

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

In the Matter of Ser. No. 76/245,902 - OG 12/11/01

SAVATAR, INC.,

Opposer,

-v-

SAVITAR CORPORATION,

Applicant.

Opposition No. 124,976

**SAVITAR'S REPLY IN SUPPORT OF MOTION FOR
EXTENSION OF TIME IN WHICH
TO CONDUCT ITS DISCOVERY**

Comes now the Applicant, Savitar Corporation ("Savitar"), and briefly replies to Opposer's "Opposition To Applicant's Motion For Extension Of Time In Which To Conduct Its Discovery" as follows:

1. Opposer attempts to assign "fault" because Savitar waited two (2) days before the expiration of the discovery period in which to file its Motion For Extension Of Time. However, any motion filed before such time would be premature because it may have passed this Board's order to compel in the mail. Because Opposer's refusal to fully answer Savitar's March 2002 discovery is causing a delay in any follow-up discovery which Savitar may find necessary, Savitar must await this Board's order. Savitar cannot know the extent of any follow-up discovery which may be necessary until it receives Opposer's completed answers.

2. Opposer attempts to defeat Savitar's motion for extension of time by stating that Savitar has timely conducted other discovery (and, therefore, presumably does not need to conduct any follow-up discovery from the responses to the March 2002 discovery). However, the fact that Savitar continued to conduct discovery in matters not dependent on Opposer completing its responses to the March 8, 2002, discovery in no way waives Savitar's right to conduct follow-up discovery once Opposer finally completes its discovery answers and responses. Because Opposer refuses to complete its discovery answers and responses, Savitar is awaiting this Board's order to compel. Once Opposer is compelled to answer the remainder of the discovery, it may be necessary to conduct follow-up discovery. To hold that follow-up discovery cannot occur would merely award Opposer for its delay tactics and refusal to complete its discovery.

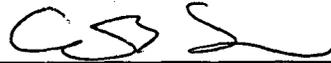
3. Finally, Opposer attempts to defeat Savitar's motion for extension of time by claiming that there is no good cause. An inability to conduct follow-up discovery until this Board issues its order to compel is a basis for such an extension. Furthermore, this Board usually stays the proceedings during a pendency of a motion to compel discovery:

When a party files a motion for an order to compel discovery, the case will be suspended by the Trademark Trial and Appeal Board with respect to all matters not germane to the motion, and no party should file any paper which is not germane to the motion, except as otherwise specified in the Board's suspension order. The filing of a motion to compel shall not toll the time for a party to respond to any outstanding discovery requests or to appear for any noticed discovery deposition.

U.S. Trademark Law Rules of Practice, U.S. Patent & Trademark Office, (6th ed. June 2002), §2.120(E)(2). Extending discovery is consistent with such a procedure.

WHEREFORE, Applicant, Savitar Corporation, prays that this Board enter an order extending the time in which Savitar has to conduct written discovery and for all other just and proper relief in the premises.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on the 3rd day of September, 2002, service of a true and complete copy of the above and foregoing pleading or paper was made upon:

Mary M. Luria
DAVIS & GILBERT LLP
1740 Broadway
New York, NY 10019

by depositing the same in the United States mail in an envelope properly addressed and with sufficient first-class postage affixed.



Elizabeth B. Searle

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September 3, 2002

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Re: Savatar, Inc. v. Savitar Corporation
Ser. No. 76/245,902 - OG 12/11/01
Opposition No. 124,976

Dear Sir or Madam:

Enclosed please find an original and two copies of Savitar's Reply In Support Of Motion For Extension Of Time In Which To Conduct Its Discovery. Please file this document and attach a proof of filing to the extra copy of this letter and return it to me in the enclosed self-addressed, stamped envelope.

By copy of this letter, I am serving Opposer's counsel with a copy of this pleading. Thank you for your assistance in this matter.

Very truly yours,

Elizabeth B. Searle

EBS:sjc
Enclosures
cc: Mary M. Luria (w/ encl. & via U.S. Mail)

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Reply to Lafayette Office

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