

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR

Mystery Ranch, Ltd.,

Opposer,

v.

Terminal Moraine, Inc.,

Applicant.

Decision on Request for Extension of
Time under 37 C.F.R. § 2.145(e)

Opposition No. 91250565

MEMORANDUM AND ORDER

Beginning on January 28, 2023, the two parties to this opposition proceeding jointly filed a series of requests for thirty (30)-day extensions of time of within which to seek judicial review of the Trademark Trial and Appeal Board’s November 30, 2022, final decision, which sustained Opposer’s opposition in part and dismissed it in part. The most recent extended deadline is May 3, 2023, and the parties jointly filed this request, their fourth, on that day. The request is GRANTED, in modified form, for the reasons set forth below.

Under 37 C.F.R. § 2.145(e)(1)(i), the Director may, for good cause, extend the time to seek judicial review of a Board decision if the request is made in writing before the period for seeking judicial review expires. As noted, May 3 is the current deadline to seek judicial review, and this fourth request was filed before that period expired. It therefore will be considered under the good cause standard.

The request states:

3. On May 2, 2023, the parties entered into a settlement agreement (the “Agreement”) that resolves all disputes between them, including the dispute about registrability of Applicant’s Mark. As part of that Agreement, Opposer has acquired Applicant’s Mark along with the foreign trademark portfolio for Applicant’s Mark. As such, Opposer and its owner Dana Gleason have withdrawn their objection to registration of Mr. Gleason’s name and expressly consent to registration of Applicant’s Mark.

4. The parties are now filing a Motion to Vacate the decision because the basis for the refusal underlying the decision has been eliminated as Opposer and Mr. Gleason consent to registration of the mark, Opposer acquired the mark, and vacatur is an essential component of the Agreement.

5. Accordingly, the parties respectfully request that the Director extend the deadline for each to seek judicial review of the Decision until the TTAB rules on the Motion to Vacate.

Based on these representations, there is good cause for the requested extension of time.

It is noted, however, that the parties have tied their extension to the date the TTAB rules on their motion to vacate. Depending on how the TTAB rules, the requested extension could require that judicial review be commenced on the day of the ruling. This could render one or both parties’ efforts to seek judicial review practically impossible. To avoid such a result, the request is GRANTED but is hereby modified to expire after five (5) business days from the date of the Board’s decision on the motion to vacate.

KATHERINE K. VIDAL,
*Under Secretary of Commerce for Intellectual
Property and Director of the United States
Patent and Trademark Office,*

Date: May 9, 2023

By: /Thomas W. Krause/
THOMAS W. KRAUSE
Solicitor

Cc (via email): counsel of record as listed in TTABVUE