UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: June 7, 2006

Opposition No. 91167540

Mintek Corporation

v.

Samuel Bouter dba Minatek Solutions

David Mermelstein, Attorney:

On June 7, 2006, the Board held a brief telephone conference in this matter. Participating were Thomas Toner for opposer, applicant Samuel Bouter, and the above Board attorney.

First, it appears that on May 31, 2006, applicant filed a paper in this proceeding which he designated "confidential." (Board's Docket #10) Opposer's counsel contacted the Board seeking information on the paper. Upon examining the paper, however, it seemed doubtful to the Board that the paper contained any proprietary information. Second, recent filings indicate that applicant filed a consent motion for extension of time, which was automatically granted by the Board. However, opposer filed a paper indicating that it did not consent to the extension, and applicant withdrew the motion.

Applicant has confirmed that its May 31, 2005, filing does not contain confidential information. Accordingly, the Board will update the status of the filing to remove its "confidential" designation and make it publicly available.

Applicant is advised that – as a general matter – proceedings before the Board are public, and files remain available to the public. The Board does provide for confidential filings, provided that (1) the parties have entered into an agreement, approved by the Board, for the protection of confidential materials or the Board has entered an order for the same purpose; and (2) the matter so submitted is actually proprietary. The parties may not use this procedure in order to shield non-confidential material from public view. In any event, if a confidential document is submitted to the Board, a redacted copy must be provided for the public file.

On the question of the consent motion to extend, applicant has been advised that "consent" before the Board means the actual and explicit consent of the opposing party or its counsel to the relief sought. Here, applicant has promptly moved to withdraw its motion, and it does not appear that applicant's actions were the result of bad faith.

Nonetheless, because the consent motion was withdrawn after opposer's objection thereto, the Board's order of May

31, 2006, is VACATED. Discovery and trial dates remain as set in the Board's institution order of November 14, 2005.

A separate order will be issued on opposer's motion for default judgment.

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