

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

In the Matter of Application Serial No. 75/457,081: MISCELLANEOUS DESIGN
(Bezel)

Published in the Official Gazette of June 5, 2001 in International Class 9

OLD WORLD INDUSTRIES, INC.,)

and)

SPLITFIRE INTERNATIONAL, INC.)

Opposers)

v.)

AUTO METER PRODUCTS, INC.,)

Applicant.)

Opposition No. 150.094

MOTION TO EXTEND TIME TO FILE REPLY BRIEF

Opposers Old World Industries, Inc. and SplitFire International, Inc. hereby moves to extend its time for filing a reply brief in the above-identified opposition to October 31, 2003. In support of this motion, opposers state as follows:

1. The parties in this proceeding are presently discussing a settlement that may resolve the issues presented in this opposition proceeding, as well as those relating to applicant's allegations against opposers in *In Re Certain Automotive Measuring Devices, Products Containing Same, And Bezels for Such Devices*, presently pending as Investigation No. 337-TA-494 in the U.S. International Trade Commission (the "Investigation").

2. Because settlement discussions were ongoing, opposers contacted applicant by letter on September 19, 2003 to request an extension of certain deadlines in the Investigation and

CHECKLIST OF EXPRESS MAIL UNIFORMS AND CHECKLIST Date of Deposit: September 26, 2003
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I hereby certify that the document to which this Certificate is affixed is being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on the Date of Deposit shown above.

[Handwritten Signature]

for filing its reply brief in this opposition. The deadline for filing the reply brief in the opposition had previously been extended, by consent, to September 30, 2003.

3. Opposers directed its request to both Merritt Blakeslee of the law firm of deKieffer & Horgan in Washington, D.C., representing applicant in the Investigation, and to Philip T. Petti of Fitch, Even, Tabin & Flannery in Chicago, representing the applicant in both the Investigation and this opposition. A copy of opposers' letter is attached as Exhibit 1.

4. In its letter to applicant's attorneys, opposers' counsel, Sanjiv Sarwate advised applicant that he was getting married soon, and would be out of the office on his honeymoon from October 3 until October 20, 2003, and therefore unavailable to work on the reply brief. Opposers therefore requested an extension of time to file the reply brief until October 31, 2003, which would give Mr. Sarwate sufficient time, after returning from his honeymoon, to complete the reply brief.

5. Mr. Sarwate has been the attorney most heavily involved in the preparation of opposers' case. The record will reflect that he represented opposers at all but one of the testimony depositions taken in this case, and has signed nearly every paper filed on opposers' behalf. Because of his heavy involvement in the preparation of the case, there is no other attorney in the law firm representing opposers' who is as familiar with the case, the evidence in the record, and the issues presented as Mr. Sarwate.

6. On September 22, 2003, Mr. Blakeslee, writing on behalf of Mr. Petti, stated that applicant would only agree to extend the deadline for filing the reply brief to October 10. A copy of Mr. Blakeslee's letter is attached as Exhibit 2. This deadline falls squarely in the middle of the time that opposers' counsel will be on his honeymoon, a fact which was fully known to applicant.

7. As set forth in the Declaration of Sanjiv D. Sarwate, Mr. Sarwate made his wedding and honeymoon plans several months ago, which arrangements included costly and non-refundable international airfare and lodging reservations. (Sarwate Decl. at ¶¶ 3-4, attached as Exhibit 3). At the time he made these plans, he did not know, and had no reason to know, that settlement discussions would remain ongoing through the time that he was planning to be out of the country on his honeymoon.

8. Applicant's proposed extension of the deadline to October 10 would require Mr Sarwate to complete the reply brief on October 2 before he leaves, which would require a substantial investment of time and resources that may be wasted if the settlement discussions are successful. The alternative would be for Mr. Sarwate to work on the brief through the early days of his marriage and honeymoon, an alternative which is unacceptable and unpalatable for obvious reasons.

9. Opposers therefore move to have the deadline for filing the reply brief extended to October 31, 2003. This extension would provide the parties with time to continue their settlement discussions, possibly to conclude a final settlement, and to avoid investing additional time and resources in a case that may be amicably resolved. In the event that settlement discussions do not yield a satisfactory settlement, an extension until October 31, 2003 would allow Mr. Sarwate sufficient time to finish the reply brief upon returning from his honeymoon.

For the foregoing reasons, opposers request that the time for filing a reply brief be extended until October 31, 2003.

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Respectfully submitted.

PATTISHALL, MCAULIFFE, NEWBURY,
HILLIARD & GERALDSON

By: _____

David C. Hilliard

Sanjiv D. Sarwate

311 South Wacker Drive, Suite 5000

Chicago, Illinois 60606

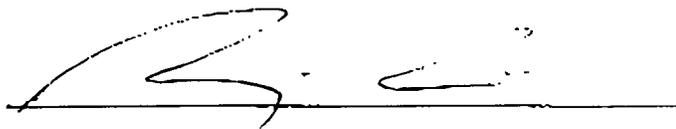
(312) 554-8000

(312) 554-8015 (facsimile)

Attorneys for Opposers

CERTIFICATE OF SERVICE

I Sanjiv D. Sarwate, certify that a copy of the foregoing MOTION TO EXTEND TIME TO FILE REPLY BRIEF was served upon Sandra V. Scavo and Philip T. Petti, Fitch. Even. Tabin & Flannery, 120 South LaSalle Street, Suite 1600, Chicago, Illinois 60603. by facsimile and first class mail. postage prepaid. on September 26, 2003.

A handwritten signature in black ink, appearing to read "Sanjiv D. Sarwate", is written over a horizontal line.

PATTISHALL, MCAULIFFE, NEWBURY, HILLIARD & GERALDSON
ATTORNEYS AT LAW

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September 19, 2003

VIA FACSIMILE
CONFIDENTIAL COMMUNICATION

Merritt R. Blakeslee, Esq.
deKieffer & Horgan
729 Fifteenth Street, N.W.
Suite 800
Washington, D.C. 20005

Mr. Philip T. Petti, Esq.
Fitch, Even, Tabin & Flannery
120 South LaSalle Street
Suite 1600
Chicago, Illinois 60606

Re: **Old World/ Auto Meter settlement discussions**

Dear Messrs. Blakeslee and Petti:

I understand that settlement discussions between Old World and Auto Meter are continuing, and that George Russell of Auto Meter has agreed that pending deadlines in the proceedings between our parties should be extended.

We would therefore ask that the deadlines for Old World, Auto Gauge, QuickCar and Leader Way's answers to Auto Meter's discovery requests in Investigation No. 337-TA-494 be extended to **October 6, 2003** for interrogatory answers and **October 8, 2003** for production of documents, both of which are two weeks out from the previously agreed dates. Naturally, on behalf of Auto Gauge, we will consent to a reciprocal two week extension of time for Auto Meter to respond to Auto Gauge's discovery requests. We had previously agreed to September 17 for the interrogatory answers and September 22 for the document production requests. If the interrogatory answers have not yet been sent to us, we agree to a deadline of **October 1, 2003** for interrogatory answers and **October 6, 2003** for the production requests. Obviously, if the interrogatory answers are already en route, the extension is moot, but we will still agree to an extension for the production requests.



Merritt R. Blakeslee, Esq.

2

September 19, 2003

For the reply brief in connection with Opposition No. 150,094, presently due on September 30, we would propose an extension until October 31, 2003. This due date for the brief is requested because I will be out of the office on my honeymoon from October 3 to October 20, and unable to work on the brief during that time.

Because of the confidential nature of the settlement discussions between our clients, please confirm your agreement to these extensions and I will send out a separate confirming letter with copies to Judge Harris and the other counsel of record.

Sincerely yours,



Sanjiv D. Sarwate

SS/pac

World/SplitFire must serve its interrogatory responses on Auto Meter on or before October 6th and its response to Auto Meter's requests for documents and things on or before October 8th.

In accordance with our prior agreement, Auto Meter understands that you will make all responsive automotive measuring devices produced by all your clients available for Auto Meter's inspection in the Washington, D.C. area, as Auto Meter is making its responsive automotive measuring devices available for your inspection in Chicago.

I have spoken with Phil Petti of Fitch, Even, Tabin, and Flannery concerning your request to him for an extension of time to file your reply brief in the TTAB action. Mr. Petti has asked me to convey to you the following. Auto Meter previously agreed to a 20-day extension of that deadline (to September 30th) to facilitate the settlement negotiations. Thus, while Auto Meter is very reluctant to agree to a further extension, it will agree to extend the deadline for service and filing of Old World/SplitFire's reply brief to October 10, 2003 as a good-faith effort to conclude the settlement as soon as possible.

Sincerely,



Merritt R. Blakeslee
Counsel to Auto Meter Products, Inc.

cc: The Honorable Sidney A. Harris (by hand)

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)	Opposition No. 150,094
v.)	
)	
AUTO METER PRODUCTS, INC.,)	
)	
Applicant.)	

DECLARATION OF SANJIV D. SARWATE

Pursuant to 28 USC §1746, I, Sanjiv D. Sarwate, declare as follows:

1. I am an attorney with the law firm of Pattishall, McAuliffe, Newbury, Hilliard & Geraldson, the law firm representing opposers in this proceeding. All statements made herein are made on the basis of personal knowledge.

2. Since this opposition was filed, I have been the primary attorney working on this opposition on opposers' behalf. I prepared and filed the notice of opposition on behalf of opposers, managed the case through the discovery process, and have taken or defended nearly all of the depositions, both discovery and testimony, in this proceeding. As a result, I am the attorney in my firm with the greatest knowledge of the evidence of record in this opposition and of the issues raised therein.



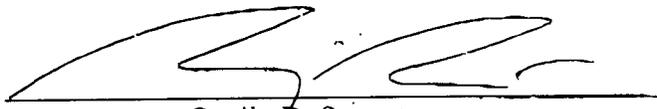
3. I will be out of the office starting October 3 and continuing to October 20, 2003 because I will be getting married and going out of the country on my honeymoon. During my honeymoon, I will not be able to work on any client-related matters.

4. I have already paid over \$8000 for non-refundable travel and lodging reservations, which will be forfeited if I alter my plans. I set the date for my wedding and honeymoon, and made the relevant travel arrangements, in May 2003 before opposers had notice that applicant had named opposers as respondents in a complaint filed with the International Trade Commission, and well before the parties began their latest round of settlement negotiations.

5. Because of my knowledge of the record and the role I have played in this opposition so far, there is no other attorney in my firm with knowledge sufficient to work on a response to applicant's trial brief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 26, 2003 in Chicago, Illinois



Sanjiv D. Sarwate

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September 26, 2003

VIA FACSIMILE (703) 308-9333

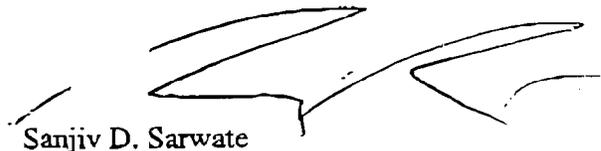
David Mermelstein, Esq.
Interlocutory Attorney
US Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202

**Re: Old World Industries, Inc. and SplitFire International, Inc. v.
Auto Meter Products, Inc.
Opposition No. 150,094**

Dear David:

Attached is a courtesy copy of opposers' *Motion To Extend Time To File Reply Brief*, which is being filed today with the Board. Please do not hesitate to contact me if you have any questions.

Sincerely yours,



Sanjiv D. Sarwate

SS/lkr

cc: Philip T. Petti, Esq.

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PLEASE RESPOND TO THE CHICAGO OFFICE

FAX COVER SHEET

TO: David Mermelstein, Esq.
FAX NO: (703) 308-9333 **PHONE NO:**
DATE: September 26, 2003
FROM: Sanjiv D. Sarwate
RE: Old World Industries, Inc. and SplitFire International, Inc. v. Auto Meter Products, Inc.
Opposition No. 150,094
FILE NO.: 00971-00002
MESSAGE:

Pages (Including Cover Sheet): 13
IF YOU DO NOT RECEIVE ALL OF THE PAGES PLEASE CONTACT
Laura Ruzycski at (312) 554-8000

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