

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

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Cancellation No. 92041967

Ryan Properties, Inc.

v.

Ryan Incorporated Eastern,
Inc.

Linda Skoro, Interlocutory Attorney

This case now comes up on several contested motions to extend discovery dates: (1) Petitioner's motion of November 24, 2003 to extend discovery responses by 30 days and reset all dates by 90 days; (2) Respondent's request of December 15, 2003 to extend discovery responses until January 17, 2004; and (3) Respondent's subsequent request of January 20, 2004 to extend the filing of its discovery responses until February 16, 2004.

The parties have cited a variety of grounds for these requests from respondent's delay in obtaining notice of the proceeding and responding to a show cause order; petitioner's relocation of his office and delayed receipt of several filings; intervening holidays; settlement discussions; to the "historical nature of the data

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requested". The parties have attempted to work out the requests for additional time, but are unable to agree to the amount of additional time needed, respondent contending that petitioner has not established sufficient good cause for a 90 day extension of the discovery period and petitioner contending respondent's motion to extend its response period is already untimely.

The Board recognizes that some of the delay occasioned in this proceeding is a result of the original mailing error by the Board at the outset, and a more current inability to address these motions in a timely fashion. Both counsel agree that an extension of the discovery period is needed and have tried to work out their differences.

Further, the Board ordinarily is liberal in granting extensions 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 has not been abused. Petitioner has shown good cause sufficient to justify an extension of its discovery response period and its responses are deemed timely.

Respondent states that it needs additional time to respond to petitioner's first set of discovery requests due to "the historical nature of the data requested" and preliminary settlement discussions. While the Board is unable to determine what the "historical nature" of the

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requests may be without a motion to compel, we find good cause sufficient that respondent's motion to extend its time to file its answers until February 16, 2004 is hereby granted.

In light of the length of the delay occasioned at the outset of this proceeding, namely, that almost 5 months of the discovery period had elapsed before counsel was able to give this proceeding the attention it needed, and the further delay in the Board's ability to decide these motions, discovery has effectively been extended 90 days already. Accordingly, petitioner's motion to reset all trial dates is hereby granted in part, that is for an additional 60 days from the date of this order. Trial dates are reset as indicated below.

Discovery Period to CLOSE:	March 11, 2004
30-day Testimony period for party in position of plaintiff to CLOSE:	June 9, 2004
30-day Testimony period for party in position of defendant to CLOSE:	August 8, 2004
15-day Rebuttal testimony period for plaintiff to CLOSE:	September 22, 2004