

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

**ADVANCED TACTICAL ORDNANCE)
SYSTEMS, LLC, *an Indiana Limited*)
Liability Company d/b/a PepperBall)
Technologies,)**

Plaintiff,)

vs.)

Cause No. 1:12-CV-296

**REAL ACTION PAINTBALL, INC., *a*)
California Corporation, K.T. TRAN,)
individually, CONRAD SUN, *individually,*)
CONRAD SUN, LLC, TRACS PACIFIC)
CORP., TRACS PACIFIC HK, INC.,)
and JOHN DOES 1-5,)**

Defendants.)

OPINION AND ORDER

This matter is before the Court on Defendants Real Action Paintball, Inc. and K.T. Tran’s (collectively, “RAP4”) Motion for Enlargement of Time to Respond to Motion for Default Judgment. (Docket # 224.) Plaintiff Advanced Tactical Ordnance Systems, LLC (“ATO”) objects to the motion (Docket # 226), but the Sun Defendants do not, requesting only that any extension of time to respond given to RAP4 also be given to them (Docket # 225).

Currently, RAP4’s response to ATO’s motion for default judgment is due today, March 7, 2013. (Docket # 224 at 1.) The intent of the deadline is that it will afford the Court, if it wishes to do so, the opportunity to consider the Motion for Default Judgment at the next evidentiary hearing. Nevertheless, RAP4 believes that testimony given during ATO’s 30(b)(6) deposition contradicts ATO’s representations in its motion for default judgment, and, therefore,

RAP4 contends that it needs the final deposition transcript to cite these contradictions and fully respond to ATO's motion. (Docket # 224 at 1.) Under the terms of the protective order, however, the court reporter apparently cannot release the final deposition transcript until ATO makes its designations of confidential information, which it has thirty days from receipt of the transcript to do. (Docket # 224 at 1-2.) RAP4 estimates that this transcript would not be available until April 11, 2013, and as such, requests that its time to respond be extended to the earlier of April 18, 2013, or seven days after the court reporter releases the final transcript of ATO's 30(b)(6) deposition. (Docket # 224 at 2.)

Under Federal Rule of Civil Procedure 6(b)(1)(A), RAP4 must show "good cause" for the requested extension of time. *See Murphy v. Eddie Murphy Prods., Inc.*, 611 F.3d 322, 324 (7th Cir. 2010) ("A motion filed before the deadline may be granted 'for good cause,'" (quoting FED. R. CIV. P. 6(b)(1)(A))). The good cause standard focuses on the diligence of the party seeking the extension. *Alioto v. Town of Lisbon*, 651 F.3d 715, 720 (7th Cir. 2011); *Smith v. Howe Military Sch.*, No. 3:96-CV-790RM, 1997 WL 662506, at *1 (N.D. Ind. Oct. 20, 1997). To demonstrate good cause, a party must show that despite its diligence, the time table could not reasonably have been met. *Smith*, 1997 WL 662506, at *1.

Here, RAP4 has failed to show good cause for such a lengthy extension of time—more than thirty days. RAP4's counsel was present at the 30(b)(6) deposition and, thus, should be able to articulate the substance of the testimony that would constitute a defense to the motion for default judgment without citing to the exact page and line number. RAP4 has simply not shown why the finalized deposition is so essential to its response that it cannot reasonably meet the time table already set. *See Smith*, 1997 WL 662506, at *1. Accordingly, RAP4's request for an

enlargement of time (Docket # 224), as framed in its motion, is DENIED.

Nonetheless, recognizing the significance of a response to a motion for default judgment, and that the deadline for RAP4's response is today, the Court GRANTS all Defendants in this case to and including March 11, 2013, to file and serve a response to ATO's Motion for Default Judgment (Docket # 209). If Defendants wish to file a transcript of ATO's 30(b)(6) deposition under seal, the Court will grant them leave to do so.

SO ORDERED.

Enter for this 7th day of March, 2013.

S/ Roger B. Cosby
Roger B. Cosby,
United States Magistrate Judge