

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE DIRECTOR

HOMES FOR HEROES, INC.,

Opposer,

v.

DEALS 4 HEAROES, LLC,

Applicant.

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

Opposition No. 91/235,046

MEMORANDUM AND ORDER

On December 7, 2020, Applicant Deals 4 Heroes, LLC, filed a request for an extension of time of sixty (60) days within which to file an appeal of the Trademark Trial and Appeal Board's October 8, 2020 in this case. As explained below, the request is DENIED WITHOUT PREJUDICE to re-filing within seven (7) days.

Under 37 C.F.R. § 2.145(e)(1)(i), the Director may extend the time for seeking judicial review of a Board decision for good cause if the request is made in writing before the period for filing an appeal or commencing a civil action expires. Under 37 C.F.R. § 2.145(d), the period for filing a notice of appeal or a civil action expires sixty-three (63) days from the date of the final decision of the Board. The Board's final decision was mailed on October 8, 2020, making the filing of any appeal or of any civil action challenging such decision due no later than December 10, 2020.

Accordingly, this request for an extension of time is timely and the Director will assess whether Applicant has met the good cause standard.

The good cause standard is generally treated as a “liberal” one. But even so, there must be some basis to determine whether the moving party has or has not “been guilty of negligence or bad faith” and to ensure that “the privilege of extensions is not abused.” *See Jodi Kristopher, Inc. v. Int’l Seaway Trading Corp.*, 88 USPQ2d 1798, 1800 (TTAB 2008).<sup>\*</sup> Here, Applicant’s request provides no basis for the request other than a need to thoroughly review the decision and decide whether to appeal. But 37 C.F.R. § 2.145(d) reflects the USPTO’s judgment that, ordinarily, 63 days is sufficient time to complete those tasks. Without a reason why additional time beyond 63 days is needed, this request, as filed, does not provide a basis to determine whether good cause exists for the requested extension.

Accordingly, the Director denies this request, without prejudice to renewal no later than seven (7) days from the date of this order. If the Director receives an amended request within that period, he will deem it to have been filed before the period for filing an appeal or commencing a civil action expired and will examine it under the “good cause” standard. Otherwise, section 2.145(d)’s deadline to appeal remains in place.

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<sup>\*</sup> While a petition to the Director to extend the time to seek judicial review of a Board decision is not technically a Board proceeding, the Director agrees with the Board’s formulation of the good cause standard and will apply it.

ANDREI IANCU,  
*Under Secretary of Commerce for Intellectual Property  
and Director of the United States Patent and  
Trademark Office*

Date: December 8, 2020

By: /s/ Thomas W. Krause  
Thomas W. Krause  
Deputy General Counsel for Intellectual  
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