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

Proceeding	91253873
Party	Defendant Hair Codes
Correspondence Address	MARK C JOHNSON 111 N PINE ISLAND ROAD, SUITE103 PLANTATION, FL 33324 UNITED STATES Primary Email: MJ@JohnsonDalal.com 954-507-4500
Submission	Motion to Extend
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Date	02/22/2021
Attachments	MET.pdf(147761 bytes)

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

The Procter & Gamble Company,

Opposer,

v.

Hair Codes LLC,

Applicant.

Opposition No. 91253873

Mark: HAIR CODES

U.S. Application Serial No. 88524984

Application Filing Date: July 19, 2019

**APPLICANT’S MOTION TO EXTEND THE CLOSE OF DISCOVERY AND RESET
TRIAL DATES**

Applicant, Hair Codes LLC (hereinafter, “Applicant”), by and through its counsel and pursuant to 37 C.F.R. § 2.120(a)(1), TBMP § 509.01(a), and Fed. R. Civ. P. 6(b), hereby respectfully moves the Board to extend the close of discovery by sixty (60) days and to reset trial dates in accordance therewith. In support thereof, Applicant states as follows:

1. On February 4, 2020, Opposer, The Procter & Gamble Company (“Opposer”), filed its Notice of Opposition (“Opposition”) in connection with this proceeding, asserting likelihood of confusion under Trademark Act Section 2(d) and false designation of origin as grounds for opposition.
2. On May 18, 2020, Applicant filed its Answer in connection with this proceeding.
3. Thereafter, the parties commenced actively engaging in bilateral settlement negotiations in connection with this proceeding, which settlement negotiations remain ongoing to date.

4. Pursuant to the Board's most recent order, discovery is currently set to close on March 15, 2021.

5. The Parties' active and ongoing settlement discussions are demonstrated by the five consented motions for suspension for settlement that have been filed with, and granted by, the Board.

6. At all times material hereto, Applicant reasonably believed that it would not need to go forward with discovery or trial because a mutually acceptable settlement agreement between the Parties would be reached.

7. The Parties' settlement discussions have continued for a prolonged period of time owing, in large part, to the fact that it has often taken months to receive Opposer's substantive response to Applicant's settlement proposal(s), counterproposal(s), or response(s), and to the fact that factual information gleaned during, and in connection with, the Parties' settlement discussions necessitated Applicant's proposal of a wholly different settlement proposal or arrangement than had been previously considered by the Parties.

8. It is this last settlement proposal that is currently being considered by Opposer.

9. At all times material hereto, the Parties have given serious and due consideration to all settlement proposals and offers that have been made.

10. Applicant has acted diligently in timely responding to Opposer's settlement proposals and communications and in furthering the Parties' settlement efforts.

11. Accordingly, Applicant respectfully submits that the foregoing factual allegations constitute good cause to support the requested extension in accordance with Federal Rule of Civil Procedure 6(b) and TBMP § 509. Fed. R. Civ. P. 6(b); TBMP § 509; *see also Trans-High Corp. v. JFC Tobacco Corp.*, 127 USPQ2d 1175, 1177 (TTAB 2018) ("Generally, the Board is

liberal in granting extensions of time before the specified period has elapsed, so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused.”).

12. Undersigned respectfully submits that the foregoing constitutes good cause to support the requested extension.

WHEREFORE, Applicant respectfully moves the Board to extend the close of discovery by sixty (60) days and to reset trial dates in accordance therewith.

Dated: February 22, 2021

Respectfully submitted,

/s/ Mark C. Johnson
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been served on counsel of record for Opposer by forwarding said copy on February 22, 2021, via email to: Karen Gaunt, Esq., Dinsmore & Shohl LLP, 255 East Fifth Street, Suite 1900, Cincinnati, OH 45202 (karen.gaunt@dinsmore.com, govinda.davis@dinsmore.com, robin.bissantz@dinsmore.com, trademarks@dinsmore.com).

Dated: February 22, 2021

Respectfully submitted,

/s/ Mark C. Johnson

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Attorneys for Applicant/Defendant

CERTIFICATE OF GOOD FAITH CONFERRAL

I hereby certify that I have conferred with Opposer's counsel who has indicated that Opposer does not consent to the relief requested herein.

Dated: February 22, 2021

Respectfully submitted,

/s/ Mark C. Johnson
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