

**J. GOODWILLE PIERRE
ATTORNEY AT LAW**

TTAB

August 29, 2005

UNITED STATE PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Motion to Reconsider
Applicant :Sienna Interiors, LLC -Application Serial Number: 76552612
Mark: SIENNA AT HOME



09-01-2005

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #39

Dear Sirs:

Enclosed please find Applicant's Motion for Reconsideration and Objection to TTAB Granting of Two 60 Day Request for Extension of Time to Oppose without a showing of Good Cause and Without Consent of Applicant with supporting Exhibits.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Goodwille Pierre". The signature is written in black ink and is positioned above the typed name.

J. Goodwille Pierre, Esq.

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

Applicant: **Sienna Interiors, LLC**
Application Serial Number: **76552612**
Application Filing Date: **10/20/2003**
Mark: **SIENNA AT HOME**
Date of Publication: **05/17/2005**



09-01-2005

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #39

**Applicant's Motion for Reconsideration and Objection to TTAB Granting of Two
60 Day Request for Extension of Time to Oppose without a showing of Good Cause
and Without Consent of Applicant**

Sienna Interiors, LLC, applicant, comes now to present this Motion for Reconsideration and objection and will show the following:

Sienna/Johnson Development, L.P., 3777 Sienna Parkway, Missouri City, TX 77459, (Potential Opposer) filed a request by and through their attorney of record to extend the time for opposition of applicant Sienna Interior's mark "Sienna At Home"

The United State Trademark and Appeal Board granted Potential Opposer an extension first until September 14, 2005 and then until November 13, 2005.

The date of publication of applicant mark was May 17, 2005

37 CFR § 2.102(c) states:

The time for filing an opposition shall not be extended beyond 180 days from the date of publication. Any request to extend the time for filing an opposition must be filed before thirty days have expired from the date of publication or before the expiration of a previously granted extension of time, as appropriate. Requests to extend the time for filing an opposition must be filed as follows:

(1) A person may file a first request for either a thirty-day extension of time, which will be granted upon request, or a ninety-day extension of time, which will be granted only for good cause shown.

(2) If a person was granted a thirty-day extension of time, that person may file a request for an additional sixty-day extension of time, which will be granted only for good cause shown.

(3) After receiving one or two extensions of time totaling ninety days, a person may file one final request for an extension of time for an additional sixty days. The Board will grant this request only upon written consent or stipulation

signed by the applicant or its authorized representative, or a written request by the potential opposer or its authorized representative stating that the applicant or its authorized representative has consented to the request, or a showing of extraordinary circumstances. No further extensions of time to file an opposition will be granted under any circumstances.

Applicant objects and ask TTAB to reconsider potential opposers first 60 day extension request since there is no evidence that potential opposer demonstrated Good Cause.

TBMP 207.02 last paragraph states:

A showing of good cause for an extension of time to oppose over thirty days must set forth the reasons why additional time is needed for filing an opposition. Circumstances that may constitute good cause include, applicant's consent to the extension, settlement negotiations between the parties, the filing of a letter of protest by the potential opposer, an amendment of the subject application, the filing of a petition to the Director from the grant or denial of a previous extension, and civil litigation between the parties. The merits of the potential opposition are not relevant to the issue of whether good cause exists for the requested extension.

Potential Opposer indicated in their request (Please see Exhibit A) that the extension is needed because:

- 1) The potential opposer needs additional time to investigate the claim
- 2) The potential opposer need additional time to confer with counsel

TTAB granting of such a request by potential opposer (See Exhibit B) without opposer demonstrating Good Cause violates *37 CFR § 2.102(c)(2) and is in direct contradiction of the example given in TBMP 207.02 third paragraph.*

Because of this applicant prays the TTAB Reconsiders it's decision and removes the first 60 day extension.

In addition and/or alternatively, applicant prays that TTAB reconsiders it's grant of a second 60 day extension (See Exhibit D) to potential opposer because potential opposer **did not receive the consent of applicant nor did potential opposer demonstrate "Extraordinary Circumstances."**

TBMP 207.03 states:

The Board will grant this request if the potential opposer submits one of the following: (1) a written consent or stipulation signed by the applicant or its authorized representative, or (2) a written request by the potential opposer or its authorized representative stating that the applicant or its authorized representative has consented to the request, or (3) a showing of extraordinary

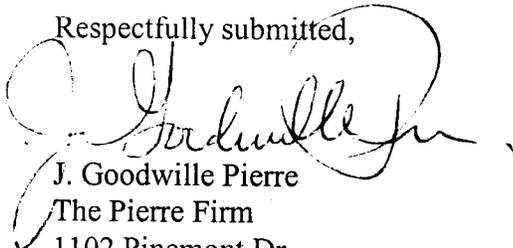
circumstances. Consent must be express, though it may be provided orally, and the extension request must state that such consent has been provided. It is not sufficient to indicate in the request that the parties are discussing settlement; the request must expressly state that applicant has consented to the extension. In addition, the statement of consent should appear in the body of the request, not merely in the title (e.g. "Consented Request to Extend") of the filing.

If one of these elements (i.e., the showing of extraordinary circumstances, or applicant's written consent, or the statement that applicant has consented) is omitted from an extension request based in whole or in part upon the omitted element, the Board can allow the defect to be corrected only if the correction is made prior to the expiration of the time for filing the request, that is, prior to the expiration of the previous extension.

Applicant has never consented to potential opposers request for extension. Applicant has never received a letter or phone call even requesting such an extension. The mere fact of the TTAB granting this extension without applicants consent, **without the statement that applicant consented in the body of the request** from potential opposer, or without the showing of extraordinary circumstances is a violation of **37 CFR § 2.102(c)(3) and a violation of TBMP 207.03.** (See Exhibit C)

Because of all the above stated reasons applicant humbly prays that the TTAB reconsidered the granting of the 60 day extension of time for the alleged "Good Cause" and the 60 day extension of time allegedly "with consent."

Respectfully submitted,



J. Goodwille Pierre
The Pierre Firm
1102 Pinemont Dr.
Houston, TX 77018
jgpiplaw@swbell.net
Attorney for Applicant

ESTTA Tracking number: **ESTTA38874**

Filing date: **07/15/2005**

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

Applicant: **Sienna Interiors, LLC**
Application Serial Number: **76552612**
Application Filing Date: **10/20/2003**
Mark: **SIENNA AT HOME**
Date of Publication **05/17/2005**

60 Day Request for Extension of Time to Oppose for Good Cause

Pursuant to 37 C.F.R. Section 2.102, Sienna/Johnson Development, L.P., 3777 Sienna Parkway, Missouri City, TX77459, UNITED STATES respectfully requests that he/she/it be granted an additional 60-day extension of time to file a notice of opposition against the above-identified mark for cause shown.

Potential opposer believes that good causes are established for this request by:

- The potential opposer needs additional time to investigate the claim
- The potential opposer needs additional time to confer with counsel

The time within which to file a notice of opposition is set to expire on 07/16/2005. Sienna/Johnson Development, L.P. respectfully requests that the time period within which to file an opposition be extended until 09/14/2005.

Respectfully submitted,
/hle1093/
07/15/2005

Henry L. Ehrlich
910 Travis Street2400 BankOne Center
Houston, TX77002
UNITED STATES
hehrlich@winstead.com, docket@winstead.com
713-650-2778

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Henry L. Ehrlich
Winstead Sechrest & Minick
P.O. Box 50784
Dallas, TX 75201

Mailed: July 15, 2005

Serial No.: 76552612
ESTTA TRACKING NO: ESTTA38874

The request to extend time to oppose is granted until
9/14/2005 on behalf of potential opposer **Sienna/Johnson
Development, L.P.**

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (703) 308-9300 if you have any questions
relating to this extension.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
be viewed using TTABVue at <http://ttabvue.uspto.gov>.

Parties should also be aware of changes in the rules affecting
trademark matters, including rules of practice before the TTAB.
See Rules of Practice for Trademark-Related Filings Under the
Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September
26, 2003) (effective November 2, 2003) Reorganization of
Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August
13, 2003) (effective September 12, 2003). Notices concerning the
rules changes are available at www.uspto.gov.

Exhibit B

ESTTA Tracking number: **ESTTA38954**

Filing date: **07/16/2005**

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

Applicant: **Sienna Interiors, LLC**
Application Serial Number: **76552612**
Application Filing Date: **10/20/2003**
Mark: **SIENNA AT HOME**
Date of Publication: **05/17/2005**

60 Day Request for Extension of Time to Oppose Upon Consent

Pursuant to 37 C.F.R. Section 2.102, Sienna/Johnson Development, L.P., 3777 Sienna Parkway, Missouri City, TX77459, UNITED STATES respectfully requests that he/she/it be granted an additional 60-day extension of time to file a notice of opposition against the above-identified mark with applicant's consent.

The time within which to file a notice of opposition is set to expire on 09/14/2005. Sienna/Johnson Development, L.P. respectfully requests that the time period within which to file an opposition be extended until 11/13/2005.

Respectfully submitted,

/abce/

07/16/2005

Henry L. Ehrlich

Winstead Sechrest & Minick

P.O. Box 50784

Dallas, TX75201

UNITED STATES

nli3@csc.com

Exhibit C

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Henry L. Ehrlich
Winstead Sechrest & Minick
P.O. Box 50784
Dallas, TX 75201

Mailed: July 16, 2005

Serial No.: 76552612
ESTTA TRACKING NO: ESTTA38954

The request to extend time to oppose is granted until 11/13/2005 on behalf of potential opposer **Sienna/Johnson Development, L.P.**

Please do not hesitate to contact the Trademark Trial and Appeal Board at (703) 308-9300 if you have any questions relating to this extension.

New Developments at the Trademark Trial and Appeal Board

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Exhibit D