

EXPRESS MAIL LABEL NO.: ER589231324US

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

In the matter of Application Serial No. 75/845,350, INTELLIWEAR
Published in the *Official Gazette* on October 30, 2001

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MARK D. TANNEN,	:	
	:	
Opposer,	:	Opposition No. 91 151109
	:	
vs.	:	
	:	
JAY MACK,	:	
	:	
Applicant.	:	
-----X	:	



11-03-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #78

**OPPOSER'S MOTION TO EXTEND
TERMS FOR DISCOVERY AND TESTIMONY**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and in accordance with the *Trademark Trial and Appeal Board Manual of Procedures* §509, Opposer, Mark D. Tannen d/b/a American Intellware, in the above-captioned opposition proceeding respectfully moves the Trademark Trial and Appeal Board ("Board") for an order extending the discovery, testimony and trial dates by a period of thirty (30) days in accordance with the following schedule:

The period for discovery to close	:	December 1, 2003
Testimony Period for the Party in Position of Plaintiff to Close (Opening thirty days prior thereto)	:	February 29, 2004
Testimony Period for the Party in Position of Defendant to Close (Opening thirty days prior thereto)	:	May 29, 2004
Rebuttal Testimony Period to Close (Opening fifteen days prior thereto)	:	April 13, 2003

Each party has served and/or responded to document requests and interrogatories. Neither party has taken a deposition. However, the term for discovery closed on Saturday, November 1, 2003¹ and Opposer still has additional materials to be produced in response to document requests and interrogatories served by Applicant. Opposer has been collecting additional materials but has not yet completed his review of files dating back many years. Further, Opposer has taken ill these past couple of weeks which, for among other reasons, has delayed his investigations. Opposer does not wish to be penalized for or prejudice either party by producing documents after discovery closes; therefore, he respectfully requests a thirty day extension of all discovery and testimony periods to enable him to recuperate and complete discovery in this matter.

This motion is made in good faith and without any intention of causing a delay but rather, to allow further time to complete discovery and ready for trial.

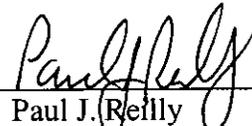
WHEREFORE, for the reasons stated and the good cause shown herein, Opposer, by its counsel, respectfully requests that the discovery, testimony and trial dates be extended for a period of thirty (30) days each in accordance with the above schedule.

Respectfully submitted,

BAKER BOTTS L.L.P.

Dated: November 3, 2002

By: _____


Paul J. Reilly
30 Rockefeller Plaza
New York, NY 10112
(212) 408-2500
Attorney for Applicant

¹ Pursuant to Rule 6 of the Fed. R. Civ. P. and Trademark Rule 2.116, 37 C.F.R. §2.116, Opposer submits that this motion is timely.

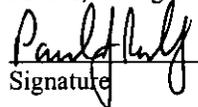
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CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee Service" in an envelope with sufficient postage addressed to: BOX TTAB NO FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513

Paul J. Reilly
Attorney Name

November 3, 2003
Date of Deposit


Signature

November 3, 2003
Date of Signature

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing, **OPPOSER'S MOTION TO EXTEND TERMS FOR DISCOVERY AND TESTIMONY**, was served on Applicant's attorneys of record via the United States Postal Service as First Class Mail, in an envelope with sufficient postage, addressed to following:

Mark W. Good, Esq.
DAVIS & SCHROEDER
215 W. Franklin Street, 4th Floor
Post Office Box 3080
Monterey, California 93942

on November 3, 2003.

By: _____


Paul J. Reilly