

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

ABRAHAM FLORES,
Appellant,

v.

**CORPORACION HABANOS, S.A. AND EMPRESA
CUBANA DEL TABACO (doing business as
Cubatabaco),**
Appellees.

2013-1411

Appeal from the United States Patent and Trademark
Office, Trademark Trial and Appeal Board in Cancellation
No. 92052146.

O R D E R

Before NEWMAN, PROST and REYNA, *Circuit Judges.*
REYNA, *Circuit Judge.*

After receiving the responses following the court's
show cause order, the court now considers whether this
appeal should be dismissed as untimely.

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On January 31, 2013, the Trademark Trial and Appeal Board (Board) issued an order, inter alia, granting a petition to cancel appellant's trademark. The Board received appellant's notice of appeal on April 11, 2013, 70 days after the order.

Under 37 C.F.R. § 2.145(d), the time for filing the appeal to this court from a final decision of the Board is two months from the date of the decision. *See also* 15 U.S.C. § 1071(a)(2). While appellant suggests the failure to timely file the notice of appeal is excusable neglect, such arguments are better directed at the Director of the United States Patent and Trademark Office who has authority to grant a motion for an extension of time to file a notice of appeal on such grounds. *See* 37 C.F.R. § 2.145(e).

Because appellant's notice of appeal was filed outside of the deadline for taking an appeal to this court, we dismiss the appeal without prejudice to filing another appeal to the extent the Director grants the motion for an extension.

Accordingly,

IT IS ORDERED THAT:

- (1) The appeal is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk of Court