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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of:
Kabushiki Kaisha Phenix

Serial No. 76/485,217

Filed: January 27, 2003

Int. Class: 25

Mark: Miscellaneous Design

Published in the Official Gazette on September 23, 2003



01-21-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

**REQUEST FOR EXTENSION OF TIME
TO FILE NOTICE OF OPPOSITION**

Commissioner for Trademarks
BOX TTAB
2900 Crystal Drive
Arlington, VA 22202-3513

Commissioner:

On October 23, 2004, potential Opposer, Elon University, filed a filed a 90 day Request for extension of time to oppose the registration of the subject application. On or before January 21, 2004, counsel for potential Opposer learned that the Paper issued by the Trademark Trial and Appeal Board ("TTAB") on October 31, 2003 was mistakenly granted for 60 days instead of the requested 90 day time period. Accordingly, counsel for potential Opposer contacted the TTAB Legal Assistant in charge of this application who acknowledged that a mistake had indeed been made and that the TTAB records would be altered to show that an extension of time to oppose registration of the subject application was granted until January 21, 2004.

Despite the fact that counsel for Applicant has consented to the concurrent filing of a further 60 day Request for extension of time in U.S. Serial No. 76/485,307 for the identical mark,

consent has been withheld for the filing of a further 60 day extension of time in the instant application due to the TTAB's error in granting a 60 day extension. Although counsel for potential opposer advised Applicant's counsel of the foregoing error, and again requested consent in view of the TTAB's impending entry of the 90 day request for extension of time, Applicant's counsel has yet to reply to the undersigned's renewed request. Please see the attached correspondence. Accordingly, the undersigned respectfully requests that the TTAB grant a further 60 day request for extension of time to file a Notice of Opposition based upon the extraordinary circumstances that have transpired.

Furthermore, good cause exists to grant this request as potential Opposer and Applicant have exchanged a draft settlement agreement and are currently engaged in active discussions to resolve the potential opposition without the necessity of filing a Notice of Opposition.

In view of the above, counsel for potential Opposer respectfully submits that extraordinary circumstances exist for the granting of a request for extension of time to file a Notice of Opposition until March 21, 2004.

Should any questions arise or any further documentation be required, please contact the undersigned.

Respectfully submitted,
ELON UNIVERSITY

Date: 21 January 2004



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Attorneys for Potential Opposer

From: Michael Leonard
To: Spatz, William
Date: 1/21/04 3:24PM
Subject: Re: Phenix/Elon Opposition; Our Ref: 174527-00008

Dear Bill:

I have just spoken to the TTAB Legal Asst, in charge of Application Serial No. 76/485,217. She acknowledged that she made a mistake in entering the EOT as being effective only until 22 December 2003. She is now updating the TTAB system to reflect that the EOT was granted until today. She also stated that if an EOT is filed today stating that Applicant has consented to a further EOT, the same will be entered without issue. Accordingly, can you please advise whether you are willing to consent to the 60 day EOT for this case as well. Thank you for your assistance.

Sincerely,

>>> "Spatz, William" <wspatz@KRAMERLEVIN.com> 01/21/04 12:22PM >>>
Dear Michael:

I would appreciate it if you would send me a Word version of the Settlement Agreement by email, so that I can generate a marked draft.

Thanks for your assistance.

Bill Spatz

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