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

Proceeding	91253512
Party	Plaintiff Vulcan Inc.
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Submission	Motion to Extend
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Attachments	2020-11-05 Opposer Motion for Extension of Time.pdf(22605 bytes)

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

VULCAN INC.,

Opposer,

v.

KAI DATA, LLC,

Applicant.

Opposition No.: 91253512



Mark:

Application No.: 88429386

OPPOSER’S MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (“TBMP”) § 509.01(a), Vulcan Inc. (“Vulcan” or “Opposer”), through its counsel Perkins Coie LLP, hereby requests a 30-day extension of Opposer’s deadline to file pretrial disclosures for the limited purpose of allowing settlement negotiations to conclude, and a 30-day extension of all subsequent trial dates.

In support of Applicant’s Motion, Applicant states as follows:

FACTS

Over the course of the last several months, Opposer and Kai Data, LLC (“Kai Data” or “Applicant”) have negotiated settlement of the dispute underlying the present opposition proceeding. On October 4, 2020, Applicant presented the most recent draft of the agreement to Opposer, which includes a term contemplating stipulated withdrawal of the opposition proceeding. On October 28, 2020, Opposer accepted the draft as provided by Applicant and presented an executed copy of the agreement to Applicant for countersignature. Accordingly, the sole remaining event to finalize settlement negotiation in this matter is final execution of a settlement agreement

by the Applicant with terms approved by Applicant. Opposer has requested Applicant's consent to this Motion, but Opposer has not yet responded.

ARGUMENT

Opposer's extension request should be granted because Opposer has shown that good cause exists for an extension. *See* Fed. R. Civ. P. 6(b); TBMP § 509.01(a). The Board liberally grants extensions "so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused." *Am. Vitamin Prods., Inc. v. DowBrands Inc.*, 22 U.S.P.Q. 1313 (TTAB 1992) (standard for allowing extension of prescribed periods is good cause). A motion to extend must provide "with particularity the facts said to constitute good cause for the requested extension." TBMP § 509.01(a).

Opposer's request for a limited extension is supported by good cause. Opposer has worked diligently to secure settlement in this case, and the sole remaining event to allow for stipulated withdrawal is Applicant's countersignature on an agreement with terms that Applicant has already approved. Further, Opposer has not been negligent nor has it engaged in bad faith in seeking this extension, nor has Opposer abused the privilege of extensions—if granted, this will be the first extension of time since commencement of the proceeding. Finally, as final execution of a settlement agreement will lead to withdrawal of this proceeding in full, Applicant will not suffer prejudice as a result of this extension.

CONCLUSION

In light of the foregoing, and because Opposer has shown good cause, Opposer respectfully requests that the Board grant Opposer's request for a 30-day extension of Opposer's deadline to file pretrial disclosures, and a 30-day extension of all subsequent trial dates. Opposer further

requests suspension of the current opposition proceeding and all trial dates pending a decision on the present Motion.

DATED: November 5, 2020

Respectfully submitted,

PERKINS COIE LLP

By: Stefan B. Blum/

James L. Vana

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CERTIFICATE OF SERVICE

The undersigned affirms that OPPOSER’S MOTION FOR EXTENSION OF TIME was served on Opposer Atara Biotherapeutics, Inc. by emailing a copy to Applicant’s attorney of record, Steven R. LeBlanc of Steve LeBlanc LLC, at steve@leblancllc.com, docketing@leblancllc.com, as required pursuant to 37 CFR § 2.119 and TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE § 113.04, on the date set forth below.

Dated: November 5, 2020

/Stefan B. Blum/
Stefan B. Blum