June 6, 2010</b>
Defendant's 30-day Trial Period Ends	<b>July 21, 2010</b>
Plaintiff's Rebuttal Disclosures	<b>August 5, 2010</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>September 4, 2010</b>

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits 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 Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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