

ESTTA Tracking number: **ESTTA285905**

Filing date: **05/26/2009**

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

Proceeding	91175280
Party	Plaintiff Magnadyne Corporation
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Date	05/26/2009
Attachments	Response to Motion for EOT.pdf (4 pages)(51894 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

MAGNADYNE CORPORATION

Opposer,

v.

Opposition No. 91175280
Serial No. 76/655,958
Mark: MOVIEVISION

MOVIEVISION, INC.

Applicant.

**OPPOSER'S RESPONSE TO
APPLICANT'S MOTION FOR AN EXTENSION OF TIME
IN WHICH TO FILE A REQUEST FOR RECONSIDERATION**

Magnadyne Corporation (“Opposer”) submits the following response to Movievision Inc.’s (“Applicant”) Motion for an Extension of Time in which to file its Request for Reconsideration from the final Board decision in this case.

On April 9, 2009, the Board sustained the §2(d) opposition filed by Magnadyne against Movievision Inc.’s application for the mark MOVIEVISION, based on Opposer’s previously used and registered MOVIE VISION and MOVIE VISION MV trademarks. The Board stated:

Because of the similarity of the marks, the similarity of the goods, and similarity of the purchasers, we find that applicant’s mark MOVIEVISION and Design for “pay-per-view television transmission services featuring released movies in English, Spanish, Cantonese, and Russian via cable” is likely to cause confusion with opposer’s MOVIE VISION marks for “video entertainment systems for vehicles; namely, electronic audio, video and video game components in the nature of video cassette players, digital video disk players, video game players and television receivers with video display devices.

Magnadyne Corporation v. Movievision, Inc., April 9, 2009 Opinion, pp. 10-11.

Despite the clarity of the Board’s opinion, Applicant requests additional time in which to file a Request for Reconsideration of the Board’s decision that Applicant’s MOVIEVISION and Design is likely to cause confusion with Opposer’s MOVIE VISION marks. However, reconsideration is not warranted in this case. According to Section 543 of the TBMP:

Generally, the premise underlying a request for rehearing, reconsideration, or modification under 37 CFR § 2.129(c) is that, based on the evidence of record and the prevailing authorities, the Board erred in reaching the decision it issued. *The request may not be used to introduce additional evidence, nor should it be devoted simply to a reargument of the points presented in the requesting party's brief on the case.* Rather, the request normally should be limited to a demonstration that, based on the evidence properly of record and the applicable law, the Board's ruling is in error and requires appropriate change.

The marks are identical. Based on the evidence of record and the prevailing authorities, the Board did not err in reaching the decision that it issued on April 9, 2009. Accordingly, Opposer respectfully requests that the Board deny Applicant's Motion for an Extension of Time in which to file its Request for Reconsideration from the Board's well-reasoned and final decision in this case

Respectfully submitted,

BROOKS KUSHMAN P.C.



By: _____

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Dated: May 26, 2009

CERTIFICATE OF SERVICE

I certify that I served:

**OPPOSER'S RESPONSE TO
APPLICANT'S MOTION FOR AN EXTENSION OF TIME
IN WHICH TO FILE A REQUEST FOR RECONSIDERATION**

on May 26, 2009 by:

- delivering
- mailing (via First-Class mail)

a copy to:

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Applicant



HOPE V. SHOVEIN