

ESTTA Tracking number: **ESTTA597461**

Filing date: **04/09/2014**

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

Proceeding	91212785
Party	Defendant Calvert Enterprises, Inc.
Correspondence Address	ELIZABETH K STANLEY BAKER BOTTS LLP 2001 ROSS AVENUE, SUITE 600 SANTA MONICA, CA 90401 UNITED STATES elizabeth.stanley@bakerbotts.com, cecily.porterfield@bakerbotts.com, daltmdept@bakerbotts.com
Submission	Motion to Reopen
Filer's Name	Elizabeth K. Stanley
Filer's e-mail	elizabeth.stanley@bakerbotts.com, cecily.porterfield@bakerbotts.com, daltmdept@bakerbotts.com
Signature	/Elizabeth K. Stanley/
Date	04/09/2014
Attachments	Mtn to Reopen & Suspend (Consented) - 91212785.pdf(23525 bytes )

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

ARES TRADING, S.A,	§	
	§	
Opposer,	§	Opposition No. 91212785
	§	
vs.	§	Mark: <b>MD MDINSIDER FIND</b>
	§	<b>YOUR SPECIALIST &amp; Design</b>
MD INSIDER INC.,	§	(Serial No: 85661508)
	§	
Applicant.	§	Publication Date: June 4, 2013

**APPLICANT’S MOTION TO REOPEN TIME TO ANSWER AND MOTION TO  
SUSPEND PROCEEDINGS WITH OPPOSER’S CONSENT**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure and Trademark Trial and Appeal Board Rules 312 and 509.01(b), Applicant, MD Insider Inc. respectfully moves the Honorable Trademark Trial and Appeal Board (“**Board**”) to reopen and extend its time to Answer and to suspend all deadlines in this proceeding for sixty (60) days with the consent of Opposer, Ares Trading, S.A. Specifically, Applicant requests that its Answer deadline be reset to May 11, 2014, being sixty (60) days from the original March 12, 2014 setting, and that all corresponding deadlines be suspended by sixty (60) days. Opposer’s counsel has consented to this Motion.

I.

This Motion is made in good faith and without any intent to cause delay or prejudice but, rather, to provide the parties with additional time to memorialize the settlement reached between the parties. Specifically, on March 6, 2014, prior to Applicant’s Answer deadline of March 12, 2014, Opposer’s counsel, Robert B.G. Horowitz, consented to a thirty (30) day extension of Applicant’s time to Answer and all subsequent proceeding deadlines in light of the parties’ settlement negotiations. The motion for extension was inadvertently not filed. Certainly, Applicant’s delay in filing an extension or an answer is not the result of willful conduct or gross

neglect; rather, the parties are fully engaged in trying to achieve an amicable resolution to avoid the burdens and expense of the proceeding. Notably, a draft settlement agreement has been prepared and is currently under review by the parties. The delay will also not result in substantial prejudice to the opposing party, who consents to this Motion.

In view of the parties' continuing settlement negotiations, on April 8, 2014, Opposer's counsel thereafter consented to an additional thirty (30) day extension of Applicant's Answer deadline and all subsequent proceeding deadlines in view of the settlement negotiations. Thus, the total extension requested in this case is for sixty (60) days.

Wherefore, in accordance with TMEP 509.01(b), Applicant's counsel now respectfully requests that the Board reopen and extend the deadline for Applicant to submit its Answer in accordance with the above-cited rules and in accordance with Opposer's counsel's March 6, 2014 and April 8, 2014 consent. Opposer's counsel has consented to this Motion.

In the event that the parties cannot agree to the terms for settlement, additional time will be required to pursue discovery and prepare for trial. Suspending the proceedings for sixty (60) days should assist the parties in their efforts to memorialize a settlement as it will enable them to concentrate on settlement while avoiding the burdens of filing an answer and discovery. Opposer's counsel has consented to this suspension in light of the parties' settlement negotiations.

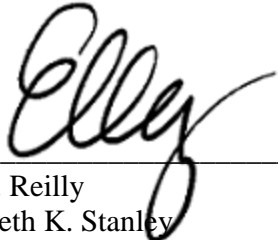
WHEREFORE, for the reasons stated, Applicant, by its counsel, and with the consent of Opposer's counsel, respectfully requests that Applicant's Answer deadline and all discovery, testimony and trial dates be suspended for sixty (60) days from their original setting and resume thereafter in accordance with the following schedule:

<b>Deadline Description</b>	<b>Original Setting</b>	<b>Proposed Setting After 60 Day Suspension</b>
Time to Answer	March 12, 2014	May 11, 2014

Deadline for Discovery Conference	April 11, 2014	June 10, 2014
Discovery Opens	April 11, 2014	June 10, 2014
Initial Disclosures Due	May 11, 2014	July 10, 2014
Expert Disclosures Due	September 8, 2014	November 7, 2014
Discovery Period to Close	October 8, 2014	December 7, 2014
Plaintiff Pretrial Disclosures	November 22, 2014	January 21, 2015
Plaintiff's 30-Day Trial Period Ends	January 6, 2015	March 7, 2015
Defendant Pretrial Disclosures	January 21, 2015	March 22, 2015
Defendant's 30-Day Trial Period Ends	March 7, 2015	May 6, 2015
Plaintiff's Rebuttal Disclosures	March 22, 2015	May 21, 2015
Plaintiff's 15-Day Rebuttal Period Ends	April 21, 2015	June 20, 2015

Respectfully submitted this the 9th day of April, 2014.

BAKER BOTTS L.L.P.

By:  \_\_\_\_\_  
Paul J. Reilly  
Elizabeth K. Stanley

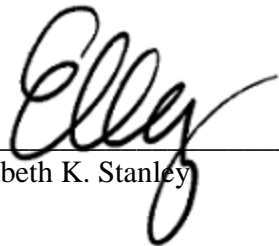
2001 Ross Ave., Suite 600  
Dallas, Texas 75201-2980  
Telephone: (214) 953-6926  
Telecopier: (214) 661-4899  
[daltmdept@bakerbotts.com](mailto:daltmdept@bakerbotts.com)

**ATTORNEYS FOR APPLICANT  
MD INSIDER INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 9th day of April, 2014, I caused to be served, via email, a true and correct copy of the foregoing *Applicant's Motion to Reopen Time to Answer and Motion to Suspend Proceedings with Opposer's Consent* to:

Robert B. G. Horowitz  
Baker & Hostetler LLP  
45 Rockefeller Plaza, 14th Floor  
New York, New York 10111  
[rhowitz@bakerlaw.com](mailto:rhowitz@bakerlaw.com)  
[ejoyce@bakerlaw.com](mailto:ejoyce@bakerlaw.com)  
[nydocketing@bakerlaw.com](mailto:nydocketing@bakerlaw.com)

  
\_\_\_\_\_  
Elizabeth K. Stanley