

ESTTA Tracking number: **ESTTA775268**

Filing date: **10/07/2016**

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

Proceeding	86420598
Applicant	MT Enterprises LLC
Applied for Mark	THE NO PULL HARNESS & LEASH IN ONE
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Submission	motion to exclude examining attorney's brief
Attachments	Motion to Exclude Examining Attorney Brief.pdf(9407 bytes)
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Signature	/cac/
Date	10/07/2016

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

In re: MT Enterprises LLC

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) Serial No. 86/420598
) Filed: October 10, 2014
) Mark: THE NO PULL HARNESS &
) LEASH IN ONE
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MOTION TO EXCLUDE EXAMINING ATTORNEY’S BRIEF

MT Enterprises LLC (hereinafter “Applicant”) hereby moves for an order excluding the Examining Attorney’s brief in the present appeal.

On February 26, 2016, Applicant appealed the Examining Attorney’s final refusal dated August 28, 2015 to register the trademark THE NO PULL HARNESS & LEASH IN ONE based upon Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

On April 25, 2016, Applicant timely filed its main brief in support of its appeal with the Trademark Trial and Appeal Board.

On April 26, 2016, the Trademark Trial and Appeal Board forwarded Applicant’s main brief to the Examining Attorney. Pursuant to TBMP Section 1203.02(b), within 60 days after the date of the Board’s written action forwarding the application to the examining attorney, or within an extension of time for the purpose, the examining attorney must file an appeal brief answering the applicant’s main brief. The deadline for the Examining Attorney’s brief was June 24, 2016.

On September 16, 2016, 84 days (two months and 23 days) after the Examining Attorney’s deadline, Applicant received the Examining Attorney’s appeal brief. A review of the Trademark Trial and Appeal Board history does not reveal that the Examining Attorney

requested or was granted an extension to file its brief. Moreover, Applicant did not receive any communication from the Trademark Trial and Appeal Board granting an extension of time for the Examining Attorney's brief.

Pursuant to TBMP Section 1203.02(b), Applicant requests that the Board exclude the Examining Attorney's late-filed brief and decide the appeal without the benefit of the Examining Attorney's appeal brief.

Pursuant to TBMP Section 1203.02(c), Applicant's reply brief is due October 6, 2016. If the Board decides to accept the Examining Attorney's late-filed appeal brief, Applicant, out of fairness, requests that it be granted an extension of time within which to file its reply brief.

Accordingly, Applicant requests that this Board issue an order excluding the Examining Attorney's late-filed brief or, in the alternative, grant Applicant an extension of time within which to file its optional reply brief.

Dated: October 6, 2016

Respectfully Submitted,

/cheryl a. clarkin/

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