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

Proceeding	91239589
Party	Plaintiff Maker's Mark Distillery, Inc.
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Attachments	Opposers Reply in Support of its Motion for Extension of Time.pdf(23663 bytes )

**UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

MAKER'S MARK DISTILLERY, INC.,

Opposer,

v.

BOWMAKER'S WHISKEY COMPANY,

Applicant.

Opposition No. 91239589

Serial No. 87,383,989

Mark: BOWMAKER'S WHISKEY

**OPPOSER'S REPLY IN SUPPORT OF ITS MOTION FOR EXTENSION OF TIME**

Opposer Maker's Mark Distillery, Inc. ("Opposer") submits this reply in support of its motion for extension of time (19 TTABVUE). Despite arguing that Opposer has attempted to make this proceeding more expensive for Applicant, the instant motion was necessitated by *Applicant's* refusal to consent to a short extension of time that Opposer's counsel requested as a courtesy. In further support of its motion, Opposer respectfully submits the following:

- Applicant questions the factual detail Opposer's counsel has provided regarding the personal need for an extension. While counsel is necessarily limited by client confidentiality obligations, such commitments (which arose in the past month) involve negotiations and due diligence in connection with corporate transactions.
- Applicant claims Opposer has not been diligent in pursuing discovery, but that argument was rejected when the Board granted Opposer's motion for discovery under Rule 56(d).
- Applicant makes a number of baseless claims regarding the scheduling and conduct of the deposition of Mr. Bryan Parks.

- *First*, Opposer properly noticed that deposition pursuant to TBMP 404.03(a) at a location very convenient to Mr. Parks' residence in Michigan, which is about a 2-hour drive from Opposer's counsel's office in neighboring Chicago. Instead, Applicant initially demanded that both the *witness and counsel* fly to Washington D.C. to sit for what the parties acknowledged would be a relatively short deposition. Applicant should not be heard to complain about expenses in these circumstances.
- *Second*, Applicant complains that the deposition was short, but this was to be expected given the limited nature of that deposition under the Board's July 2 order (18 TTABVUE 5 ("The deposition must be limited to the topics raised in the deponent's declaration and may include testimony regarding any document/exhibit attached to the declaration.")). Moreover, despite its brevity, the deposition elicited a number of important admissions that will feature in Opposer's opposition to summary judgment.
- *Third*, despite noting the deposition's short duration, Applicant took *22 days* to designate confidential portions of the transcript, which prevented Opposer's counsel from sharing that transcript with its client.
- *Fourth*, Applicant complains that Opposer intended to videotape the deposition. As the correspondence Applicant submitted reflects, Opposer elected not do so at Applicant's request.
- Finally, Applicant questions why Opposer needs additional time to gather internal information. This information relates in part to sales and advertising in Michigan where Applicant's principal Mr. Bryan Parks resides, the need for which arose from

information learned during his deposition (including for example where he shops for bourbon).

The Opposer's Motion was made in good faith, without any intent to cause delay or prejudice, and with the sole purpose of providing Opposer sufficient time to complete the preparation of its brief. In view of the above, Opposer respectfully submits that good cause for the extension has been shown and that, accordingly, the requested time extension should be granted.

Respectfully submitted,

MAKER'S MARK DISTILLERY, INC.

Dated: September 26, 2019

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**CERTIFICATE OF SERVICE**

I certify that, on September 26, 2019, I caused a copy of the foregoing **OPPOSER'S REPLY IN SUPPORT OF ITS MOTION FOR EXTENSION OF TIME** to be served upon Bowmaker's Whiskey Company by e-mail at the following addresses:

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Dated: September 26, 2019

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