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Filing date: **09/07/2004**

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

<b>Proceeding</b>	91161466
<b>Party</b>	Defendant Lopez, Gabriel R. Lopez, Gabriel R. 299 Calypso Court Ponte Vedra Beach, FL 32082
<b>Correspondence Address</b>	GABRIEL RYAN LOPEZ PHATMUSCLE, INC. 2030 SOUTH 3RD. ST. SUITE 131 JACKSONVILLE BEACH, FL 32250
<b>Submission</b>	Motion to Extend
<b>Filer's Name</b>	Richard S. Vermut
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<b>Signature</b>	/Richard S. Vermut/
<b>Date</b>	09/07/2004
<b>Attachments</b>	temp.pdf ( 4 pages )

UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

PHAT FASHIONS LLC,	)	
	)	Opposition No. 91161466
Opposer	)	
	)	Mark: <b>PHATMUSCLE</b>
v.	)	
	)	Serial No.: 76/498,101
LOPEZ, GABRIEL R.,	)	
	)	Filing Date: February 19, 2003
Applicant.	)	
_____		Published: March 2, 2004

**Certificate of Transmission**

I hereby certify that this correspondence is being transmitted by electronic mail or on-line to the United States Patent and Trademark Office on the date shown below.

Date of Transmission: September 7, 2004

  
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Richard S. Vermut, Reg. # 41,362

**MOTION FOR ENLARGEMENT OF TIME TO  
FILE ANSWER TO NOTICE OF OPPOSITION**

Pursuant to Rule 6(b), Federal Rules of Civil Procedure, and section 310.03(c) TBMP, Applicant, Gabriel R. Lopez, by and through his undersigned counsel, for good cause moves the Board for a seven (7) day enlargement of time to file an answer to Opposer's Notice of Opposition in view of the damage inflicted by Hurricane Francis to the geographic area of residence and business of both the Applicant and its legal counsel. In support thereof, Applicant submits the following memorandum of law:

## MEMORANDUM OF LAW

1. On June 30, 2004, Opposer filed a Notice of Opposition opposing the registration of the Applicant's above-referenced mark.

2. On July 27, 2004, the Board served the Notice of Opposition on Applicant and set a deadline of September 7 for Applicant's answer.

3. During the week of August 30, 2004, a hurricane warning was issued for most of the East coast of Florida. Hurricane Francis was projected to make landfall somewhere on Florida's East coast with a projected path close to Jacksonville, Florida. The Applicant and his undersigned counsel reside in Jacksonville, Florida. The Applicant's counsel maintains its business office in Jacksonville, Florida.

4. Over the past few days, Hurricane Francis made landfall on Florida's East coast. The City of Jacksonville experienced winds of up to 50 miles per hour and, as of the date of this filing, much of the city and its businesses remain closed. The undersigned and many lawyers in his firm have not had electricity since Sunday, September 5, 2004. In response to the hurricane threat and subsequent state-wide damage, Florida Governor Jeb Bush has declared Florida in a state of emergency.

5. The damage caused by Hurricane Francis has affected the undersigned counsel's ability to fully prepare and complete its filing of a response to the Notice of Opposition.

6. Applicant respectfully submits that this requested seven-day enlargement of time will enable Applicant to file a response in view of the above-described unanticipated events without prejudice to Opposer. This Motion is filed prior to the expiration of the

deadline for responding and has not been brought for purpose of delay.<sup>1</sup>

WHEREFORE, Applicant, Gabriel R. Lopez, respectfully requests that the Board enter a seven-day enlargement of time to file a response to the Opposer's Notice Of Opposition, thereby extending that deadline from September 7, 2004 through and including September 14, 2004, and to grant such other relief as the Board may deem just and proper.

Respectfully submitted,



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<sup>1</sup> Earlier today the undersigned attempted to contact Brad D. Rose, Esq., legal counsel for the Opposer to determine whether he would consent to this Motion. Mr. Rose was unavailable at the time and a message was left with his assistant. The undersigned does not know whether Mr. Rose consents to this Motion therefore makes this filing without Opposer's input.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been furnished by facsimile (212) 326-0806 and First Class U.S. Mail this 7<sup>th</sup> day of September, 2004, to counsel for opposer, Brad D. Rose, Esq., Pryor Cashman Sherman & Flynn, LLP, 410 Park Avenue, 10th Floor, New York, New York 10022.

A handwritten signature in black ink, appearing to be 'BRAD D. ROSE', written over a horizontal line.

Attorney