



Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

Date: December 16, 2015

Charles N. Quinn
Fox Rothschild LLP
Eagleview Corporate Center
747 Constitution Dr. Ste 100
Exton, PA 19341

RE: Request to Extend Time to File Petition to the Director
Opposition Nos. 91215208, 91215212, 91215216,
91215246, 91215247, and 91215415
Marks: M and design, Me (stylized)

Dear Mr. Quinn,

This letter acknowledges receipt on May 1, 2015 of your request, filed on behalf of Empire Resort, Inc. ("Applicant"), "for an extension of time to petition the Director" to review an order dated April 1, 2015 issued by the Trademark Trial and Appeal Board ("TTAB"). The request is premature and will not be considered.

In its April 1, 2015 order, the TTAB granted LVGV, LLC's ("Opposer") motion to consolidate the above identified proceeding and denied Applicant's motions for judgment on the pleadings.

On May 1, 2015, Applicant filed with the Director a request to extend its time to file a petition based on "a perceived procedural impropriety in the Board's handling" of the motions addressed in the order. On the same day, Applicant filed motions for reconsideration of the TTAB's April 1, 2015 order directed separately to the determination to consolidate and to the determination denying Applicant's motions for judgment on the pleadings.

Any request for reconsideration of an order or decision issued on a motion must be filed within one month from the date of the order or decision. Applicant's motions for reconsideration are timely-filed. 37 C.F.R. § 2.127(b); TBMP § 518 (2015).

Pursuant to 35 U.S.C. §2 and 37 C.F.R. §2.146(a)(3), the Director may invoke supervisory authority in appropriate circumstances. The Director will reverse

an interlocutory order issued by the TTAB in an *inter partes* proceeding upon a showing of clear error or abuse of discretion. *Jonergin Co. Inc. v. Jonergin Vermont Inc.*, 222 USPQ 337 (Comm'r Pats. 1983); *Riko Enterprises, Inc. v. Lindsley*, 198 USPQ 480 (Comm'r Pats. 1977). In this case, there has been no determination by the TTAB on the motions for reconsideration of the April 1, 2015 order. Therefore, Applicant's May 1, 2015 request to extend its time to file a petition to the Director is premature.

The assigned interlocutory attorney will be notified for resumption of proceedings with respect to Applicant's motions for reconsideration.

/Cheryl Butler/

Cheryl Butler
Senior Counsel
Trademark Trial and Appeal Board

CC:

Hare K Jacobs
Ballard Spahr LLP
1735 Market St., 51st Fl
Philadelphia, PA 19103-7599