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

Proceeding	92066243
Party	Plaintiff S & G Hampton Sun, LLC
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

S & G HAMPTON SUN, LLC,

Petitioner,

v.

BABYHAMPTON, LLC,

Respondent.

**Cancellation No.:** 92066243

**PETITIONER’S MEMORANDUM IN OPPOSITION TO  
RESPONDENT’S MOTION FOR AN EXTENSION OF TIME**

Petitioner S&G Hampton Sun, LLC (“Petitioner”) hereby opposes the Motion for a Six-Month Extension of Time filed by Respondent Babyhampton, LLC (“Respondent”) on July 25, 2017 (the “Motion for Extension”), and requests that the Board deny the motion. Petitioner presents the following grounds for its request:

1. Petitioner filed a petition for cancellation on June 7, 2017.
2. Pursuant to the Board’s Scheduling Order, issued on June 7, 2017, Respondent’s Answer was due on or before July 17, 2017.
3. Respondent did not timely file an Answer, or seek an extension of time to file its Answer, and instead filed the present Motion for Extension over a week after the deadline to Answer had passed.
4. Under Fed. R. Civ. P. 6(b), extensions of time may be granted only if such motion is made “before the original time of its extension expires; or . . . on motion made after the time has expired if the party failed to act because of excusable neglect.”

5. As detailed in TBMP § 509.01, “An exception to the usual requirement for showing excusable neglect when the period for taking an action has expired arises when a defendant is in default because its time to answer has expired. In such circumstances, the showing required is good cause to excuse the default.” (emphasis added). *See, e.g., Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556, 1557 (TTAB 1991) (motion to accept late answer filed before notice of default issued was treated as response to notice of default). *See also DeLorme Publishing Co v. Eartha’s Inc.*, 60 USPQ2d 1222, 1224 (TTAB 2000); *Paolo’s Associates L.P. v. Bodo*, 21 USPQ2d 1899, 1902 (Comm’r 1990).

6. “Good cause why default judgment should not be entered against a defendant, for failure to file a timely answer to the complaint, is usually found when the defendant shows that (1) the delay in filing an answer was not the result of willful conduct or gross neglect on the part of the defendant, (2) the plaintiff will not be substantially prejudiced by the delay, and (3) the defendant has a meritorious defense to the action.” *See* TBMP § 312.02.

7. Respondent’s Motion for Extension is merely a bare-bones request for a six-month extension of time “until [she] resolve[s] if [she] can represent [her]self or need to hire another attorney.” *See* Respondent’s Motion for Extension. Respondent has not shown good cause for its failure to file a timely Answer.

8. While Petitioner understands and acknowledges that Respondent is currently representing herself in this proceeding, Respondent’s sole assertion in its Motion for Extension is that she needs to resolve if she can represent herself, which clearly fails to set out any good cause why a default should not be entered.

9. The parties in this proceeding have had a long history, with another proceeding, Opposition No. 91220878, already having been decided by entry of a default judgment on March 28, 2016.

10. Further, until May 3, 2017 - when a notice of Withdrawal of Attorney was filed with the USPTO in relation to Respondent's registration at issue in this proceeding - Respondent was being represented by an attorney, and several discussions exploring settlement were had between the parties and their respective attorneys, with Petitioner frequently informing Respondent that a cancellation proceeding would be instituted if a settlement could not be reached.

11. As such, Respondent cannot reasonably claim that it was unaware of the commencement of this proceeding or the deadline for it to file an Answer, nor that the forty (40) days it had between the filing of this proceeding and the date on which its answer was due (not to mention the eight (8) extra days before it filed its Motion for Extension), was not sufficient time for it to decide whether it needed to replace its prior counsel, or proceed pro se. Therefore, Respondent's Motion for Extension should be denied.

12. Notwithstanding the foregoing, should the Board grant Respondent's motion for an extension of time, Petitioner requests that the Board extend Respondent's time to answer by no more than thirty (30) days. Petitioner believes that Respondent's request for a six (6) month extension of time is unwarranted, excessive and prejudicial to Petitioner, as it unduly delays this proceeding.

Based upon the foregoing, Petitioner respectfully requests that the Board deny Respondent's Motion for an Extension of Time, and that the Board issue a Default Judgment. Alternatively, Petitioner respectfully requests that if the Board grants Respondent's motion for an extension of time, that such extension be for no more than thirty (30) days.

Respectfully submitted,

Dated: July 26, 2017

By: /s/ Keith E. Sharkin  
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**CERTIFICATE OF TRANSMISSION**

I hereby certify that on this 26th day of July, 2017, I filed the forgoing MEMORANDUM IN OPPOSITION TO RESPONDENT'S MOTION FOR AN EXTENSION OF TIME electronically through the Board's ESTTA system.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing MEMORANDUM IN OPPOSITION TO RESPONDENT’S MOTION FOR AN EXTENSION OF TIME has been served on Respondent’s Correspondent address of record by mailing said copy on this 26th day of July, 2017, via First Class Mail, postage prepaid to:

Ms. Kristen Peterson  
Babyhampton, LLC  
10 Deep Six Drive  
East Hampton, NY 11937-1603

/s/ David A. Jones

David A. Jones