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Filing date: **07/19/2022**

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

Proceeding no.	91267740
Party	Plaintiff Carpathian Springs S.A. and Valvis Holding S.A.
Correspondence address	JASON L DEFRANCESCO DEFRANCESCO LEE LLC 174 NASSAU ST, STE 347 PRINCETON, NJ 08542 UNITED STATES Primary email: jasond@defrancescolee.com Secondary email(s): ipoffice@defrancescolee.com (732) 575-9749
Submission	Motion to Extend
Filer's name	Jason DeFrancesco
Filer's email	jasond@defrancescolee.com
Signature	/jd/
Date	07/19/2022
Attachments	Motion to extend.pdf(774600 bytes)

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

Carpathian Springs S.A. and
Valvis Holding S.A.,

Opposers,

v.

Sun Stars & Sons Pte. Ltd.,

Applicant.

Opposition No.: 91267740

MOTION TO EXTEND DISCOVERY FOR OPPOSERS

COMES NOW, the Opposers, by and through the undersigned and request the Discovery Period be extended for it based on good cause.

Under Trademark Rule 2.120(a)(2)(iv), 37 C.F.R. § 2.120(a)(2)(iv), limited extensions of the discovery period may be granted upon motion. 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. *See Am. Vitamin Prods., Inc. v. Dowbrands Inc.*, 22 USPQ2d 1313, 1314 (TTAB 1992). This request is being made before time has elapsed and the Opposers have not abused the privilege. This is a first request that is being made in good faith as further explained.

On May 19, 2022 Opposers served Applicant request for admissions, interrogatories and document requests. Applicant's responses were due June 20, 2022, which would have left a month for Opposers to *review Applicants responses, compel if necessary, extend and/or schedule Discovery Depositions based on Applicant's responses thereto.*

Applicant however did not respond to the discovery by the deadline, but instead delayed. And, to date Applicant has produced no documents or updates to its discovery responses despite requests by the undersigned. Opposers are attending to a good faith effort and diligent in seeking compliance from Applicant. See attached communication trail attached hereto, Exh. A.

Notwithstanding and subject to the limited responses received thus far, Opposers need additional time to get Applicant's complete responses to its discovery, review same, compel compliance if necessary, and determine and schedule deposition(s) including but not limited to inquiry as to *Applicants lack of bona fide intent to use the mark in commerce.* (See Notice of Opposition, 9 TTABVUE ¶¶ 25, 26, 27, Applicant lacked the requisite intent to use its mark. This element has been specifically requested in discovery, including Document request No. 36 and Interrogatory No. 27. Below is the extent of Applicants response thereto.)

DOCUMENT REQUEST NO. 36: All Documents concerning your intention to use the Challenged Mark in US commerce on those Section 1(b) goods identified in USPTO Trademark Application, Serial No. 88477788.

RESPONSE TO DOCUMENT REQUEST NO. 1: Applicant objects to this document request because it is overbroad, unduly burdensome and seeks information that is not relevant to the sole issue of a likelihood of confusion nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving any objection, Applicant will produce responsive, non-privileged documents that exist within Applicant's possession, custody or control.

INTERROGATORY NO. 27: Describe all steps taken you intend to rely upon to support your intention to use the Challenged Mark in US commerce.

RESPONSE TO INTERROGATORY NO. 27: Applicant objects to this interrogatory as being overly broad. Applicant states that Applicant has actively sought distribution in the United States.

Opposers need additional time to get completed responses and thereof seek related discovery depositions as necessary. Applicant has deprived Opposers of this timely option due to its failure and/or delay as evidenced in Exh. A.

In *Sara Lee Corp. v. Kayser-Roth Corp.*, 1999 TTAB LEXIS 632, *2 (Trademark Trial & App. Bd. November 9, 1999), numerous extensions had been entered, and yet on the day prior to the close of discovery, the Board still found and allowed an additional 30 days to be ample time in which to notice and take discovery deposition, and the discovery period was therefore extended.

WHEREFORE, Applicant requests the Board extend discovery for Opposer by 30 days for good cause.

Dated: July 19, 2022

Respectfully submitted,
DeFrancescoLee LLC

By: /Jason DeFrancesco/
Jason L. DeFrancesco
174 Nassau Street, No. 342
Princeton, NJ 08542
(732) 575-9749

For Petitioners,
Carpathian Springs S.A. and
Valvis Holding S.A.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent by email to counsel for Applicant <jjovanovic@watson-ip.com, docketing@watson-ip.com, sstumpo@watson-ip.com> on this the 19th day of July 2022.

/Jason DeFrancesco /
Jason DeFrancesco

EXHIBIT A

Jason L DeFrancesco

From: Jason L DeFrancesco
Sent: Monday, July 18, 2022 6:01 PM
To: 'Jovan N. Jovanovic'
Cc: DeFrancescoLee; 'WIPG Docketing'
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

Jovan,

Please respond.

Thanks,
Jason

From: Jason L DeFrancesco
Sent: Friday, July 15, 2022 5:16 PM
To: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

Jovan,

Please respond to the specific points in my email below **Sent:** Tuesday, July 12, 2022 6:38 AM.

Thanks,
Jason

From: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Sent: Friday, July 15, 2022 5:10 PM
To: Jason L DeFrancesco <jasond@defrancescolee.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

Jason, I just turned on my machine – was in Europe generally without email access, and then had 5 flights to get home. Returned home about 1.5 hours ago.

I will look at your email below, and suggest that we speak next week as I will be back in the office from Tuesday onward.

Best,

Jovan

From: Jason L DeFrancesco <jasond@defrancescolee.com>
Sent: Friday, July 15, 2022 5:08 PM
To: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

Jovan,

This is to confirm I left a message at your office and have still not heard back from you.

Thanks,
Jason

From: Jason L DeFrancesco
Sent: Tuesday, July 12, 2022 6:38 AM
To: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

Jovan,

Because your client did not timely serve its discovery responses, **objections on the merits have been waived**. Fed. R. Civ. P. 33(b)(4); *Envirotech Corp. v. Compagnie Des Lampes*, 219 USPQ 448, 449 (TTAB 1979). Also, admission are deemed admitted.

Please let me know if (1) you will update all responses to interrogatories and document requests and (2) when you will produce documents. Because the calendar is closing soon, I am available tomorrow before noon or Friday between 11 and 1 for a call to resolve the dispute to avoid Board Intervention. Please let me know your availability these days.

Thanks,
Jason

From: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Sent: Monday, July 11, 2022 7:04 PM
To: Jason L DeFrancesco <jasond@defrancescolee.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

Please see attached.

Best,

Jovan

Jovan N. Jovanovic / Founding Partner / **The Watson IP Group, PLC**
w +1 (616) 797-1000 ext 111 / c +1 (616) 856-0777 / watson-ip.com



From: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Sent: Monday, July 11, 2022 3:10 AM
To: Jason L DeFrancesco <jasond@defrancescolee.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

I will have the responses finalized and sent to you today. Again, currently in Europe.

Best,

Jovan

Jovan N. Jovanovic / Founding Partner / **The Watson IP Group, PLC**
w +1 (616) 797-1000 ext 111 / c +1 (616) 856-0777 / watson-ip.com



From: Jason L DeFrancesco <jasond@defrancescolee.com>
Sent: Wednesday, July 6, 2022 11:36 AM
To: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740
Importance: High

Discovery Past Due

Jovan,

The additional 2 weeks you requested expired and we did not receive discovery responses.

(Admissions are deemed admitted and objections waived.)

Please let me know your client's intention. If you need to discuss I, am generally available the remainder of this week.

Regards,
Jason

From: Jason L DeFrancesco
Sent: Tuesday, June 21, 2022 7:44 AM
To: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

Jovan,

Opposers agree to allow your client additional time *to answer* past due discovery but make no procedural or other waiver.

Please let me know if July 5, 2022 is enough time.

Regards,
Jason

From: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Sent: Monday, June 20, 2022 11:24 AM
To: Jason L DeFrancesco <jasond@defrancescolee.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

Jason,

Pertaining to the discovery, we ask for a two week extension to the same, as our client is from overseas and the timing is taking a bit longer than usual.

Please consider the same favorably.

Best,

Jovan

Jovan N. Jovanovic / Founding Partner / **The Watson IP Group, PLC**
w +1 (616) 797-1000 ext 111 / c +1 (616) 856-0777 / watson-ip.com



From: Jason L DeFrancesco <jasond@defrancescolee.com>
Sent: Thursday, May 19, 2022 12:49 AM
To: Jovan N. Jovanovic <jjovanovic@watson-ip.com>
Cc: DeFrancescoLee <ipoffice@defrancescolee.com>; WIPG Docketing <docketing@watson-ip.com>; sstumpo@watson-ip.com
Subject: RE: Carpathian Springs et al v Sun Stars & Sons, Ltd., Opposition No 91267740

Please see attached motion regarding the Initial Disclosures and Opposers' Discovery requests.

Regards,
Jason