

01/13/2003 10:16:00 AM

TTAB

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



In re Application Serial No.: 78/135,419

10-10-2003

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

For the Mark: **RMAX**

Applicant: Yamaha Hatsudoki Kabushiki Kaisha Corp.

Filed on: June 13, 2002

**CERTIFICATE OF MAILING UNDER 37 CFR § 1.8**  
 I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail, postage prepaid, and affixed thereto, on the date indicated below, and addressed to:  
 ASSISTANT COMMISSIONER FOR TRADE MARKS, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3514.

DATE: 10/7/03 By: Sharon S. Holdorf  
 Sharon S. Holdorf

REQUEST FOR RECONSIDERATION OF SECOND REQUEST FOR A  
THIRTY-DAY EXTENSION OF TIME TO FILE NOTICE OF OPPOSITION

Assistant Commissioner for Trademarks  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, VA 22202-3513  
Box: TTAB

Dear Sir or Madam:

RE/MAX International, Inc. hereby requests reconsideration of its Second Request for a Thirty-Day Extension of Time to file Notice of Opposition as timely filed on August 4, 2003, and for reinstatement of the subsequently filed Notice of Opposition filed September 3, 2003. In support of its Request for Reconsideration, RE/MAX submits the Declaration of Theresa L. VanDerhoof ("VanDerhoof Declaration") attesting to inadvertent errors made in misdating the Certificates of Mailing for the letter of transmittal and for the Second Request for Extension.

As set forth in the VanDerhoof Declaration, Ms. VanDerHoof is an assistant to the RE/MAX authorized signatory to the letter of transmittal and Second Request for Extension, John R. Linton, Vice President and Senior Counsel for RE/MAX International, Inc. (VanDerhoof Declaration, ¶ 1). Ms. VanDerhoof assisted in preparation and filing of the Second Request for

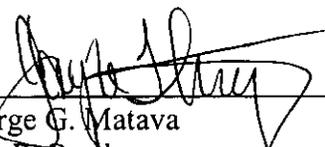
10/10/2003 10:10:01 AM

Extension. (VanDerhoof Declaration, ¶ 2). Ms. VanDerhoof mistakenly handwrote the date of the "8<sup>th</sup>" rather than the actual date of August 4<sup>th</sup> on the Certificate of Mailing for the Second Request. (VanDerhoof Declaration, ¶ 3). Ms. VanDerhoof mistakenly handwrote the date again on the Certificate of Mailing for the transmittal letter, although she handwrote the correct date of "8/4/03" in a second line of the transmittal letter Certificate of Mailing. (VanDerhoof Declaration, ¶ 4; see also Attachment 1) The return postcard submitted therewith also shows the date of "8/4/03" as the mailing date of the transmittal letter and Second Request for Extension. (See Attachment 1).

RE/MAX respectfully requests reinstatement of its Second Request for Extension of Time to file Notice of Opposition as timely filed on August 4, 2003, and of its subsequently filed Notice of Opposition, and requests that the resultant denial of RE/MAX's Notice of Opposition be rescinded. (Attachment 2).

Respectfully submitted this 7<sup>th</sup> day of October, 2003.

GREENBERG TRAUIG, LLP

By: 

George G. Matava  
John R. Posthumus  
Gayle L. Strong  
1200 17<sup>th</sup> Street  
Suite 2400  
Denver, Colorado 80202  
Tel: 303-572-6500  
Fax: 303-572-6540

ATTORNEYS FOR RE/MAX  
INTERNATIONAL, INC.

10/15/2003 TIME  
08:37:18

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

Applicant: Yamaha Hatsudoki )  
Kabushiki Kaisha )  
Serial No.: 78/135419 )  
Filed: June 13, 2002 )  
Mark: RMAX )  
Classes: International Class 12 )

Published:  
May 6, 2003

08-08-2003  
U.S. Patent & TM Office Mail Report 023

SECOND REQUEST FOR A THIRTY DAY EXTENSION OF TIME  
TO FILE NOTICE OF OPPOSITION

Assistant Commissioner  
for Trademarks  
Attention: TTAB  
2900 Crystal Drive  
Arlington, VA 22202-3513

Dear Sir or Madam:

It is hereby requested that an extension of thirty (30) days to and including September 3, 2003, be granted to RE/MAX International, Inc., 8390 East Crescent Parkway, Suite 600, Greenwood Village, Colorado 80111 (mailing address P.O. Box 3907, Englewood, Colorado 80155) to oppose the above-identified application. The purpose of requesting this extension of time is to allow the undersigned counsel for prospective opposer sufficient time to complete the investigation, make appropriate inquiries and to initiate communication with Applicant's attorney.

This Request for an Extension of Time is not being made for the purpose of mere delay,  
and favorable consideration of the Request is earnestly solicited.

Respectfully submitted,

RE/MAX INTERNATIONAL, INC.

Date:

Aug 4, 2013

By:



John R. Linton  
Vice President and Senior Counsel  
RE/MAX International, Inc.  
P.O. Box 3907  
Englewood, Colorado 80155  
(303) 770-5531

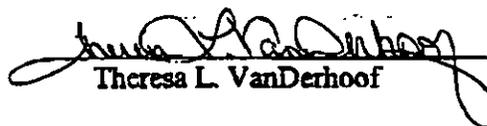
RE/MAX International, Inc.  
8390 East Crescent Parkway, Suite 600  
Greenwood Village, Colorado 80111

10/15/2003TTAB  
08/18/2003TTAB

CERTIFICATE OF MAILING

I hereby certify that on this 9<sup>th</sup> day of August 2003, a copy of the foregoing **SECOND REQUEST FOR THIRTY DAY EXTENSION OF TIME TO FILE NOTICE OF OPPOSITION** was deposited with the United States Postal Service as First Class Mail, postage pre-paid, addressed to the following:

Assistant Commissioner for Trademarks  
Attention: TTAB  
2900 Crystal Drive  
Arlington, VA 22202-3513

  
Theresa L. VanDerhoof

CERTIFICATE OF MAILING

TTAB

The undersigned hereby certifies that on this 8th day of August 2003, a true and correct copy of the above and foregoing has been placed with the United States Postal Service as First Class Mail, postage prepaid and affixed thereto, properly addressed to the following: Assistant Commissioner of Trademarks, ATTN: TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

Dated: 8.4.03

Signed: Theresa L. VanDerhoof

RE/MAX International, Inc.  
John R. Linton, Legal Department  
8390 E. Crescent Pkwy., Suite 600  
Greenwood Village, CO 80111

POSTAGE WILL BE PAID BY ADDRESSEE

08-08-2003

U.S. Patent & Trademark Mail Report #22

Date: August 4, 2003

ASSISTANT COMMISSIONER FOR TRADEMARKS  
Attn: TTAB  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Re: Application of: Yamaha Hatsudoki Kabushiki Kaisha  
Mark: RMAX  
Serial #: 78/135419  
Class: 12

03 AUG 15 AM 9:32

Dear Sir or Madam:

Transmitted herewith are the following documents:

Acknowledgment of Receipt Card

Second Request for a Thirty Day Extension of Time to File Notice of Opposition (ORIGINAL PLUS 2 COPIES)

John R. Linton, Esq.  
Vice President and Senior Counsel  
RE/MAX International, Inc.  
Attorney for Potential Opposer  
(303) 770-5531

Assistant Commissioner for Trademarks:

Date: 8-4-03

Please confirm receipt of the document(s) checked below by applying your date stamp and, when in receipt of a new TM of SM application, the Serial Number assigned:

**FILE COPY**

Notice of Appeal

Via Express Mail

Transmittal Letter

Via Certificate or Mail

A trademark application, including signed application with drawing and specimen

A check in the amount of \$ \_\_\_\_\_

Actual Use or ITU

Return Postcard

A Response/Amendment

Extension of Time (no duplicates)

Combined Section 8 & 15 specimen

08-09-2003

Commissioner

Combined section 8 & 9 w. specimen

U.S. Patent & Trademark Registrar

Position

Answer

Petition for Cancellation

Other

10/15/2003 11:01

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Trademark Trial and Appeal Board**  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Mailed: September 24, 2003

Opposition No. 91157722

Serial No. 78135419

RE/MAX INTERNATIONAL, INC.

v.

Yamaha Hatsudoki Kabushiki  
Kaisha

JOHN R. POSTHUMUS  
GREENBERG TRAUERIG, LLP  
1200 17TH STREET, SUITE 2400  
DENVER, CO 80202

**Michelle Greenfield, Legal Assistant:**

It has come to the Board's attention that this opposition proceeding was erroneously instituted against Serial No. 78/135,419. In a letter dated August 20, 2003, our office denied RE/MAX International, Inc.'s August 8, 2003 request for a further extension of time to oppose, as untimely filed. The notice of opposition filed September 3, 2003 should have never been instituted. The error is regretted.

In view thereof, the September 11, 2003 order instituting this proceeding is vacated and dismissed as a nullity.

The papers will be referred to the Finance Branch of the Office for consideration of a refund of the \$300.00 opposition fee.

RECEIVED  
SEP 29 2003

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

In re Application Serial No.: 78/135,419

For the Mark: RMAX

Applicant: Yamaha Hatsudoki Kabushiki Kaisha Corp.

Filed on: June 13, 2002

<b>CERTIFICATE OF MAILING UNDER 37 CFR § 1.8</b>	
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ASSISTANT COMMISSIONER FOR TRADE MARKS, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3514.	
DATE: <u>10/7/03</u>	By: <u>Sharon S. Holdorf</u> Sharon S. Holdorf

Declaration Under 37 C.F.R. § 2.20 in Support of  
Request For Reconsideration Of Second Request For A  
Thirty-Day Extension Of Time To File Notice Of Opposition

Theresa L. VanDerhoof, hereby declares and makes the following statements in support of the above-referenced Request for Reconsideration of its Second Request for Extension to File Opposition:

1. I am an assistant to John R. Linton, Vice President and Senior Counsel for RE/MAX International, Inc. I make this declaration on personal knowledge and belief and in support of RE/MAX International, Inc.'s ("RE/MAX") Request for Reconsideration of its Second Request for a Thirty-Day Extension of Time to File Notice of Opposition.

2. On August 4, 2003, I assisted in the preparation and mailing of RE/MAX's Second Request for a Thirty-Day Extension of Time to File Notice of Opposition.

3. I completed the Certificate of Mailing accompanying the Second Request for Extension. The Second Request for Extension was signed and dated by John R. Linton on behalf of RE/MAX on August 4, 2003. I inadvertently entered "8<sup>th</sup>" instead of "4<sup>th</sup>" on the Certificate of Mailing for the Second Request for Extension, thinking of the "8<sup>th</sup>" month of August.

4. I completed the Certificate of Mailing accompanying the letter of transmittal for the Second Request for Extension. The letter of transmittal was signed and dated by John R. Linton on behalf of RE/MAX on August 4, 2003. Although I dated the Certificate of Mailing for the letter of transmittal as "8-4-03" on the date line, I

inadvertently entered "8<sup>th</sup>" instead of "4<sup>th</sup>" on the first line of the Certificate of Mailing for the letter of transmittal.

5. The undersigned, declares that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title XVIII of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

Dated this 1<sup>th</sup> day of October, 2003.

By   
Theresa L. VanDerhof