

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR**

**Guess? IP Holder L.P. and Guess?,
Inc.,**

Opposer,

v.

Energy Beverages, LLC,

Applicant.

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

Opposition No. 91254243

Serial No. 88657335

Mark: GUESS

MEMORANDUM AND ORDER

On May 21, 2024, Opposer Guess? IP Holder L.P. and Guess?, Inc. (“Opposer”), filed a request for an extension of time to file a Notice of Appeal to the United States Court of Appeals for the Federal Circuit from the September 21, 2022 final decision of the Trademark Trial and Appeal Board dismissing Opposer’s opposition. The deadline to seek review of that decision runs from March 22, 2024, the date of the Board order that resumed proceedings after they had been stayed.¹ The request asks for an extension of sixty (60) days, through and including July 23, 2024 to allow the parties time to conclude settlement negotiations and potentially avoid an appeal. The request is **GRANTED** for the reasons set forth below.

¹ On November 9, 2022, the proceedings were suspended pursuant to Section 362 of the Bankruptcy Code, 11 U.S.C. §362, pending the disposition of bankruptcy proceedings involving Energy Beverages, LLC’s predecessor-in-interest. The March 22, 2024 order substituted Energy Beverages, LLC as party defendant, following the assignment of the opposed application to Energy Beverages, LLC. On May 16, 2024, the Board issued an order clarifying that the time for filing a notice of appeal from the Board’s September 21, 2022 final decision is sixty-three days from the March 22, 2024 order.

Under 37 C.F.R. § 2.145(e)(1)(i), the Director may, for good cause, extend the time to seek judicial review under 15 U.S.C. § 1071 of a Board decision if the request is made in writing before the period for seeking judicial review expires. Under 37 C.F.R. § 2.145(d)(1), the period for filing a notice of appeal under 15 U.S.C. § 1071(a) expires sixty-three (63) days from the date of the final decision of the Board. The relevant period here runs from March 22, 2024, and therefore any request for extension of time is due on or before May 24, 2024. Because Opposer’s request for extension of time was filed on May 21, 2024, it is timely and considered under the good cause standard.

Opposer’s request states that the parties “are currently negotiating a settlement agreement that will resolve the dispute between the parties, and remove the need for an appeal” and need the additional time to conclude settlement negotiations. *See* Req. at 2. Opposer further notes that “Applicant Energy Beverages, LLC consented to this extension via email on May 20, 2024.” *See* Req. at 1.

Based on these representations, there is good cause for the requested sixty (60) day extension of time. Accordingly, the request is GRANTED. The deadline for filing a Notice of Appeal to the Federal Circuit is extended through and including July 23, 2024.

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

Date: May 28, 2024

By: /s/ Farheena Y. Rasheed
Farheena Y. Rasheed
Acting Solicitor

cc (via e-mail) to: Counsel of record as listed in TTABVUE