

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513**

Lykos

Mailed: December 22, 2003

Cancellation No. 92032202

Alfacell Corporation

v.

Anticancer, Inc.

Angela Lykos, Interlocutory Attorney

This case now comes up for consideration of respondent's motion for an extension of time to file its brief at final hearing. The motion is contested by petitioner.

By way of relevant background, respondent's brief was originally due on October 9, 2003; on October 7, 2003, respondent filed the instant motion for a three-week extension of time; and on November 3, 2003, respondent submitted its brief at final hearing.

Turning now to respondent's motion for an extension of time, respondent essentially argues that the president of respondent's company had taken two business trips to Asia during its briefing period; that counsel for respondent required the input of respondent's president to prepare the

brief; and that this difficulty was exacerbated by the fact that petitioner raised a new issue in its brief.

In response, petitioner essentially argues that respondent has provided insufficient information regarding the length of respondent's president business trips; that counsel for respondent could have consulted with other corporate personnel to obtain the necessary information; and that respondent filed its motion late in the time period.

The appropriate standard for allowing an extension of a prescribed period prior to the expiration of the time period is "good cause." See Fed. R. Civ. P. 6(b) and TBMP § 509 and the authorities cited therein. The Board generally is liberal in granting extensions of time before the period to act 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, e.g., *American Vitamin Products Inc., v. DowBrands Inc.*, 22 USPQ2d 1313 (TTAB 1992); and *Sunkist Growers, Inc. v. Benjamin Ansehl Company*, 229 USPQ 147 (TTAB 1985). The Board must also be mindful of the fact that it is the policy of the law to decide cases on their merits. c.f. § TBMP 317.02

After review of the parties' arguments and submissions, the Board finds that respondent has demonstrated the requisite good cause to warrant an extension of time for respondent to file a brief at final hearing. Based on the

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record before us, we find no evidence of bad faith on the part of respondent. In addition, inasmuch as respondent has filed only a single extension request, and filed its brief within the time period of that extension request, we find that respondent has not abused its privilege of extensions, nor has petitioner suffered any prejudice.

In view thereof, respondent's motion to extend its time to file a brief at final hearing is granted. Respondent's brief filed on November 3, 2003 is noted and accepted for the record.

The case is now fully briefed and will be forwarded to the judges for scheduling of an oral argument and for final decision.