

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

wbc

Mailed: October 17, 2018

Opposition No. 91238144

Alliance Sports Group, L.P.

v.

H. Best Ltd.

Wendy Boldt Cohen, Interlocutory Attorney:

This case now comes before the Board on Opposer's motion to extend discovery. *See* 5 TTABVUE. The motion is fully briefed.¹

Because Opposer acted prior to the expiration of discovery,² it need only show "good cause" for the extension sought. *See* Fed. R. Civ. P. 6(b)(1)(A); TBMP § 509.01(a) (June 2018). A motion to extend should include a recitation of specific facts constituting good cause for the extension sought. *See Fairline Boats plc v. New Howmar Boats Corp.*, 59 USPQ2d 1479, 1480 (TTAB 2000); *Instruments SA Inc. v. ASI Instruments Inc.*, 53 USPQ2d 1925, 1927 (TTAB 1999); *Luemme, Inc. v. D. B. Plus Inc.*, 53 USPQ2d 1758 (TTAB 1999). The

¹ The Board has considered the parties' submissions and presumes the parties' familiarity with the factual bases for the motions and does not recount them here except as necessary to explain the Board's order. The parties' arguments will not be summarized herein except as necessary to explain the Board's decision. *See Guess? IP Holder LP v. Knowlux LLC*, 116 USPQ2d 2018, 2019-20 (TTAB 2015).

² Discovery, as set in the Board's December 4, 2017 institution order, was set to close August 11, 2018. *See* 2 TTABVUE 3.

Board is generally liberal in granting extensions before the period to act has lapsed, so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused. *See e.g., American Vitamin Products, Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313 (TTAB 1992) (Board granted extension to respond to discovery).

Opposer alleges, *inter alia*, that the parties are involved in settlement negotiations and need additional time to explore settlement options; and that it sent an offer settlement to Applicant on August 13, 2018. *See* 5 TTABVUE 3; 8 TTABVUE 5. Applicant alleges, *inter alia*, that the “last substantive communication between counsel in January of this year was from Applicant’s attorney”; and that since that time “Opposer has made no settlement offer nor has the Opposer served any request for discovery.” 6 TTABVUE 3.

The Board notes Opposer has not abused the privilege for extensions as this is the first extension of these proceedings sought by either party and based on the record before the Board, it does not appear that Opposer is acting in bad faith. Notwithstanding the foregoing, the Board notes that Opposer does not dispute Applicant’s allegation that Opposer has not served discovery.

In view thereof, Opposer has established good cause, although just barely, for the extension sought, namely for settlement. The motion to extend is **granted** however for a modified period of time.

Proceedings are resumed and dates are reset as follows:

Expert Disclosures Due	November 1, 2018
Discovery Closes	December 1, 2018

Plaintiff's Pretrial Disclosures Due	January 15, 2019
Plaintiff's 30-day Trial Period Ends	March 1, 2019
Defendant's Pretrial Disclosures Due	March 16, 2019
Defendant's 30-day Trial Period Ends	April 30, 2019
Plaintiff's Rebuttal Disclosures Due	May 15, 2019
Plaintiff's 15-day Rebuttal Period Ends	June 14, 2019
BRIEFS SHALL BE DUE AS FOLLOWS:	
Plaintiff's Main Brief Due	August 13, 2019
Defendant's Main Brief Due	September 12, 2019
Plaintiff's Reply Brief Due	September 27, 2019

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).