

Accordingly, potential opposer is allowed until **May 18, 2003** in which to submit a signed copy of its request for extension of time to oppose, failing which the request will not be given any consideration."

In compliance with the Board Order dated **April 18, 2003**, the Opposer filed a signed request for a ninety-day extension under 37 CFR §1.8 Certificate of mailing on **April 29, 2003**, attached hereto and marked as **Exhibit C**. On **May 19, 2003**, the Opposer filed its timely Notice of Opposition during the extension of time to oppose, pursuant to §303.05. As a result, the Board had *jurisdiction* to grant the potential Opposer extension of time to oppose up and until **May 27, 2003**.

Applicant does not present any evidence to support its contention that Opposer's initial extension, which was dated **February 25, 2003**, was not properly mailed by the Potential Opposer under 37 CFR §1.8. The fact that the Board may not have associated the potential Opposer's **February 25, 2003** extension with the file until **April 3, 2003**, does not establish that the Opposer did not mail its initial extension of time to oppose pursuant to the 37 CFR §1.8 Certificate of mailing on **February 25, 2003**.

The Applicant attempts to prejudice the Board with a series of unrelated cases which have no precedent value for this matter. Trademark Trial & Appeal Board **Judges Hairston, Rogers and Drost**, have dealt with a similar type of allegation in a decision dated May 5, 2004, *Leo Stoller d/b/a Central Mfg. Co. v. WFJM Enterprises, Inc.*, Opposition No. 91155814, when opposer's opponent attempts to prejudice the Board with unrelated cases:

"Merely reciting opposer's (alleged) bad actions in other, unrelated litigations does not automatically confer 'bad actor' status on opposer in this proceeding."

SUMMARY

Potential Opposer's initial request for an extension of time to oppose, dated **February 25, 2003**, was mailed under 37 CFR §1.8 - Certificate of Mailing or Transmission.

"(a) ... correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as timely filed if the procedure described in this section is followed. *The actual date of receipt will be used for all other purposes.*"

Opposer's request for an extension of time was thus timely filed under §110.01, 37 CFR §1.8(a)(1)(i) and Opposer's §303.05 Opposition was filed on **May 19, 2003** during extension of time to Opposer. Applicant's request to dismiss Opposer's opposition based upon the Board's lack of jurisdiction, is without merit and should be denied. Applicant request for sanctions is also without merit and should be denied. The Board prefers to resolve inter party proceedings on the merits. The Opposer is requesting that the Board should as a matter of law, allow this proceeding to go forward and to be resolved on the merits.

WHEREFORE, the Opposer prays that the Board deny Applicant's motion to dismiss and to consolidate this Opposition with Petition to Cancel 9204366, involving the same parties, same mark same issues of law and are at the same stage of pleading, right at the beginning.

Respectfully submitted,



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

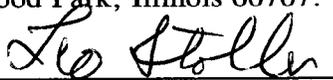
Date: October 13, 2004

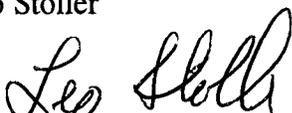
DECLARATION

The undersigned, Leo Stoller, declares that he is an individual, and Director and President of CENTRAL MFG. CO., and is authorized to execute this document on its behalf, that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

I declare that the Potential Opposer's Request for a Ninety day extension (Exhibit A) of Opposition certificate of mailing dated Feb. 25, 2003 was in fact mailed on February 25, 2003 when I deposited into a US Mail Box located in Elmwood Park, Illinois 60707.

Dated: October 13, 2004

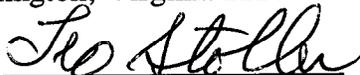
By: 
Leo Stoller

By: 
President of Central Mfg. Co.

Certificate of Mailing

I hereby certify that the foregoing document 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



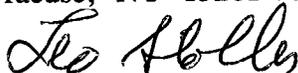
Leo Stoller

Date: October 13, 2004

Certificate of Service

I hereby certify that the foregoing document 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

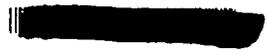


Leo Stoller

Date: October 13, 2004

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TTAB



**IN THE UNITED PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

04-03-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #64

CENTRAL MFG. CO.
P O Box 35189
Chicago, IL 60707-0189
Potential Opposer,

Trademark: DARKSTAR
Application SN: 76 308975
Int. Class No: 009

vs.

Northern Telepresence Corp

Filed: 09/05/01

Published: January 28, 2003

Applicant.

Box TTAB/NO FEE
(IN TRIPLICATE)

**REQUEST FOR A NINETY DAY EXTENSION
OF OPPOSITION PERIOD**

NOW COMES the Potential Opposer and requests a extension of ninety (90) days from the present close of the opposition period, up to and including May 27, 2003 within which to consider the filing of an Opposition to the above identified application for trademark registration.

Potential Opposer invites opposing counsel to contact the Potential Opposer at Tel No. 773/283-3880 (L. Stoller) in order to discuss settlement of this potential trademark controversy as between the parties and/or to file an express abandonment.

This extension is requested to investigate facts, obtain documentation, and to enable the Potential Opposer to consider its position with regard to opposition of this application.

Respectfully submitted,

By: Leo Stoller Pres.
Central Mfg. Co., Potential Opposer
Trademark and Licensing Department
P.O. Box 35189
Chicago, Illinois 60707-0189
773 283-3880 FAX 708 453-0083

Dated: Feb. 25, 2003

Certification of Mailing

I hereby certify that this correspondence is being deposited with the US Postal Service as first class mail in an envelope addressed to:
Box TTAB/NO FEE, Asst. Commissioner of Patents and Trademarks,
2900 Crystal Drive, Arlington, Virginia 22202-3513

Leo Stoller
Dated: Feb. 25, 2003
C:\WS\MARKS27\DARKSTAR.EXT

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: April 18, 2003

Applicant: Northern Telepresence Corporation
Serial No.: 76308975
Filed: 09/05/2001
Mark: DARKSTAR

Leo Stoller
Central Mfg. Co.
P.O. Box 35189
Chicago, IL 60707-0189

Eric McWilliams, Legal Assistant

On April 3, 2003, potential opposer herein, Central Mfg. Co. filed an unsigned request for an extension of time to oppose the above-identified application.

Potential opposer is advised that Trademark Rule 2.119(e) provides that every paper filed in an inter partes proceeding, and every request for an extension of time to file an opposition, must be signed by the party filing it, or by the party's attorney or other authorized representative, but an unsigned paper will not be refused consideration if a signed copy is submitted to the Patent and Trademark Office within the time limit set in the notification of this defect by the Office.

Accordingly, potential opposer is allowed until May 18, 2003 in which to submit a signed copy of its request for extension of time to oppose, failing which the request will not be given any consideration.

EXHIBIT B

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

CENTRAL MFG. CO.
P O Box 35189
Chicago, IL 60707-0189
Potential Opposer,
vs.

Trademark: DARKSTAR
Application SN: 76 308975
Int. Class No: 009

Northern Telepresence Corp

Filed: 09/05/01

Published: January 28, 2003

Applicant.

Box TTAB/NO FEE
(IN TRIPLICATE)

REQUEST FOR A NINETY DAY EXTENSION
OF OPPOSITION PERIOD

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This extension is requested to investigate facts, obtain documentation, and to enable the Potential Opposer to consider its position with regard to opposition of this application.

Respectfully submitted,

Leo Stoller

By: Leo Stoller Pres.
Central Mfg. Co., Potential Opposer
Trademark and Licensing Department
P.O. Box 35189
Chicago, Illinois 60707-0189
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2900 Crystal Drive, Arlington, Virginia 22202-3513

Leo Stoller 4/29/03
Leo Stoller

C:\WS\MARKS27\DARKSTAR.EXT

EXHIBIT C

REQUEST FOR AN EXTENSION
AS PER BOARD ORDER 4-18-03
FOR SN 76308975



05-05-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #22

GENERAL INFORMATION

When correspondence intended for the Board is filed by first-class mail with a certificate of mailing, in accordance with the procedure described in 37 CFR §1.8(a), it is stamped with the date of receipt of the correspondence in the PTO, i.e., the date on the mail bags in which the correspondence is delivered to the PTO. The mailing date specified in the certificate of mailing is used for purposes of determining the timeliness of the correspondence. The date of receipt is used for all other purposes. See 37 CFR §§1.6(a) and 1.8(a).

For information concerning the date stamped by the PTO on correspondence when interruptions or emergencies occur in the United States Postal Service, see 37 CFR §1.6(e).

110 Certificate of Mailing or Transmission Procedure

110.01 In General

37 CFR §1.8 Certificate of mailing or transmission.

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) the correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) deposited with the U.S. Postal Service with sufficient postage as first class mail addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231; or

(B) transmitted by facsimile to the Patent and Trademark Office in accordance with §1.6(d); and

(ii) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on the following:

(i) Relative to Patents and Patent Applications