

TTAB

IN THE UNITED PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL & APPEAL BOA

LEO STOLLER
d/b/a CENTRAL MFG. CO.

Opposer,

vs.

NORTHERN TELEPRESENCE
CORPORATION

Applicant.

Serial No: 916258975
Opposition No. 91162195

Trademark: DARKSTAR

TTAB/NO FEE

10-29-2004

U.S. Patent & TMO/c/TM Mail Rpt. Dt. #X

**REGISTRANT'S RESPONSE TO APPLICANT'S MOTION TO
SUSPEND TIME FOR FILING AN ANSWER AND TIME FOR FILING A
REPLY TO OPPOSER'S MOTION TO CONSOLIDATE
CANCELLATION NO. 92043666 AND OPPOSITION NO. 91162195**

NOW COMES the Registrant in response to Applicant's Motion to Suspend Time for Filing An Answer and Time for Filing a Reply to Opposer's Motion to Consolidate Cancellation No. 92043666 and Opposition No. 91162195, and states as follows:

The Opposer opposes Applicant's request for a suspension of time for filing an Answer. Opposer asserts that the Applicant is merely seeking an unnecessary delay to harass and to maliciously injure the Opposer.

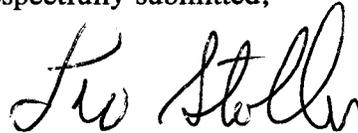
The Applicant is requesting that the Board reset the time for the Applicant to file an answer to Opposer's opposition and a **reply**¹ to Opposer's motion to consolidate; see a true and correct copy attached hereto.

1. Leo Stoller called Steven Caldwell, counsel for Applicant, at 2:00 p.m. on Wednesday, October 20, 2004, for clarification as to whether the Applicant's motion was requesting time for filing a **response** as opposed to a **reply** to Opposer's Motion to Consolidate because the Opposer was unable to locate an actual **response brief**. Mr. Caldwell said that his caption was as it stated - a request for filing a **reply**. Leo Stoller explained to Mr. Caldwell that there was a difference between a response and reply, and Mr. Caldwell then informed Mr. Stoller that if he has a problem understanding his caption, he should retain outside counsel. The Opposer, under the circumstances, is urging the Board not to give the Applicant and/or not to re-set any time in which the Applicant could respond and/or reply to Opposer's Motion to Consolidate in view of the fact that Mr. Caldwell intentionally engaged in obfuscation.

The rules governing oppositions are crystal clear that consideration of reply briefs by the Board are completely discretionary, so the due date for a reply brief may not be extended under any circumstances. [TBMB §502.02(b); see also 37 CFR §2.127(a); Ron Cauldwell Jewelry, Inc. v. Clothestime Clothes, Inc., 63 USPQ2d 2009 (TTAB 2002)].

WHEREFORE, the Opposer prays that the Board deny Applicant's motion to suspend and deny Applicant's request for filing a reply to Opposer's Motion to Consolidate Cancellation No. 92043666 and Opposition No. 91162195.

Respectfully submitted,



Leo Stoller, an individual and Pres.
CENTRAL MFG. CO., Registrant
Trademark & Licensing Dept.
P.O. Box 35189
Chicago, Illinois 60707-0189
773 283-3880 FAX 708 453-0083

Date: October 20, 2004

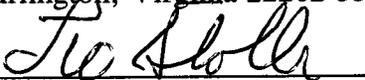
By: _____
Leo Stoller

By: _____
President of Central Mfg. Co.

Certificate of Mailing

I hereby certify that the foregoing motion is being sent by first class mail with the United States Postal Service in an envelope addressed to:

Box TTAB/NO FEE
Assistant Commissioner of Patents and Trademarks,
2900 Crystal Drive,
Arlington, Virginia 22202-3513



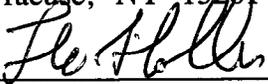
Leo Stoller

Date: October 20, 2004

Certificate of Service

I hereby certify that the foregoing motion is being sent by First Class U.S. Mail with the United States Postal Service in an envelope addressed to:

Steven W. Caldwell
BURR & BROWN
P.O. Box 7068
Syracuse, NY 13261-7068



Leo Stoller

Date: October 20, 2004

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

In re Application Serial No.: 76308975

Mark: DARKSTAR

Leo Stoller, d/b/a Central Manufacturing Company)

Opposer,)

v.)

Northern Telepresence Corporation)

Applicant.)

Opposition No. 91162195

APPLICANT'S MOTION TO SUSPEND TIME FOR FILING

AN ANSWER AND TIME FOR FILING A REPLY TO OPPOSER'S MOTION

TO CONSOLIDATE CANCELLATION NO. 92043666 AND OPPOSITION NO. 91162195

Applicant, Northern Telepresence Corporation, pursuant to §502 and §510 of the Trademark Trial and Appeal Board Manual of Procedure and the Board's inherent authority, requests that the Board suspend Applicant's time for filing an Answer in the opposition and time for filing a Reply to Opposer's Motion to Consolidate Cancellation No. 92043666 and Opposition No. 91162195, until the Board issues an order on Applicant's motion to dismiss the Opposition, which is filed concurrently herewith. It is Applicant's understanding that its time for filing an Answer and a Reply, respectively, will be reset by the Board in the event that Applicant's Motion to Dismiss is denied.

WHEREFORE, for the reasons stated above, Applicant respectfully requests that the Board grant this Motion to Suspend.

Respectfully submitted,

BURR & BROWN

Dated: October 7, 2004

By: Steven W. Caldwell
Steven W. Caldwell, Esq.
Attorney for Northern Telepresence Corporation

SWC:jms

Enclosures:

Certificate of Service

BURR & BROWN
P.O. Box 7068
Syracuse, New York 13261

Telephone: (315) 233-8300

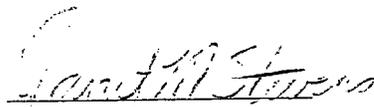
Facsimile: (315) 233-8320

CERTIFICATE OF SERVICE

I, Janet M. Stevens, certify that on October 7, 2004, I caused a copy of Applicant's Motion to Suspend Time for Filing an Answer and Time for Filing a Reply to Opposer's Motion to Consolidate Cancellation No. 92043666 and Opposition No. 91162195 to be delivered via first class mail to:

Leo Stoller
President
Central Manufacturing Company
P.O. Box 35189
Chicago, IL 60707-0189

by placing the same properly enclosed in a postpaid wrapper, in a post office box regularly maintained by the government of the United States, in the City of Syracuse, Onondaga County, New York, at Federal Station, 100 South Clinton Street 13261.

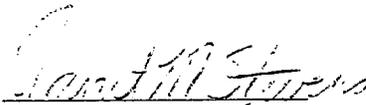

Janet M. Stevens

CERTIFICATE OF SERVICE

I, Janet M. Stevens, certify that on October 7, 2004, I caused a copy of Applicant's Motion to Suspend Time for Filing an Answer and Time for Filing a Reply to Opposer's Motion to Consolidate Cancellation No. 92043666 and Opposition No. 91162195 to be delivered via first class mail to:

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Janet M. Stevens