

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR

HOMES FOR HEROES, INC.,

Opposer,

v.

DEALS 4 HEROES, 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 timely 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. On December 8, the Director denied the request without prejudice to re-filing within seven (7) days, *i.e.*, on or before December 15. The Director denied the request but permitted re-filing because Applicant's December 7 request did not provide any explanation why Applicant needed additional time beyond the 63 days permitted for appeal under 37 C.F.R. § 2.145(d).

On December 15, 2020, Applicant filed a second request, explaining that Applicant:

is considering retaining new counsel to pursue an appeal of the TTAB order of October 8, 2020. [Applicant] began the process of attempting to locate appellant counsel [sic] more than a month ago and has interviewed potential candidates. The process is made more difficult and timeconsuming [sic], however, due to the

ongoing COVID-19 crisis and the intervening Thanksgiving holidays [sic]. Given the current COVID-19 crisis, an extension of time to permit it to finish interviewing potential appellant [sic] counsel and possibly retain new counsel is warranted.

The Director's December 8 order indicated that a timely re-filing would be considered under the good cause standard because the original request was filed before the deadline to appeal (December 10) expired. The good cause standard is generally treated as a "liberal" one and is satisfied when the reasons given show that the moving party has not "been guilty of negligence or bad faith" and 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). Here, Applicant's renewed request demonstrates good cause for the requested extension.

Accordingly, the Director GRANTS Applicant's renewed request. Applicant is permitted an additional sixty (60) days beyond the original December 10 deadline to file a notice of appeal (*i.e.*, on or before February 8, 2021).

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

Date: December 17, 2020

By: /s/ Thomas W. Krause
Thomas W. Krause
Deputy General Counsel for Intellectual
Property Law and Solicitor

Service via email to:

Adam C. Bach (Attorney for Applicant)

ELLER TONNSEN BACH

1306 South Church Street

Greenville, SC 29605

Email addresses: abach@etblawfirm.com; aprice@etblawfirm.com,
hsmith@etblawfirm.com

Cynthia Johnson Walden

FISH & RICHARDSON PC

P.O. Box1022

Minneapolis, MN 55440-1022

Email addresses: tmdoctc@fr.com; walden@fr.com, mccormick@fr.com,
kelleher@fr.com