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

Proceeding no.	92071596
Party	Defendant Camera Copters, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Schiebel Industries AG

Petitioner,

v.

CAMERA COPTERS, INC.,

Respondent.

Opposition No. 92071596
Mark: CAMERA COPTERS

Rule 6(B) MOTION FOR LEAVE IN RE
SUBMISSION OF EVIDENCE, and
PROTECTIVE ORDER

COMES NOW REGISTRANT, requesting leave to now submit evidentiary testimony, with good cause for excusable neglect, and seeking a protective order with regard to confidential personal matter constituting the good cause.

Two days prior to the end of Registrant's testimony period, December 22, 2021, Petitioner filed a Motion to Exclude evidence, based upon the contents of Petitioner's Notice of Reliance. On May 13, 2022, the Board responded to the request, resetting trial dates, but not reinstating the time Registrant had left to file. Most of Registrant's evidence had already been upload into ESTTA. However, trial testimony was still pending stylistic polish and signatures. The undersigned came to realize that this very important and possibly determinative evidentiary matter was missing from the record, on Saturday, September 24, 2022.

Rule 6(b)(1)(B) permits a post-deadline filing extension "for good cause," if the party failed to act because of "excusable neglect." *Brosted v. Unum Life Ins. Co. of Am.*, 421 F.3d 459, 464 (7th Cir. 2009). *Lujon v. Nat'l Wildlife Fed'n*, 498 U.S. 871, 896 (1990). Excusable neglect requires "a demonstration of good faith ... and some reasonable basis for noncompliance within the specified period of time." *Kimberg v. Univ. of Scranton*, 411 Fed. Appox. 473, 477

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(3rd Cir. 2010) (quoting *Petrocelli v. Bohringer & Ratzinger*, 46 F.3d 1298, 1312 (3rd Cir. 1995)). Rule 6(b) “[is] to be liberally construed to effectuate the general purpose of seeing that cases are tried on the merits.” *Rodgers v. Watt*, 722 F.2d 456, 459 (9th Cir. 1983).

Good cause exists in this matter, because the undersigned was suffering from severe illnesses during the pendency of this matter, such that she was not in reasonable control of the delay. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The attempt to exercise due diligence in filing by the deadline is evident from copies of emails with witnesses (Exhibit A), reflecting that the substance of the testimony had been arranged for, sufficiently in advance of due date for submission.

[REDACTED]

[REDACTED]

[REDACTED] Upon receiving the boards last order which had eliminating the additional two days in which to submit, I did not request leave as [REDACTED]

[REDACTED]

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Not until Saturday evening, September 24, 2022, while reviewing evidence in preparation of the trial brief, did I realize the testimony had not been filed. This testimony, signed and attached hereto as Exhibits B, C, and D, was immediately submitted to witnesses for signature.

Although Petitioner has submitted its trial brief, it received notice in Registrant's Notice of Reliance, and previously, of arguments intended and evidence to be relied upon. If the Board finds that prejudice could result, we pray that the court allows the evidence to be submitted, and that Petitioner be given an opportunity thereafter to submit its trial brief anew.

This delay was despite a good faith intent. At no time has the undersigned intend to delay the proceedings, deliberately or even negligently ignored this or any deadline, or attempt to subvert findings based upon the merits of this matter.

To prevent victory by default, Registrant prays the Board grant leave, and accept the testimony of Registrant's expert witnesses, and of its CEO into evidence. *Newgen, LLC v. Safe Cig, LLC*, 840 F.3d 606, 616 (9th Cir. 2016) (observing that it is "the general rule that default judgments are ordinarily disfavored"); *Rodriguez v. Village Green Realty, LLC*, 788 F.3d 31, 47 (2d. Cir. 2015) (A principle of the federal civil procedure system is that there is a strong preference for resolving disputes *on the merits*, not on technicalities; *Cargill, Inc. v. Sears Petroleum & Transp. Corp.*, 334 F. Supp. 2d 197, 247 (NDNY 2014)).

Petitioner has refused consent to the requested extension of time.

September 27, 2022

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