

ESTTA Tracking number: **ESTTA598664**

Filing date: **04/15/2014**

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

Proceeding	92058683
Party	Defendant William Lowell Elliott
Correspondence Address	WILLIAM LOWELL ELLIOTT 4138 GUNTREN ROAD CHICO, CA 95973 UNITED STATES bodyboard@pacbell.net
Submission	Stipulated/Consent Motion to Extend
Filer's Name	David Ludwig
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Signature	/David Ludwig/
Date	04/15/2014
Attachments	Consent Motion to Set Aside Default and Extend Deadlines.pdf(97917 bytes )

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

**IN THE MATTER OF Trademark Registration No. 3,944,981  
for the mark PLEASE ME & sun design;  
Registered on April 12, 2011**

<b>WIZARDS OF THE COAST LLC,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
v.	)	<b>Cancellation No. 92058683</b>
	)	
<b>WILLIAM L. ELLIOTT,</b>	)	
	)	
<b>Registrant.</b>	)	
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**CONSENT MOTION TO SET ASIDE DEFAULT AND EXTEND TIME TO ANSWER**

RESPONDENT/REGISTRANT WILLIAM L. ELLIOTT, by counsel and pursuant to TBMP Sections 312.02 and 509.01(a) and Fed. R. Civ. P. 55(c), hereby respectfully requests that the Board set aside the Notice of Default mailed on April 10, 2014 and extend the deadline for Respondent's Answer (as well as subsequent deadlines). Petitioner consents to the requested relief.

In support of this Motion, Respondent states as follows:

1. Petitioner filed the instant Cancellation on February 14, 2014.
2. Although the Certificate of Service attached to the Complaint displays Respondent's correct address, Respondent did not receive the mailed copy of the Complaint or any other notice of the instant proceedings.
3. When Respondent finally received notice of the entry of default on April 10, 2014, he immediately contacted and retained the undersigned counsel to assist with this matter.

4. Accordingly, Respondent's delay in responding to the Complaint was not the result of willful conduct or gross neglect
5. In addition, given that the Complaint was filed only two months ago and this matter is not set to go to trial for more than a year, the Petitioner will not be substantially prejudiced by this delay.
6. Although additional analysis is required, the undersigned believes that Respondent has a meritorious defense to this matter based on factual issues relating to Petitioner's claims to priority of use.
7. Respondent requests that the deadline for his Answer be extended for thirty days from the date of this filing, and that the following other deadlines be extended to accommodate the extension of the Answer deadline, as follows:

Time to Answer	5/15/2014
Deadline for Discovery Conference	5/30/2014
Discovery Opens	5/30/2014
Initial Disclosures Due	6/13/2014
<i>Subsequent deadlines shall remain as previously set</i>	

8. Petitioner consents to the requested relief from default and extension of deadlines.

WHEREFORE, Respondent respectfully requests that the entry of default be set aside, his Answer deadline be extended, and other deadlines be reset, as set forth herein.

Respectfully submitted,

WILLIAM L. ELLIOTT,  
Respondent,  
By counsel,

Dated: April 15, 2014

/David Ludwig/  
David Ludwig  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 15, 2014, a true and complete copy of the foregoing was served via ESTTA and First Class mail, postage prepaid, to the following correspondent of record for the Applicant:

KIM J LANDSMAN  
GOLENBOCK EISEMAN ASSOR BELL & PESKOE LLP  
437 MADISON AVENUE  
NEW YORK, NY 10022

/David Ludwig/  
David Ludwig