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

Proceeding	91245771
Party	Plaintiff Advance Magazine Publishers Inc.
Correspondence Address	JORDAN LAVINE FLASTER GREENBERG PC 1835 MARKET STREET , SUITE 1050 PHILADELPHIA, PA 19103 UNITED STATES jordan.lavine@flastergreenberg.com, alexis.arena@flastergreenberg.com, Eric.clendening@flastergreenberg.com 215-279-9389
Submission	Motion to Extend
Filer's Name	Jordan A. LaVine
Filer's email	jordan.lavine@flastergreenberg.com, eric.clendening@flastergreenberg.com
Signature	/Jordan A. LaVine/
Date	10/17/2019
Attachments	Reply Brief in Support of Motion for Extension - 10.17.19.pdf(217986 bytes) Exhibit B - 10.17.19.pdf(119730 bytes)

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

Advance Magazine Publishers, Inc. :
Opposer, :
 :
v. : Opposition No. 91245771
 :
 :
Anna Goncharova, :
Applicant. :

**Opposer’s Reply Brief in Support of Motion for an Extension of Discovery Period and to
Reset Trial Dates**

Opposer Advance Magazine Publishers, Inc. (“Opposer”) respectfully moves to extend the expert disclosure and discovery deadline by 60 days, and reset all remaining trial dates accordingly. This is Opposer’s first request for an extension of time, there is no evidence of negligence or bad faith, and the Board grants these extensions liberally. *See Nat’l Football League, NFL Properties LLC v. LLC*, 85 U.S.P.Q.2d 1852 (T.T.A.B. 2008). Applicant objects and argues that good cause does not exist, but her response demonstrates a misunderstanding of both federal law and customary practice in TTAB proceedings.

For example, Applicant alleges that Opposer represented that settlement discussions are not appropriate during discovery and cited her Exhibit D. That is inaccurate. Applicant served requests for admissions on Opposer in which she asked Opposer to admit positions that were taken during settlement discussions. *See Applicant’s Exhibit D.* Such a request violates Federal Rule of Evidence 408 and is an improper attempt to admit a statement made during negotiations as evidence. Opposer tried to explain that this request was improper (“settlement discussions are not an appropriate *area of inquiry* during discovery”), but Opposer never said that settlement negotiations, themselves, were inappropriate while discovery was ongoing. In fact, Opposer tried to restart settlement negotiations this past week when Applicant unilaterally ended

discussions. *See* Opposer's Exhibit A, attached to Opposer's Motion for an Extension.

Applicant, a *pro se* litigant, was simply unaware of Fed. R. Evid. 408 and misunderstood the explanation. In addition, Applicant is also seemingly unaware that she is not entitled to attorney-client communications, as most of her outlined discovery deficiencies involve communications that are privileged, as has been explained to her numerous times.

Applicant also sent an e-mail to Opposer on October 16th, at 6:10 p.m. EST (attached hereto as Exhibit B), mere hours after Opposer moved for an extension, in which she demands that Opposer furnish a new settlement offer within six hours by midnight, or she would oppose the request for an extension of time. Attorneys in TTAB proceedings do not impose such unreasonable demands that require responses within extremely tight windows of time outside of regular business hours.

While Opposer understands that Applicant is not as familiar with customary practice in TTAB proceedings, the two instances above are examples of why this matter has involved some delay due to miscommunications and misunderstandings. Now, Opposer respectfully requests its first extension of the discovery and expert disclosure deadlines, by sixty (60) days, so that Opposer has time to prepare its expert report, now that Applicant has indicated she has no interest in resolving the matter. As set forth in the LaVine Declaration, Opposer's expert had a great deal of unavailability in the past month, and Opposer's expert has also been preparing for trials in other matters. *Id.* at ¶ 6.

For these reasons, Opposer respectfully requests that the Board extend the expert disclosure and discovery deadline by 60 days from the date of this order, and reset all pretrial and trial dates accordingly.

The proposed schedule is as follows:

Expert Disclosures Due	12/15/2019
Discovery Closes	1/15/2020
Plaintiff's Pretrial Disclosures Due	2/29/2020
Plaintiff's 30-day Trial Period Ends	4/14/2020
Defendant's Pretrial Disclosures Due	4/29/2020
Defendant's 30-day Trial Period Ends	6/13/2020
Plaintiff's Rebuttal Disclosures Due	6/28/2020
Plaintiff's 15-day Rebuttal Period Ends	7/28/2020
Plaintiff's Opening Brief Due	9/26/2020
Defendant's Brief Due	10/26/2020
Plaintiff's Reply Brief Due	11/10/2020
Request for Oral Hearing (optional) Due	11/20/2020

Respectfully submitted,

Dated: October 17, 2019

s/Jordan LaVine/
Jordan LaVine

FLASTER/GREENBERG P.C.
1835 Market Street, Suite 1050
Philadelphia, PA 19103
Tel 215.279.9389
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that Opposer's Reply Brief in Support of Motion for an Extension of the Discovery Period and to Reset Trial Dates is being served by electronic mail this 17th day of October 2019 on Applicant, at the following e-mail address:

Anna Goncharova
agoncharova@wired.fit

Dated: October 17, 2019

s/Jordan LaVine/
Jordan A. Lavine, Esq.

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