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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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Date	11/27/2018
Attachments	Motion for Extension of Schedule - Opp. 91239589.pdf(13380 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

MOTION FOR EXTENSION OF DISCOVERY PERIOD

Pursuant to 37 CFR § 2.120(a)(2), 37 CFR § 2.121(a) and TBMP § 403.04, Opposer Maker's Mark Distillery, Inc. ("Opposer") moves the Board to extend the discovery periods and to reset the testimony periods on the grounds that the parties are engaged in advanced settlement negotiations to resolve this matter.

The current deadlines as per the Board's February 22, 2018 Order are as follows:

Expert Disclosures Due:	11/27/2018
Discovery Closes:	12/27/2018
Plaintiff's Pretrial Disclosures:	02/10/2019
Plaintiff's 30-day Trial Period Ends:	03/27/2019
Defendant's Pretrial Disclosures:	04/11/2019
Defendant's 30-day Trial Period Ends:	05/26/2019
Plaintiff's Rebuttal Disclosures:	06/10/2019
Plaintiff's 15-day Rebuttal Period Ends:	07/10/2019

Opposer requests an extension of this proceeding for a period of ninety (90) days to enable the parties to either reach a final settlement or, if Applicant Bowmaker's Whiskey Company ("Applicant") is no longer inclined to pursue a settlement, to fully develop the parties' claims and defenses. Accordingly, Opposer requests that the Board reset the deadlines as

follows:

Expert Disclosures Due:	02/25/2019
Discovery Closes:	03/27/2019
Plaintiff's Pretrial Disclosures:	05/11/2019
Plaintiff's 30-day Trial Period Ends:	06/25/2019
Defendant's Pretrial Disclosures:	07/10/2019
Defendant's 30-day Trial Period Ends:	08/24/2019
Plaintiff's Rebuttal Disclosures:	09/08/2019
Plaintiff's 15-day Rebuttal Period Ends:	10/08/2019

The parties have been engaged in ongoing settlement negotiations since July 2018 and have a written Settlement and Co-existence Agreement (“Agreement”) in draft. The most recent iteration of the Agreement was sent from Opposer’s counsel to Applicant’s counsel on October 17, 2018 and Opposer followed up on October 26, 2018. Opposer contacted counsel for Applicant on November 26, 2018 to request its consent for the extension and resetting of dates set forth herein and to check on the status of Applicant’s review of the Agreement. Applicant’s counsel responded on November 27, 2018 that Applicant is reviewing the correspondence, but did not indicate whether Applicant consents to an extension of the schedule. Although Opposer expects to resolve the schedule issues on consent, Opposer files the instant motion out of an abundance of caution and will withdraw it should an agreed extension be reached.

While Opposer remains hopeful that an amicable resolution of this dispute can be reached with additional time to finalize a settlement, Opposer has served discovery requests upon Applicant in advance of the existing deadline and will continue to diligently develop its claims. To date, the parties have exchanged Initial Disclosures, but no documents have been produced in the case and no meet and confer on Opposer’s objections to Applicant’s first set of discovery requests has occurred. Given the parties’ recent history of settlement discussions, the requested extension would enable the parties to finalize a settlement or, if Applicant is no longer inclined

to pursue a settlement, to complete discovery in the case.

Respectfully submitted,

MAKER'S MARK DISTILLERY, INC.

Dated: November 27, 2018

By: /s/ Richard M. Assmus
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CERTIFICATE OF SERVICE

I certify that, on November 27, 2018, I caused a copy of the foregoing **MOTION FOR EXTENSION OF DISCOVERY PERIOD** to be served upon Bowmaker's Whiskey Company by e-mail at the following addresses:

tbreiner@bbpatlaw.com, elisedelatorre@bbpatlaw.com, docketclerk@bbpatlaw.com

With courtesy copies sent by USPS Express mail to Bowmaker's Whiskey Company at the following address:

Theodore A. Breiner
Breiner & Breiner LLC
115 North Henry Street
Alexandria, VA 22314

Dated: November 27, 2018

/s/ Richard M. Assmus
Richard Assmus
Attorney for Opposer
Maker's Mark Distillery, Inc.