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

Proceeding no.	91273187
Party	Plaintiff Pacific Sunwear of California, LLC
Correspondence address	PAMELA N HIRSCHMAN SHERIDAN ROSS PC 1560 BROADWAY, SUITE 1200 DENVER, CO 80202 UNITED STATES Primary email: phirschman@sheridanross.com Secondary email(s): ahartman@sheridanross.com, docketing@sheridanross.com, mtrudell@sheridanross.com 303-863-9700
Submission	Other Motions/Submissions
Filer's name	Autumn R. Hartman
Filer's email	phirschman@sheridanross.com, mtrudell@sheridanross.com, ahartman@sheridanross.com, docketing@sheridanross.com
Signature	/Autumn R. Hartman/
Date	05/06/2022
Attachments	Response to Motion to Extend.pdf(150047 bytes)

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

In the Matter of Trademark Application Serial No. 90/503,209
Filed on February 1, 2021
For the mark "PASHUN LIFESTYLE"
Published in the *Official Gazette* on October 5, 2021

Pacific Sunwear of California, LLC)	
)	
Opposer,)	
)	
v.)	Opposition No. 91273187
)	
Pashun Products Ltd.)	
)	
Applicant.)	
)	

OPPOSER’S RESPONSE TO APPLICANT’S MOTION TO EXTEND

Opposer Pacific Sunwear of California, LLC (“Opposer”) hereby responds to Applicant Pashun Products, Ltd.’s (“Applicant”) Motion to Extend (“Motion”). The Board should deny Applicant’s second Motion requesting additional time to obtain U.S. counsel. In the alternative, if the Board grants Applicant’s Motion, the Board should deny all future Motions filed by Applicant to extend the deadline to obtain U.S. counsel.

BRIEF IN SUPPORT OF OPPOSER’S RESPONSE

I. BACKGROUND

Opposer sought to amend its Notice of Opposition on January 25, 2022, which was accepted by the Board on January 26, 2022. The Board issued an order resetting the Trial Dates for the present Opposition, setting forth a February 25, 2022 deadline for Applicant’s Answer to Opposer’s Amended Notice of Opposition. Three days prior to the deadline for Applicant to submit its Answer to Opposer’s Amended Notice of Opposition, former counsel for Applicant, Sutton IP Associates IPA, filed a Motion to Withdraw as Counsel indicating that the Applicant notified

former counsel on January 28, 2022 of Applicant's desire to represent itself until it found new counsel. (ttabvue-91273187-OPP-9). On February 24, 2022, Applicant, with a foreign domicile and unrepresented by U.S. counsel, filed an Answer to Opposer's Amended Notice of Opposition. On March 21, 2022, the Board issued an order requiring that Applicant obtain U.S. counsel by April 20, 2022, as required by 37 C.F.R. § 2.11(a). On April 17, 2022, Applicant filed a Motion to Extend without consent by Opposer, requesting a fourteen (14) day extension of time to obtain U.S. counsel on the basis that the Board's March 21, 2022 order was not received by the Applicant. On April 19, 2022, the Board granted Applicant's Motion to Extend the deadline to obtain U.S. counsel until May 4, 2022. Now, Applicant has filed a second Motion to Extend requesting a seven (7) day extension of time to obtain U.S. counsel on the basis that it has entered into "negotiations" with a U.S. licensed attorney that Applicant is "confident" will be "appearing on the case [as counsel for Applicant] within a few days." Applicant's Motion, or any future motions filed by Applicant requesting an extension of the deadline to obtain U.S. counsel, should not be permitted.

I. THERE IS NO GOOD CAUSE FOR AN EXTENSION

Applicant has not demonstrated good cause for extending the deadline to obtain U.S. counsel. *See* TBMP 509.01(a) (2021) (good cause must be set forth with particularity and mere conclusory allegations are not sufficient). Applicant's Motion filed on May 3, 2022 sets forth conclusory allegations regarding the need for an extension of time to obtain U.S. counsel. Specifically, Applicant claims that the Board should grant its Motion because it is in final "negotiations" with U.S. counsel and that Applicant is "confident" that this U.S. counsel will represent it in the present proceeding in the next "few days." (ttabvue-91273187-OPP-14, pg. 2). Here, Applicant's mere claim that it is in "final negotiations" with U.S. counsel and assertion of "confidence" that it will retain U.S. counsel in a "few days" is not enough for a showing of good

cause. *See Fairline Boats plc v. New Howmar Boats Corp.*, 59 USPQ2d 1479, 1480 (TTAB 2000) (mere existence of settlement negotiations or proposals, without more, would not justify good cause for a motion to extend). Further, Applicant has not provided any evidence that Applicant is looking for U.S. counsel or reasoning behind the delay in finding U.S. counsel. Applicant has had since at least as early as January 28, 2022, when Applicant first alerted its former counsel of Applicant's intent to find new counsel, to engage U.S. counsel.

Finally, Applicant has disregarded Trademark Trial and Appeal Board rules to date, as the February 24, 2022 Answer to Opposer's Amended Notice of Opposition, first Motion to Extend filed on April 17, 2022 and second Motion to Extend filed on May 3, 2022 were filed by Applicant, an unrepresented applicant of foreign domicile, which is not permitted under 37 C.F.R. § 2.11(a). As demonstrated above, Applicant is seeking to delay the proceedings without good cause. Applicant's Motion should be denied.

II. CONCLUSION

Applicant has not demonstrated good cause to extend the deadline by which Applicant must obtain U.S. counsel. No deadlines should be extended as Applicant has had over three months to obtain representation by new U.S. counsel, Applicant is not following the rules of the U.S. Patent and Trademark Office and has only provided conclusory allegations as to the need for a further extension to obtain U.S. counsel. Additionally, as Applicant has had ample time to find new counsel, both prior to being notified by the Board that it cannot represent itself in the present proceeding as a foreign domiciled applicant, and after being granted additional time by the Board to find U.S. counsel, and Applicant has not provided evidence of circumstances that would excuse the delay in finding counsel, Applicant should not be granted additional time to continue the alleged hunt for U.S. counsel. Therefore, the Board should deny Applicant's Motion. If the Board

grants the Applicant's Motion, Opposer should deny any further motions by Applicant requesting additional time to find U.S. counsel.

Respectfully submitted,

Date: May 6, 2022

By: /Pamela N. Hirschman/
Pamela N. Hirschman
Miriam D. Trudell
Autumn R. Hartman
Attorneys for Opposer
Sheridan Ross P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
Phone: (303) 863-9700
Fax: (303) 863-0223
phirschman@sheridanross.com
mtrudell@sheridanross.com
ahartman@sheridanross.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this May 6, 2022, a true and correct copy of the foregoing OPPOSER'S RESPONSE TO APPLICANT'S MOTION TO EXTEND was emailed to the address below:

APPLICANT

Mr. Paul Ashun
Flat 11 Damson House
Hemlock Close
London
SW16 5PL
(0044) 7 958-946-589
mrpashun@hotmail.com

By: /Pamela N. Hirschman/
Pamela N. Hirschman
Miriam D. Trudell
Autumn R. Hartman
Attorneys for Opposer
Sheridan Ross P.C.
1560 Broadway, Suite 1200
Denver, CO 80202
Phone: (303) 863-9700
Fax: (303) 863-0223
phirschman@sheridanross.com
mtrudell@sheridanross.com
ahartman@sheridanross.com