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

Proceeding	92066141
Party	Plaintiff Federal Reserve Bank of Atlanta, Federal Reserve Bank of St. Louis, Federal Reserve Bank of Minneapolis, Federal Reserve Bank of Boston, Federal Reserve Bank of New York,Federal Reserve Bank of Philadelphia, Federal Reserve Bank of Cleveland, Federal
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Date	07/21/2017
Attachments	92066141__Opposition to Request for EOT.pdf(23520 bytes)

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

In the matter of Trademark Registration No. 4,341,813
For the mark: NOWCAST
Date of Registration: May 28, 2013

FEDERAL RESERVE BANK OF ATLANTA,	)	
FEDERAL RESERVE BANK OF CHIGAGO,	)	
FEDERAL RESERVE BANK OF ST. LOUIS,	)	
FEDERAL RESERVE BANK OF MINNEAPOLIS,	)	
FEDERAL RESERVE BANK OF BOSTON,	)	
FEDERAL RESERVE BANK OF NEW YORK,	)	
FEDERAL RESERVE BANK OF PHILADELPHIA,	)	
FEDERAL RESERVE BANK OF CLEVELAND,	)	
FEDERAL RESERVE BANK OF RICHMOND,	)	
FEDERAL RESERVE BANK OF DALLAS,	)	
FEDERAL RESERVE BANK OF KANSAS CITY,	)	
and	)	
FEDERAL RESERVE BANK OF SAN FRANCISCO	)	Cancellation No. 92066141
	)	
	)	
Petitioners,	)	
	)	
v.	)	
	)	
ECONOMIC ALCHEMY LLC	)	
	)	
Registrant.	)	

PETITIONERS' RESPONSE TO REGISTRANT'S REQUEST FOR EXTENSION OF TIME TO ANSWER PETITIONERS' CANCELLATION

Petitioners, Federal Reserve Bank of Atlanta, Federal Reserve Bank of Chicago, Federal Reserve Bank of St. Louis, Federal Reserve Bank of Minneapolis, Federal Reserve Bank of Boston, Federal Reserve Bank of New York, Federal Reserve Bank of Philadelphia, Federal Reserve Bank of Cleveland, Federal Reserve Bank of Richmond, Federal Reserve Bank of Dallas, Federal Reserve Bank of Kansas City, and Federal Reserve Bank of San Francisco ("Federal Reserve Banks" or "Petitioners") submit this response to the Motion to Extend Time to

File Registrant's Answer to Petitioners' Cancellation (the "Motion to Extend") filed by Registrant on June 30, 2017.

INTRODUCTION

Petitioners understand that the Board has requested a telephonic conference regarding Registrant's present Motion to Extend (and other such motions in related matters), which is set for July 26, 2017. In light of Petitioners' deadline of July 21, 2017, to respond to this motion, however, Petitioners respectfully provide this brief response.

Petitioners appreciate the Board's generally liberal practice of granting requests for extension of time, and understand that this is Registrant's first request for extension to answer this, particular cancellation petition. In view of that—and the fact that Registrant's date to answer passed the day after the Motion to Extend was filed—Petitioners do not oppose the Board allowing Registrant limited additional time to answer. That said, Petitioners do not think that Registrant has demonstrated that there is cause to grant it additional time, and they request that, should the Board grant Registrant an extension of time to answer, Registrant be held to its revised requested deadline. Registrant has had ample time to evaluate the arguments at issue—with the advice of counsel—and Petitioners do not wish to face repetitious and needless requests for extension, as has occurred in related matters.

ARGUMENT

Registrant's Motion to Extend (like its sister motion filed in Cancellation No. 92066152) states that Registrant needs an additional 30 days to answer the Petition for Cancellation because "Registrant needs additional time to investigate the claims" and "Registrant needs additional time for the purposes of retaining counsel." (Cancellation No. 92066141, Mot. to Extend Time to File Registrant's Ans. to Pet.'s Cancellation, ESTTA830806 (June 30, 2017).) Registrant's justification for these claims is that Registrant is presently proceeding *pro se*, Registrant's

contact of at least seven law firms has not yielded "the right attorney or attorneys for this case," there are multiple actions pending against Registrant,[1] and Registrant's CEO has other full-time job responsibilities. (*Id.*) None of these reasons is availing.

Registrant sent its first cease and desist letter citing the subject Registration to one of Petitioners as early as December 29, 2014, at which point Registrant was represented by outside legal counsel. December 12, 2016 (nearly two years later and over seven months ago), Registrant's in-house counsel sent cease and desist letters again citing the subject Registration to certain of Petitioners and to fellow petitioner, Now-Casting Economics Ltd. (Cancellation No. 92065549). (*See Now-Casting Econ. Ltd. v. Econ. Alchemy LLC*, Opp'n No. 91233160, Cancellation No. 92065549, Opp. to Mot. to Extend Time to File Registrant's Ans. to Pet.'s Pet. to Cancel & Opp'n, ESTTA833006 at 2-3 (July 13, 2017).) At present, at least three different attorneys representing Registrant have been in contact with one or more of Petitioners regarding this dispute. By the time this Petition for Cancellation and Petitioners' related Cancellation No. 92066152 were filed, the parties had been in active discussions via their outside counsel for over three months. During that time, Petitioners consistently and repeatedly presented to Registrant the primary issue in this matter—that the challenged mark is generic, as evidenced by a trove of prior and subsequent uses. Registrant was even provided with a written draft of Petitioners' arguments, including specific prior use references, six weeks before Petitioners' petitions for cancellation were filed.[2]

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[1] Petitioners understand the five proceedings that Registrant references to be the following, which were filed between March 1, 2017 and May 15, 2017: Opposition No. 91233160 ("NOWCAST") filed March 1, 2017; Cancellation No. 92065549 ("NOWCAST") filed March 1, 2017; Opposition No. 91234297 ("NOWCAST") filed May 1, 2017; Cancellation No. 92066141 ("NOWCAST") filed May 15, 2017; and Cancellation No. 92066152 ("NOW-CAST") filed May 15, 2017.

[2] In addition, Now-Casting Economics Ltd. filed its related opposition and cancellation proceedings two months before the instant cancellation was filed. (*See Now-Casting Econ. Ltd. v.*

Registrant thus had ample opportunity to, with counsel, evaluate the issues presented. Indeed, Registrant was represented by record counsel from at least the time of its December 12, 2016 cease and desist letters, until a week after this cancellation was filed, May 23, 2017. (*See* Cancellation No. 92066141, Change of Correspondence Address, ESTTA822642 (May 23, 2017) (changing contact from Registrant's in-house counsel Andrew T. Fritz to Registrant's CEO Giselle Guzman).) That was nearly three months after near-identical allegations of genericness were filed in Opposition No. 91233160 and Cancellation No. 92065549.

Petitioners do not presume to know the reasons that Registrant no longer has its prior counsel or why Registrant has not yet secured new counsel, but Petitioners are fully aware that Registrant raised this dispute and had the benefit of counsel at that time and thereafter. Registrant likewise has not provided any reason why no in-house counsel or counsel at any of the firms it contacted will suffice to represent it in this matter. Neither can Registrant's busyness with other business dealings justify a delay in moving this matter forward to resolution.

Furthermore, as the Board is aware, this request for extension of time is one in a series of repeated requests for such extensions related to the near-identical assertions of genericness. (*Compare Now-Casting Econ. Ltd. v. Econ. Alchemy LLC*, Opp'n No. 91233160, Notice of Opp'n, ESTTA804383 (Mar. 1, 2017), *with id.*, Cancellation No. 92065549, Pet. for Cancellation, ESTTA804391 (Mar. 1, 2017); *Fed. Reserve Bank of Atlanta et al. v. Econ. Alchemy LLC*, Opp'n No. 91234297, Notice of Opp'n, ESTTA817977 (May 1, 2017), *id.*, Cancellation No. 92066141, Pet. for Cancellation, ESTTA820917 (May 15, 2017); *and id.*, Cancellation No. 92066152, Pet. for Cancellation, ESTTA820937 (May 15, 2017). Three different times Registrant has requested (and received) extensions of time to answer Now-

Econ. Alchemy LLC, Opp'n No. 91233160, Notice of Opp'n, ESTTA804383 (Mar. 1, 2017); *Now-Casting Econ. Ltd. v. Econ. Alchemy LLC*, Cancellation No. 92065549, Pet. for Cancellation, ESTTA804391 (Mar. 1, 2017).)

Casting Economics Ltd.'s Opposition No. 91233160 and Cancellation No. 92065549: the first on March 30, 2017 (ESTTA810638, ESTTA810640),[3] the second on May 10, 2017 (ESTTA820155), and the third on June 13, 2017 (ESTTA826866). (*See Now-Casting Econ. Ltd. v. Econ. Alchemy LLC*, Opp'n No. 91233160, Cancellation No. 92065549, June 19, 2017 TTAB Order (granting June 13, 2017 request); *id.*, May 18, 2017 TTAB Order (granting May 10, 2017 request); *id.*, Apr. 10, 2017 TTAB Order at 2-3 (granting Mar. 30, 2017 requests). In each case, Registrant cited the same need for "additional time to investigate the claims" that it recites now. (*See id.*, ESTTA810638 (Mar. 30, 2017), ESTTA810640 (Mar. 30, 2017), ESTTA820155 (May 10, 2017), ESTTA826866 (June 13, 2017), ESTTA830794 (June 30, 2017).) In its latest grant of extension in those matters, the Board warned Applicant that "**The Board will not grant Defendant any further extensions of time to answer herein without a detailed explanation of its activities during the most recent extension regarding its investigation of the claims herein and its efforts to retain counsel.**" (*Now-Casting Econ. Ltd. v. Econ. Alchemy LLC*, Opp'n No. 91233160, Cancellation No. 92065549, June 19, 2017 TTAB Order at 3 (emphasis in original).)

The same day the instant Motion for Extension was filed, Registrant filed another request for extension in those matters, which in substance is identical to the instant Motion for Extension. (*Id.*, ESTTA830794 (June 30, 2017).) As described above, Registrant's latest filings still do not demonstrate that more time is justified. Petitioner/Opposer Now-Casting Economics Ltd. thus has reasonably expressed frustration with the ongoing requests for more time. (*See Now-Casting Econ. Ltd. v. Econ. Alchemy LLC*, Opp'n No. 91233160, Cancellation No. 92065549, Opp. to Mot. to Extend Time to File Registrant's Ans. to Pet.'s Pet. to Cancel & Opp'n, ESTTA833006

[3] Opposition No. 91233160 and Cancellation No. 92065549 were not consolidated until April 6, 2017.

at 2-3 (July 13, 2017).)

Petitioners do not wish to face a similar series of unfounded requests for extension in this case and therefore request that the Board direct Applicant to expeditiously answer this cancellation petition.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that, should the Board grant Registrant's request for extension of time, Registrant be given sufficient, but limited time to answer, after which no extensions will be granted barring unforeseen, justifying circumstances.

MEUNIER CARLIN & CURFMAN LLC
Attorneys for Petitioners

Dated: July 21, 2017

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CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically through ESTTA pursuant to 37 C.F.R. § 2.195(a) on July 21, 2017.

/Mary Katherine Bates/
Mary Katherine Bates

CERTIFICATE OF SERVICE

I hereby certify that on this day, July 21, 2017, a true and correct copy of the foregoing document is being served upon Registrant by email, as follows: info@economicalchemy.com.

/Mary Katherine Bates/
Mary Katherine Bates