

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

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Application Serial No. 75/245,902 :  
Mark: SAVITAR : Opposition No. 124,976  
:  
SAVATAR, INC., :  
:  
Opposer, :  
:  
v. :  
:  
SAVITAR CORPORATION, :  
:  
Applicant. :  
-----X

TRADEMARK TRIAL AND  
APPEAL BOARD  
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**OPPOSITION TO APPLICANT'S MOTION FOR EXTENSION OF TIME IN  
WHICH TO CONDUCT ITS DISCOVERY**

Opposer, Savatar, Inc. ("Savatar"), submits this memorandum in opposition to Applicant's Motion for Extension of Time in Which to Conduct Its Discovery ("Motion to Extend").

**A. Background**

1. The Board set the close of discovery period in this opposition for August 16, 2002.
2. On March 8, 2002, Applicant served a Request for Production of Documents and Interrogatories on Savatar. Savatar timely served its responses and objections on April 12, 2002. Opposer believes that its answers were proper and complete.
3. On June 13, 2002, Applicant filed a Motion to Compel Documents from Opposer.

4. On July 2, 2002, Savatar filed its Opposition to the Motion to Compel and Cross-Motion for a Protective Order.

5. On August 14, 2002, Applicant filed this Motion to Extend.

6. On August 15, 2002, Applicant served Savatar with its Second Supplemental Set of Interrogatories.

## **B. Applicant's Motion**

### 1. Applicant has not demonstrated good cause

The standard for allowing an extension of a prescribed period prior to the expiration of that period is "good cause." See Fed. R. Civ. P. 6(b) and TBMP Section 509. A motion to extend must state with particularity the grounds upon which its "good cause" is based. See Fed. R. Civ. P. 6(b); *Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 13 USPQ2d 1719, 1720 n.3 (TTAB 1989) ("The presentation of one's arguments and authority should be presented thoroughly in the motion or the opposition brief thereto."); and *HKG Industries, Inc. v. Perma-Pipe, Inc.*, 49 USPQ2d 1156, 1158 (TTAB 1998) (motion to reopen denied because the movant failed to provide detailed factual information in support of the requested relief). *Cf. Instruments SA Inc. v. ASI Instruments Inc.*, 53 USPQ2d 1925, 1927 (TTAB 1999) ("Cursory or conclusory allegations that are denied unequivocally by the non-movant, and that are not otherwise supported by the record, will not constitute a showing of good cause.").

In the present case, Applicant's sparse motion contains no information to support a showing of good cause. In fact, Applicant has not even alleged good cause. It merely recites the procedural posture of the case. In fact, not only does Applicant fail to provide facts or arguments

in support of its position, the record is devoid of any explanation as to why Applicant waited until two days before the expiration of the discovery period to request the extension.

2. Applicant has had ample time to conduct discovery

Applicant cannot support the position, nor does it assert, that it has missed needed opportunities to conduct a full and fair discovery in this matter.

To the contrary, Applicant has conducted aggressive discovery. Applicant has served multiple discovery requests on Opposer, and has even subpoenaed Savatar's clients for further information. In fact, on August 15, 2002, the day after it filed this motion, Applicant served Savatar with its Second Supplemental Set of Interrogatories. Thus, Applicant's request for additional time to take discovery is disingenuous since Applicant was clearly able to conduct further discovery within the prescribed period.

**CONCLUSION**

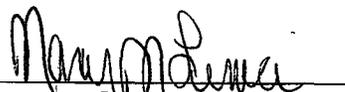
For the foregoing reasons, Savatar respectfully requests that the Board deny Applicant's motion.

Respectfully submitted

DAVIS & GILBERT LLP

Dated: August 27, 2002

By:

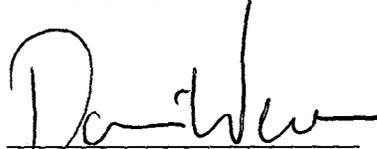
  
Mary M. Luria  
1740 Broadway  
New York, NY 10019  
Tel.: (212) 468-4813  
Attorneys for Opposer

CERTIFICATE OF SERVICE

I certify that on August 27 2002, service of a true and complete copy of the foregoing pleading or paper was made upon Applicant's counsel:

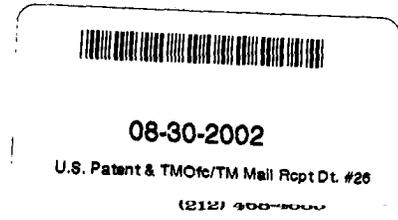
Elizabeth B. Searle, Esq.  
Stuart & Branigin  
300 Main Street, Suite 800  
P.O. Box 1010  
Lafayette, Indiana 47902-1010

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

  
\_\_\_\_\_  
David A. Weems

TAB

DAVIS & GILBERT LLP  
1740 BROADWAY  
NEW YORK, NEW YORK 10019  
(212) 468-4800



DIRECT DIAL NUMBER  
(212) 468-  
EMAIL ADDRESS

4889

dweems@dglaw.com

August 27, 2002

Commissioner for Trademarks  
Box TTAB NO FEE  
2900 Crystal Drive  
Arlington, VA 22202-3013

Re: Savatar, Inc. v. Savitar Corporation  
Ser. No. 76/245,902  
Opposition No. 124,976

Dear Sir:

Please find enclosed an original and one copy of Opposer's Opposition to Applicant's Motion for Extension of Time in Which To Conduct Its Discovery regarding the above opposition. Kindly place this document on file and acknowledge receipt by returning the enclosed self-addressed stamped postcard.

By copy of this letter, I am serving Applicant's counsel with a copy of this pleading.

Very truly yours,

DAVIS & GILBERT

By:

David A. Weems

Attorneys for Opposers

DAW/lj  
Enclosures

K