

Re: Trademark Application of :
 Mid-America Energy Resources, Inc. :
 Serial No. 74/692619 :
 Filing Date: June 23, 1995 : On Petition
 For: MID-AMERICA ENERGY :
 RESOURCES, INC. :
 Petition Filed: October 24, 1997 :

Potential Opposer MidAmerican Energy Company (MidAmerican) has petitioned the Commissioner to direct the Trademark Trial and Appeal Board (Board) to accept its Requests for Extension of Time to File Notices of opposition. The Petition is denied under Section 13 of the Trademark Act.

FACTS

The subject mark was published for opposition in the official Gazette on April 15, 1997. MidAmerican filed three Requests for Extension of Time to File Notices of opposition, which the Board granted through September 12, 1997. However, the fourth Request was denied by the Legal Assistant in a communication dated October 16, 1997, because of a finding that the Request was filed on September 16, 1997, a time subsequent to the expiration of the extended period.

on October 24, 1997, MidAmerican filed this Petition to accept the Requests for Extension of Time to File Notices of opposition. MidAmerican argues that the Applicant has consented to all of MidAmerican's extension request, and that a granting of the request will therefore not injure the Applicant.

DECISION

Section 13 of the Trademark Act, 15 U.S.C. §1063, provides that a Notice of opposition may be filed within thirty days after the date of publication of a mark, that upon written request prior to the expiration of the thirty day period the time for filing an opposition may be extended for an additional thirty days, and that further extensions of time for filing an opposition may be granted by the Commissioner for good cause when requested prior to the expiration of an extension.

Since the time for filing an opposition or requesting an extension of time to oppose is a statutory requirement, the Commissioner has no authority to waive the requirement. *In re Kabushih Kaisha Hitachi Seisa-sho*, 33 USPQ2d 1477 (Comm'r Pats. 1994); *In re Cooper*, 209 USPQ 670 (Comm'r Pats. 1980). Hence, the requested extension cannot be granted, even if it is the case that the Applicant would not be harmed by an extension.

The Petition is denied. The application will be returned to the Board, and then forwarded to the Publication and Issue Division for issuance of the registration.

The applicant is not without remedy in this case once the mark in question registers, Petitioner may file a Petition to Cancel the registration under 15 U.S.C. § 1064.

Philip G. Hampton, II
Assistant Commissioner for
Trademarks

PGH:NLO:AL

FEB 3, 1998

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