

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR

ARMIDA WINERY,

Petitioner,

v.

**THE CUBAN, LLC, and POISON
SPIRITS, INC.,**

Respondents

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

Cancellation No. 92/065,105

MEMORANDUM AND ORDER

On October 3, 2018, Respondent Poison Spirits, Inc. (“Respondent”), filed a request for an extension of time of sixty (60) days within which to seek judicial review of the Trademark Trial and Appeal Board’s August 1, 2018, decision entering summary judgment cancelling Respondent’s U.S. Trademark Reg. No. 5,110,000. The request is GRANTED for the reasons set forth below.

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 August 1, 2018, making the filing of any appeal or of any civil action challenging such decision due no later than October 3, 2018. Accordingly, this

request for an extension of time is timely and considered under the good cause standard.

Respondent defended the cancellation proceeding *pro se*, and submits this request *pro se* as well. Respondent avers that the requested extension is needed so that it may retain and confer with an attorney to consider and evaluate Respondent's options for obtaining further review of the Board's decision. Specifically, Respondent states that it was not able to begin reviewing its legal options until after August 23, 2018, when it belatedly received a copy of the Board's August 1 judgment from co-respondent's counsel, and that its review was delayed by another two weeks due to the death of Respondent's authorized representative's domestic partner's father on August 25, 2018. Additionally, Respondent asserts that the parties are engaged in a related matter before the Board (*Poison Spirits Inc. v. Armida Winery Inc.*, Opposition No. 91/240,537) and that the requested extension may enable the parties to be heard on a pending dispositive motion in that matter that may avoid piecemeal appeals.

The Director finds that there is good cause for the requested sixty (60) day extension of time to seek judicial review. Accordingly, the request for extension of time is GRANTED. Respondent has an additional sixty (60) days from October 3, 2018, within which to seek review of the Board's decision.

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

Date: October 10, 2018

By: Joseph Matal
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