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

Proceeding	91207517
Party	Plaintiff ic! berlin brillen GmbH, RalphAnderl
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In Re Trademark Appln.)
Serial No. 85092577)
Filed: July 26, 2010)
Published in the Official Gazette)
of June 19, 2012)
Mark: EYE SEE (design plus words))
Class: INT. 09)
ic! berlin brillen GmbH,)
and)
Ralph Anderl)
Opposers) Opposition No. 91207517
v.)
EYE SEE Courtesy Glasses)
Applicant)
*

**OPPOSERS' OPPOSITION TO APPLICANT'S MOTION FOR AN EXTENSION OF
ANSWER WITH CONSENT**

ic! berlin brillen GmbH and Ralph Anderl (Opposers) submit this opposition to EYE SEE Courtesy Glasses' (Applicant's) November 7, 2012 Motion for an Extension of Answer with Consent. The Board granted said Motion on November 7, 2012. Opposers respectfully submit that Applicant has not obtained consent for such a motion and has not shown good cause in support of said motion.

I. Applicant's Motion Was Filed Without Opposers' Consent

Applicant's motion for an extension, filed November 7, 2012, states that Applicant had secured the express consent of all other parties to the proceeding for the extension and resetting of dates. To the contrary, Applicant made no contact with Opposers or Opposers' counsel, and no such consent was ever given. Opposers first learned of the motion from the Board's notification that the motion had been granted. Opposers oppose such a delay to the proceeding and now request that the motion be denied due to the false pretenses under which the "consent" motion was filed.

II. Applicant Lacks Good Cause for an Extension.

Absent Opposers' consent to the extension, Applicant has failed to assert good cause sufficient to support an extension. Applicant's motion stated "[p]arties are engaged in settlement discussion" as grounds for the request. While Opposers had briefly attempted reaching a settlement with Applicant, negotiations ended in early October, prompting Opposers to file this opposition.

Furthermore, 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. TBMP 509.01(a). Even if the factual allegations in Applicant's request were accurate, the mere suggestion that the parties were willing to entertain a settlement proposal does not justify a delay in the proceedings unless the parties both agree to the delay. See *Fairline Boats plc v. New Howmar Boats Corp.*, 59 USPQ2d 1479, 1480 (TTAB 2000) (mere existence of settlement negotiations or proposals, without more, would not justify delay in proceeding with testimony); *Instruments SA Inc. V. ASI Instruments, Inc.*, 53 USPQ2d 1925, 1927 (TTAB 1999) (plaintiff's claim of ongoing bilateral settlement negotiations was rebutted by defendant, and no

other reason for plaintiff's failure to proceed with discovery was shown). Applicant has stated no other grounds for the motion and thus has failed to show good cause for an extension.

III. Conclusion

Opposers object to the delay in the present opposition action, oppose the nonconsensual Motion for an Extension of Answer, and respectfully submit that Applicant has not shown good cause for its requested extension. Accordingly, Opposers submit that the motion should be DENIED and the Board's November 7, 2012 Order now be REVERSED.

ic! berlin brillen GmbH
and Ralph Anderl

Dated: November 9, 2012

By: /tct/
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CERTIFICATE OF SERVICE

It is hereby certified that a true and complete copy of the subject Opposers' Opposition to Applicant's Motion for an Extension of Answer was served upon the Applicant via First Class mail, postage prepaid, this 9th day of November, 2012, to the following address:

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