

ESTTA Tracking number: **ESTTA265456**

Filing date: **02/09/2009**

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

Proceeding	91181621
Party	Defendant Les Pierres Stonedged Inc.
Correspondence Address	James R. Menker Holley & Menker, P.A. P.O. Box 331937 Atlantic Beach, FL 32202 UNITED STATES jmenker@holleymenker.com, lgreer@holleymenker.com, eastdocket@holleymenker.com
Submission	Opposition/Response to Motion
Filer's Name	James Menker
Filer's e-mail	eastdocket@holleymenker.com
Signature	/jmenker/
Date	02/09/2009
Attachments	2-9-2009 Opposition to Opposer's Motion to Reopen 91181621 - STONEDGE.pdf ( 10 pages )(1106984 bytes ) 2-9-2009 Les Pierres Opposition to Opposer's Motion to Reopen - Exhibits A to G.pdf ( 32 pages )(2539862 bytes ) 2-9-2009 Les Pierres Opposition to Opposer's Motion to Reopen - Exhibits H to N.pdf ( 28 pages )(2407551 bytes ) 2-9-2009 Les Pierres Opposition to Opposer's Motion to Reopen - Exhibits O to R.pdf ( 35 pages )(2407851 bytes ) 2-9-2009 Les Pierres Opposition to Opposer's Motion to Reopen - Exhibits S to U.pdf ( 18 pages )(768265 bytes )

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

StonCor Group, Inc.,	)	
	)	
Opposer,	)	
	)	Opposition No. 91181621
v.	)	
	)	Ser. No. 76650832
Les Pierres Stonedge Inc.,	)	
	)	
Applicant.	)	

**APPLICANT’S OPPOSITION TO OPPOSER’S MOTION TO REOPEN**

Applicant, Les Pierres Stonedge Inc. (“Applicant”), hereby opposes Opposer StonCor’s Motion to Reopen its testimony period for the above-captioned opposition.

In its Motion to Reopen, Opposer StonCor admits that its testimony period closed on January 6, 2009 and that no testimony was taken. Opposer StonCor argues that its failure to take testimony and introduce evidence during its testimony period was the result of “excusable neglect”. Specifically, Opposer StonCor argues that the illness of its lead attorney constitutes excusable neglect. Applicant avers that Opposer Stoncor’s failure to take testimony or offer any evidence was not the result of excusable neglect.

In determining “excusable neglect”, the Board applies the factors set forth in *Pioneer Investment Services Co. v. Brunswick Assoc. Ltd.*, 507 U.S. 380 (1983). In doing so, the Board “has found that the third *Pioneer* factor—the reason for the delay and whether it was within the

movant's control—to be of paramount importance.” *FirstHealth of the Carolina Inc. v. CareFirst of Maryland Inc.*, 81 USPQ2d 1919, 1921 (Fed. Cir. 2007) (citing *Old Nut Brewing, Co. v. Hudson Valley Brewing Co.*, 65 USPQ2d 1701 (TTAB 2002)).

In this case, Opposer StonCor's failure to take testimony depositions or offer evidence into the record was wholly within its control. Opposer StonCor's lead counsel, Mr. Charles Quinn, and his staff<sup>1</sup> were fully aware of the opening and closing of Opposer StonCor's testimony period. The undersigned reminded Mr. Quinn and his staff of the upcoming dates for Opposer's testimony period in an email dated November 18, 2008. A true and correct copy of a November 18, 2008 email from James Menker to Charles Quinn is attached hereto as Exhibit A. This email was in response to Mr. Quinn's earlier email dated November 18, 2008 in which Mr. Quinn requested Applicant's consent to reopen the discovery period because:

The simple fact on our end is that I simply have not been able to pay the attention to this case that it deserves.

I have been forced to be out of the office for a good bit of time and while I have been in the office, I have been consumed with several contested proceedings which, together with my regular docket of prosecution items for my patent and trademark clients, have just left me no time at all to deal with this situation.

A true and correct copy of a November 18, 2008 from Charles Quinn to James Menker is attached hereto as Exhibit B.

Mr. Quinn asserts that he “missed nearly three weeks of work” between December 10, 2008 and January 6, 2009 and that he would have missed more days had his office been open on

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<sup>1</sup> Mr. Quinn has copied his two assistants, Beth Palmerchuck and Deanna M. McGregor, on all emails he has sent to Applicant's counsel relating to this opposition.

four of the business days in this four week period. Quinn Dec. at ¶ 3. Mr. Quinn further alleges that he “slept nearly all of the time” during this four week period. *Id.* However, a review of the US PTO’s records indicates that Mr. Quinn was actively working on a wide variety of trademark matters, including matters for Opposer, during this period.

1. On December 10, 2008, Mr. Quinn signed and filed a stipulated extension of trial periods in connection with Opposition No. 91182745 filed by Opposer StonCor on February 20, 2008. As the basis for the request to extend his client’s (StonCor’s) testimony period which was then scheduled to close on February 2, 2009, Mr. Quinn asserted that the “Parties are unable to complete discovery/testimony during assigned period”. A true and correct copy of the December 10, 2008 stipulated extension is attached hereto as Exhibit C.

2. On December 17, 2008, Mr. Quinn signed and filed (on the 6 month deadline) a request for an extension of time to file an Allegation of Use in connection with pending application Ser. No. 78586858. A true and correct copy of the December 17, 2008 extension request filed in connection with application Ser. No. 78586858 is attached hereto as Exhibit D.

3. Also on December 17, 2008, Mr. Quinn participated in a telephone conference with opposing counsel in order to discuss an extension of the trial dates in Opposition No. 91182060. A true and correct copy of the December 17, 2008 stipulated extension filed in Opposition No. 91182060 is attached hereto as Exhibit E.

4. On December 22, 2008, Mr. Quinn signed and filed a new trademark application Ser. No. 77637817. A true and correct copy of the December 22, 2008 trademark application 77637817 is attached hereto as Exhibit F.

5. Also on December 22, 2008, Mr. Quinn signed and filed a new trademark application Ser. No. 77637892. A true and correct copy of the December 22, 2008 trademark application Ser. No. 77637892 filed in Opposition No. 91182060 is attached hereto as Exhibit G.

6. On December 23, 2008, Mr. Quinn signed and filed a request for an extension of time to oppose application Ser. No. 77533541. A true and correct copy of the December 23, 2008 extension request filed in connection with application Ser. No. 77533541 is attached hereto as Exhibit H.

7. On December 24, 2008, Mr. Quinn signed and filed (on the day before the 6 month deadline) a request for an extension of time to file an Allegation of Use in connection with pending application Ser. No. 78588180. A true and correct copy of the December 24, 2008 extension request filed in connection with application Ser. No. 78588180 is attached hereto as Exhibit I.

8. Also on December 24, 2008, Mr. Quinn signed and filed (on the 6 month deadline) a request for an extension of time to file an Allegation of Use in connection with pending application Ser. No. 78946000. A true and correct copy of the December 24, 2008 extension request filed in connection with application Ser. No. 78946000 is

attached hereto as Exhibit J.

9. On December 29, 2008, Mr. Quinn signed and filed a new trademark application Ser. No. 77640470. A true and correct copy of the December 29, 2008 trademark application 77640470 is attached hereto as Exhibit K.

10. Also on December 29, 2008, Mr. Quinn signed and filed a new trademark application Ser. No. 77640457. A true and correct copy of the December 29, 2008 trademark application 77640457 is attached hereto as Exhibit L.

11. Also on December 29, 2009, Mr. Quinn signed and filed a request for an extension of time to oppose application Ser. No. 77164223. A true and correct copy of the December 29, 2008 extension request filed in connection with application Ser. No. 77164223 is attached hereto as Exhibit M.

12. Also on December 29, 2009, Mr. Quinn signed and filed, on behalf of Opposer StonCor, a request for an extension of time to oppose application Ser. No. 77531420. A true and correct copy of the December 29, 2008 extension request filed in connection with application Ser. No. 77531420 is attached hereto as Exhibit N.

13. Also on December 29, 2009, Mr. Quinn signed and filed, on behalf of Opposer StonCor, an Amendment to Allege Use in connection with application Ser. No. 78935733. A true and correct copy of the December 29, 2008 Amendment to Allege Use filed in connection with application Ser. No. 78935733 is attached hereto as Exhibit O.

14. On December 31, 2008, Mr. Quinn signed and filed, on behalf of Opposer

StonCor, a request for an extension of time to oppose application Ser. No. 77542410. A true and correct copy of the December 31, 2008 extension request filed in connection with application Ser. No. 77542410 is attached hereto as Exhibit P.

15. On January 7, 2009 (the day after Opposer StonCor's testimony period closed in the instant opposition and a day after the deadline for doing so), Mr. Quinn signed and filed a 17 page Reply Brief in connection with Opposition No. 91177161 filed by Opposer StonCor on May 3, 2007. A true and correct copy of the January 7, 2009 Reply Brief filed in connection with Opposition No. 91177161 is attached hereto as Exhibit Q. The day after it filed its Reply Brief, Mr. Quinn filed a stipulation for an extension of time claiming that he had tried to file the Reply Brief on January 6, 2009 but was unable to do so because of an alleged problem with the Board's ESTTA filing system. A true and correct copy of the January 7, 2009 stipulated extension filed in connection with Opposition No. 91177161 is attached hereto as Exhibit R.

In his declaration accompanying Opposer StonCor's Motion to Reopen, Mr. Quinn asserts that he was unable to brief another attorney on the instant case and have him or her take the testimony deposition. Applicant avers that Opposer StonCor has failed to establish that other authorized attorneys were not able to assume responsibility over its opposition.

First, Mr. Quinn works at a law firm with over 400 attorneys and according to the firm's website 42 of those attorneys specialize in intellectual property law. True and correct copies of print-outs of web pages from the website of the law firm of Fox Rothschild LLP are attached

hereto as Exhibit S. Moreover, 15 of the intellectual property attorney's at Mr. Quinn's firm work in his office in Philadelphia, Pennsylvania. *See* Exhibit S. Mr. Quinn admits that he was able to speak to other attorneys in his office over the phone and presumably had no trouble sending emails to them. *See* Quinn Dec. at ¶5. Moreover, some of these attorneys are and have been assisting Mr. Quinn in oppositions filed by Opposer Stoncor. In Opposition No. 91177161, the Reply Brief filed on January 7, 2009 included Mr. Edward Brant, identified on the firm's website as an intellectual property attorney in the Philadelphia office of Mr. Quinn's firm, in the signature block. *Compare* Exhibits Q and S. Applicant notes that the marks asserted by Opposer in Opposition 91177161 are the same as those in the instant proceeding. On December 19, 2008, Opposer StonCor filed a request for an extension of time to file the Reply Brief in Opposition No. 91177161. A true and correct copy of the December 19, 2008 extension request filed in connection with Opposition No. 91177161 is attached hereto as Exhibit T. The extension request was signed by two intellectual property attorneys in Mr. Quinn's office Mr. Gary A. Hecht and Mr. Brant. *Compare* Exhibits T and S. In the declaration<sup>2</sup> of Ms. Deena M. McGregor accompanying the December 19, 2008 extension request filed in connection with Opposition No. 91177161, Ms. McGregor asserts that Mr. Quinn had "coordinated with the staff of Fox

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<sup>2</sup> Ms. McGregor's declaration filed in connection with Opposition No. 91177161 contains several inconsistencies with Mr. Quinn's declaration filed in the instant case. For instance, Ms. McGregor states that Mr. Quinn "was absent from work starting on December 3" and "had the flu beginning on December 3, 2008" (McGregor Dec. at ¶¶ 2 and 4) while Mr. Quinn states he "was taken ill on Tuesday 9 December 2008" (Quinn Dec. at ¶ 2). Ms. McGregor also states that Mr. Quinn worked "half day[s] on December 8, and on December 9, 10 and 11" (McGregor Dec. at ¶ 3) while Mr. Quinn implies that he missed work entirely from "Wednesday 10 December until after the testimony period for Opposer StonCor closed, on 6 January 2009" (Quinn Dec. at ¶ 3).

Rothschild LLP to work on the reply brief the end of the week of December 8, 2008, and during the week of December 15, 2008". See McGregor Dec. at ¶ 6. On December 5, 2008, another intellectual property attorney with Mr. Quinn's firm, Tristram R. Fall, III, signed and filed a Motion to Dismiss Opposition No. 91168700 (filed by Opposer StonCor on January 11, 2006) on behalf of Opposer StonCor. A true and correct copy of the December 5, 2008 motion filed in connection with Opposition No. 91168700 is attached hereto as Exhibit U. Compare Exhibits U and S.

Clearly, other attorneys with Mr. Quinn's firm that are familiar with Opposer StonCor and its oppositions could have assisted Mr. Quinn with the testimony deposition and introduction of evidence if he was in fact partially incapacitated by an illness. Thus, there is no real explanation as to why other attorneys at Mr. Quinn's firm could have assumed responsibility for the instant opposition. At most, Mr. Quinn's alleged inability to have people in his office points to a minor inconvenience rather than an explanation why it was not possible to bring another one of the attorneys that has represented Opposer StonCor in other oppositions into this case. See *HKG Indus., Inc. v. Perma-Pipe, Inc.*, 49 USPQ2d 1156 (TTAB 1998) (finding a failure to explain why other authorized individuals could not have assumed responsibility after counsel's death weighed against finding excusable neglect); see also *FirstHealth of the Carolina, supra* at 1922 (finding a failure to explain why other authorized individuals could not have assumed responsibility while the lead attorney dealt with family matters weighed against finding excusable neglect).

It would appear the reason Opposer StonCor took no testimony nor offered any evidence in this opposition was not because of any alleged illness of Mr. Quinn but instead as Mr. Quinn had previously explained—he has “not been able to pay the attention to this case that it deserves”.

In sum, Opposer StonCor has failed to show excusable neglect that would warrant the reopening of its testimony period. Therefore, Applicant requests that Opposer StonCor’s Motion to Reopen be denied and that its own January 23, 2009 Motion to Dismiss for failure to prosecute be granted.

Respectfully submitted,

LES PIERRES STONEDGE INC.

Date: February 9, 2009

By:

  
\_\_\_\_\_  
James R. Menker

Applicant’s Attorneys  
Holley & Menker, PA  
PO Box 331937  
Atlantic Beach, Florida 32202  
T: 904-247-2620  
E-Mail: eastdocket@holleymenker.com

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing “APPLICANT’S OPPOSITION TO OPPOSER’S MOTION TO REOPEN” was served on Opposer’s attorney, Charles N Quinn of Fox Rothschild LLP with an address at 2000 Market Street, 10<sup>th</sup> Floor, Philadelphia, PA 19103-3291, via first class mail, postage prepaid, today February 9, 2009.

By:

  
\_\_\_\_\_  
Laura K. Greer

# **EXHIBIT A**

## James Menker

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**From:** Holley & Menker, P.A. [eastdocket@holleymenker.com]  
**Sent:** Tuesday, November 18, 2008 6:09 PM  
**To:** 'Quinn, Charles N.'  
**Cc:** 'Palmerchuck, Beth'; 'McGregor, Deanna M.'  
**Subject:** RE: StonCor Group, Inc. v. Les Pierres Stonedge, Inc.; Our Reference: 76110.42101

Dear Mr. Quinn,

According to the TTAB's May 19, 2009 Order and Motion for Suspension, your testimony period does not open until December 7, 2008. This opposition was filed almost a year ago, and you still have more than seven weeks to prepare for and present your client's case. Moreover, our client is anxious to have its mark registered. A suspension would only further delay the registration of our client's mark and add to its expenses. Therefore, our client is unwilling to delay the opposition, and we will not stipulate to a suspension of the opposition. At most, we would consider stipulating to a motion to extend your client's testimony period if, and only if, your witness is unavailable for a deposition due to the year-end holidays. However, we will not even entertain stipulating to such a motion until late-December, and we expect that your witness will make a good faith effort to be available during the currently scheduled testimony period.

While you have mentioned the possibility of a settlement on several occasions and still indicate that you consider a settlement as a "viable possibility", you have never actually offered any concrete proposals for such a settlement. If your client wishes to make a settlement offer, please email us a proposal, and we will promptly consider it and decide if it warrants a brief pause in the opposition schedule.

Furthermore, we see absolutely no reason to reopen discovery. The six month discovery period was more than sufficient for the narrow issues of this opposition, and the parties did in fact exchange discovery. Therefore, we will not stipulate to a motion to reopen discovery.

We note that your client's responses to our client's outstanding discovery requests are overdue. We look forward to receiving those responses as soon as possible.

Regards,

James R. Menker

Holley & Menker, P.A.  
PO Box 331937 (Mail)  
60 Ocean Boulevard, Suite 3 (Courier Only)  
Atlantic Beach, Florida 32233

T: 571-278-3366  
T: 904-247-2620  
F: 202-280-1177

[www.holleymenker.com](http://www.holleymenker.com)

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**From:** Palmerchuck, Beth [mailto:BPalmerchuck@foxrothschild.com] **On Behalf Of** Quinn, Charles N.  
**Sent:** Tuesday, November 18, 2008 4:17 PM  
**To:** eastdocket@holleymenker.com  
**Cc:** Quinn, Charles N.; McGregor, Deanna M.; Palmerchuck, Beth  
**Subject:** StonCor Group, Inc. v. Les Pierres Stonedged, Inc.; Our Reference: 76110.42101

November 18, 2008

**Via Email to: eastdocket@holleymenker.com**

**And regular mail**

James R. Menker, Esquire  
Holley & Menker, P.A.  
P.O. Box 331937  
Atlantic Beach, FL 32202

**Re: StonCor Group, Inc. v. Les Pierres Stonedged, Inc.**  
**Opposition Number: 91181621**  
**Our File: 76110.42101**

Dear Mr. Menker:

Concerning this trademark opposition proceeding, in reviewing the file I see that we are a couple of days overdue with respect to responding to a set of interrogatories and a set of requests for production of documents you served on us in the middle of October.

I also see that you have responded to the discovery materials we served on you on behalf of our client but that the responses are somewhat evasive, contain many objections, and are generally the type of responses that we have all seen in trademark opposition proceedings and in litigation, as the initial reply to the opposing party's discovery requests.

I also recall that we had had some discussions regarding possible settlement of this proceeding. From our perspective we still view that as a viable possibility.

We need some additional time both to respond to the discovery requests that you have served on us and to analyze the various objections and answers that you have provided to the discovery requests we served on you.

Obviously we need to do that before we take the testimony of our client and our testimony period has already opened.

The simple fact on our end is that I simply have not been able to pay the attention to this case that it deserves.

I have been forced to be out of the office for a good bit of time and while I have been in the office, I have been consumed with several contested proceedings which, together with my regular docket of prosecution items for my patent and trademark clients, have just left me no time at all to deal with this situation.

Furthermore, on the assumption that you will want to cross-examine our witness when we take our witnesses testimony in support of our case-in-chief, you will need some time to digest the materials that we will furnish to you in response to your discovery requests and I assume you will need some time to react to whatever we do regarding the responses we have received from you to our discovery.

With all of this as background, my proposal is that we file a consented or joint motion to reset the dates in this proceeding so that we both have enough time to deal with the discovery issues, and to explore settlement before any testimony needs to be taken. My proposal is that we extend discovery through the end of the calendar year and then have a 30 day or so cooling off period before the first testimony period to be taken.

Please let me know of your reaction to these proposals by e-mail or by phone. Phone might be the more appropriate if you would like to discuss settlement.

In any event, I look forward to hearing from you at your earliest convenience regarding this matter.

Regards,

Very truly yours,

Charles N. Quinn

CNQ:bap  
ATTENTION:

IRS CIRCULAR 230 DISCLOSURE:

Pursuant to Treasury Regulations, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used or relied upon by you or any other person, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any tax advice addressed herein.

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Thank you.

# **EXHIBIT B**

## James Menker

---

**From:** Palmerchuck, Beth [BPalmerchuck@foxrothschild.com] on behalf of Quinn, Charles N. [CQuinn@foxrothschild.com]  
**Sent:** Tuesday, November 18, 2008 4:17 PM  
**To:** eastdocket@holleymenker.com  
**Cc:** Quinn, Charles N.; McGregor, Deanna M.; Palmerchuck, Beth  
**Subject:** StonCor Group, Inc. v. Les Pierres Stonedge, Inc.; Our Reference: 76110.42101

November 18, 2008

Via Email to: eastdocket@holleymenker.com

And regular mail

James R. Menker, Esquire  
Holley & Menker, P.A.  
P.O. Box 331937  
Atlantic Beach, FL 32202

**Re: StonCor Group, Inc. v. Les Pierres Stonedge, Inc.**  
**Opposition Number: 91181621**  
**Our File: 76110.42101**

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Dear Mr. Menker:

Concerning this trademark opposition proceeding, in reviewing the file I see that we are a couple of days overdue with respect to responding to a set of interrogatories and a set of requests for production of documents you served on us in the middle of October.

I also see that you have responded to the discovery materials we served on you on behalf of our client but that the responses are somewhat evasive, contain many objections, and are generally the type of responses that we have all seen in trademark opposition proceedings and in litigation, as the initial reply to the opposing party's discovery requests.

I also recall that we had had some discussions regarding possible settlement of this proceeding. From our perspective we still view that as a viable possibility.

We need some additional time both to respond to the discovery requests that you have served on us and to analyze the various objections and answers that you have provided to the discovery requests we served on you.

Obviously we need to do that before we take the testimony of our client and our testimony period has already opened.

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I have been forced to be out of the office for a good bit of time and while I have been in the office, I have been consumed with several contested proceedings which, together with my regular docket of prosecution items for my patent and trademark clients, have just left me no time at all to deal with this situation.

Furthermore, on the assumption that you will want to cross-examine our witness when we take our witnesses testimony in support of our case-in-chief, you will need some time to digest the materials that we will furnish to you in response to your discovery requests and I assume you will need some time to react to whatever we do regarding the responses we have received from you to our discovery.

With all of this as background, my proposal is that we file a consented or joint motion to reset the dates in this proceeding so that we both have enough time to deal with the discovery issues, and to explore settlement before any testimony needs to be taken. My proposal is that we extend discovery through the end of the calendar year and then have a 30 day or so cooling off period before the first testimony period to be taken.

Please let me know of your reaction to these proposals by e-mail or by phone. Phone might be the more appropriate if you would like to discuss settlement.

In any event, I look forward to hearing from you at your earliest convenience regarding this matter.

Regards,

Very truly yours,

Charles N. Quinn

CNQ:bap  
ATTENTION:

IRS CIRCULAR 230 DISCLOSURE:

Pursuant to Treasury Regulations, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used or relied upon by you or any other person, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any tax advice addressed herein.

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Thank you.

# **EXHIBIT C**

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

Proceeding.	91182745
Applicant	Plaintiff StonCor Group, Inc.
Other Party	Defendant Delaware Quarries, Inc.

## Motion for an Extension of Answer or Discovery or Trial Periods With Consent

The Close of Plaintiff's Trial Period is currently set to close on 02/06/2009. StonCor Group, Inc. requests that such date be extended for 60 days, or until 04/07/2009, and that all subsequent dates be reset accordingly.

Time to Answer :	CLOSED
Deadline for Discovery Conference :	CLOSED
Discovery Opens :	CLOSED
Initial Disclosures Due :	CLOSED
Expert Disclosure Due :	CLOSED
Discovery Closes :	CLOSED
Plaintiff's Pretrial Disclosures :	02/21/2009
Plaintiff's 30-day Trial Period Ends :	04/07/2009
Defendant's Pretrial Disclosures :	04/22/2009
Defendant's 30-day Trial Period Ends :	06/06/2009
Plaintiff's Rebuttal Disclosures :	06/21/2009
Plaintiff's 15-day Rebuttal Period Ends :	07/21/2009

The grounds for this request are as follows:

- *Parties are unable to complete discovery/testimony during assigned period*

StonCor Group, Inc. has secured the express consent of all other parties to this proceeding for the extension and resetting of dates requested herein.

StonCor Group, Inc. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,  
/CHARLES N. QUINN/  
CHARLES N. QUINN  
cquinn@frof.com, dmcgregor@frof.com, ipdocket@frof.com  
evonvorys@srgpe.com  
12/10/2008

# **EXHIBIT D**

## SOU Extension Request (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78586858
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 108
<b>MARK SECTION</b>	
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	THINK BIG
<b>OWNER SECTION (no change)</b>	
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	036
<b>CURRENT IDENTIFICATION</b>	Providing housing agency services for students
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
<b>EXTENSION NUMBER</b>	1
<b>ALLOWANCE MAIL DATE</b>	06/17/2008
<b>STATEMENT OF USE</b>	NO
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>SUBTOTAL AMOUNT</b>	150
<b>TOTAL AMOUNT</b>	150
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/CHARLES N. QUINN/
<b>SIGNATORY'S NAME</b>	Charles N. Quinn

<b>SIGNATORY'S POSITION</b>	Attorney for Applicant
<b>DATE SIGNED</b>	12/17/2008
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Wed Dec 17 14:15:00 EST 2008
<b>TEAS STAMP</b>	USPTO/ESU-38.115.17.66-20 081217141500188359-785868 58-400e28999578f7ea985793 309644210-DA-8818-2008121 7141133889225

PTO Form 1581 (Rev 9/2005)  
OMB No. 0651-0054 (Exp. 09/30/2011)

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK:** THINK BIG  
**SERIAL NUMBER:** 78586858

The applicant, MONTGOMERY COUNTY COMMUNITY COLLEGE, having an address of 340 DeKalb Pike, Blue Bell, Pennsylvania United States 19422, requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 06/17/2008.

For International Class 036:  
Current identification: Providing housing agency services for students

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

This is the first extension request.

A fee payment in the amount of \$150 will be submitted with the form, representing payment for 1 class.

**Declaration**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /CHARLES N. QUINN/    Date Signed: 12/17/2008  
Signatory's Name: Charles N. Quinn  
Signatory's Position: Attorney for Applicant

RAM Sale Number: 8818  
RAM Accounting Date: 12/17/2008

Serial Number: 78586858  
Internet Transmission Date: Wed Dec 17 14:15:00 EST 2008  
TEAS Stamp: USPTO/ESU-38.115.17.66-20081217141500188  
359-78586858-400e28999578f7ea98579330964  
4210-DA-8818-20081217141133889225

# **EXHIBIT E**

ESTTA Tracking number: **ESTTA255744**

Filing date: **12/17/2008**

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

Proceeding	91182060
Party	Plaintiff Cytosport, Inc.
Correspondence Address	Peter M. de Jonge Thorpe North and Western, LLP P.O. Box 1219 Sandy, UT 84091-1219 UNITED STATES DeJonge@tnw.com, hill@tnw.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Gordon K. Hill
Filer's e-mail	sisneros@tnw.com, hill@tnw.com, docket@tnw.com
Signature	/Gordon K. Hill/
Date	12/17/2008
Attachments	Ext of Time.PDF ( 3 pages )(46150 bytes )

Peter M. de Jonge  
Gordon K. Hill  
THORPE NORTH & WESTERN, L.L.P.  
8180 South 700 East, Suite 350  
Sandy, Utah 84070  
Telephone: (801) 566-6633  
Facsimile: (801) 566-0750

Attorneys for CytoSport, Inc.  
Opposed Mark: NATREL FINE FILTERED MILK  
U.S. Trademark Application Serial Number 76/549,070

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

<p>CYTOSPORT, INC.</p> <p>Opposer,</p> <p>v.</p> <p>AGROPUR COOPERATIVE,</p> <p>Applicant.</p>	<p>Opposition No. 91182060</p>
--	--------------------------------

**OPPOSER'S MOTION FOR EXTENSION OF TIME**

Pursuant to TBMP §509.01, Opposer, CytoSport, Inc. (hereinafter "CytoSport") hereby moves for an additional extension of time to respond to Applicant's Motion for Summary Judgment. CytoSport requests an additional thirty (30) days to respond to Applicant's Motion for Summary Judgment. Thus, the deadline for CytoSport to respond to Applicant's Motion for Summary Judgment would become on or before January 19, 2008.

Applicant, Agropur Cooperative (hereinafter "Agropur") and CytoSport have been regularly discussing settlement options. The requested extension of time would allow CytoSport and Agropur to continue those settlement negotiations. Counsel for CytoSport and counsel for

Agropur have been in regular correspondence discussing settlement terms and options. The parties are negotiating a settlement that will be defined along the lines of the goods associated with the mark in dispute. However, certain terms and definitions remain to be negotiated. These opposition proceedings are currently suspended pending a decision on Applicant's Motion for Summary Judgment. Counsel for CytoSport and counsel for Agropur had a telephone conversation on December 17, 2008, wherein counsel for Agropur consented to this requested extension in furtherance of settlement negotiations. Therefore, CytoSport respectfully requests that the Board grant this motion.

DATED: December 17, 2008.

Respectfully Submitted,

  
Peter M. de Jonge  
Gordon K. Hill

Attorneys for Opposer, CytoSport, Inc.

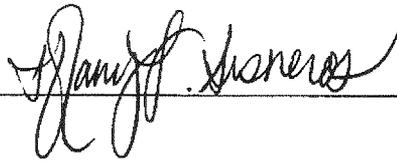
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing  
OPPOSER'S MOTION FOR EXTENSION OF TIME was served upon Applicant by the  
method(s) indicated below:

Charles N. Quinn  
FOX ROTHSCHILD, LLP  
2000 Market Street, 10th Floor  
Philadelphia, Pennsylvania 19103-3291

Hand Delivery  
 United States Mail  
First Class, Postage Pre-Paid  
 Overnight Delivery  
 Fax Transmission  
(215) 299-2150  
 Electronic Mail  
cquinn@foxrothschild.com

on this 17th day of December, 2008.

  
\_\_\_\_\_

# **EXHIBIT F**

# Trademark/Service Mark Application, Principal Register

Serial Number: 77637817

Filing Date: 12/22/2008

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77637817
<b>MARK INFORMATION</b>	
*MARK	<u>FIRST CORNERSTONE BANK</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	FIRST CORNERSTONE BANK
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	C.N.B. INVESTMENTS, INC.
*STREET	215 MATHEWS AVENUE
*CITY	NEW BRITAIN
*STATE (Required for U.S. applicants)	Pennsylvania
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	18901
PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	cquinn@frof.com
<b>LEGAL ENTITY INFORMATION</b>	

TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Pennsylvania
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
*INTERNATIONAL CLASS	
*IDENTIFICATION	BANKING SERVICES
FILING BASIS	SECTION 1(b)
<b>ATTORNEY INFORMATION</b>	
NAME	CHARLES N. QUINN
ATTORNEY DOCKET NUMBER	23372.50001
FIRM NAME	FOX ROTHSCHILD LLP
STREET	2000 MARKET STREET
INTERNAL ADDRESS	10TH FLOOR
CITY	PHILADELPHIA
STATE	Pennsylvania
COUNTRY	United States
ZIP/POSTAL CODE	19103
PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	cquinn@frof.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>DOMESTIC REPRESENTATIVE INFORMATION</b>	
NAME	CHARLES N. QUINN
FIRM NAME	FOX ROTHSCHILD LLP
STREET	2000 MARKET STREET
INTERNAL ADDRESS	10TH FLOOR
CITY	PHILADELPHIA
STATE	Pennsylvania
COUNTRY	United States
ZIP CODE	19103

PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	cquinn@frof.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>CORRESPONDENCE INFORMATION</b>	
NAME	CHARLES N. QUINN
FIRM NAME	FOX ROTHSCHILD LLP
STREET	2000 MARKET STREET
INTERNAL ADDRESS	10TH FLOOR
CITY	PHILADELPHIA
STATE	Pennsylvania
COUNTRY	United States
ZIP/POSTAL CODE	19103
PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	cquinn@frof.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
<b>SIGNATURE INFORMATION</b>	
SIGNATURE	/CHARLES N. QUINN/
SIGNATORY'S NAME	CHARLES N. QUINN/
SIGNATORY'S POSITION	ATTORNEY FOR APPLICANT
DATE SIGNED	12/22/2008

## Trademark/Service Mark Application, Principal Register

**Serial Number: 77637817**

**Filing Date: 12/22/2008**

### To the Commissioner for Trademarks:

**MARK:** FIRST CORNERSTONE BANK (Standard Characters, see mark)

The literal element of the mark consists of FIRST CORNERSTONE BANK.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, C.N.B. INVESTMENTS, INC., a corporation of Pennsylvania, having an address of  
215 MATHEWS AVENUE  
NEW BRITAIN, Pennsylvania 18901  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class \_\_\_\_\_: BANKING SERVICES

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints CHARLES N. QUINN of FOX ROTHSCHILD LLP  
10TH FLOOR  
2000 MARKET STREET  
PHILADELPHIA, Pennsylvania 19103  
United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 23372.50001.

The applicant hereby appoints CHARLES N. QUINN of FOX ROTHSCHILD LLP  
10TH FLOOR  
2000 MARKET STREET  
PHILADELPHIA Pennsylvania 19103  
United States

as applicant's representative upon whom notice or process in the proceedings affecting the mark may be served.

Correspondence Information: CHARLES N. QUINN  
10TH FLOOR

2000 MARKET STREET  
PHILADELPHIA, Pennsylvania 19103  
215-299-2135(phone)  
215-299-2150(fax)  
cquinn@frof.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /CHARLES N. QUINN/ Date Signed: 12/22/2008  
Signatory's Name: CHARLES N. QUINN/  
Signatory's Position: ATTORNEY FOR APPLICANT

RAM Sale Number: 10687  
RAM Accounting Date: 12/22/2008

Serial Number: 77637817  
Internet Transmission Date: Mon Dec 22 12:53:03 EST 2008  
TEAS Stamp: USPTO/BAS-38.115.17.66-20081222125303742  
206-77637817-40072b0d4d95f5dc61abd196575  
3264-DA-10687-20081222123735072914

FIRST CORNERSTONE BANK

# **EXHIBIT G**

# Trademark/Service Mark Application, Principal Register

Serial Number: 77637892

Filing Date: 12/22/2008

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77637892
<b>MARK INFORMATION</b>	
*MARK	<u>YOUR BANK OF CHOICE</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	YOUR BANK OF CHOICE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	C.N.B. Investments, Inc.
*STREET	215 MATHEWS AVENUE
*CITY	NEW BRITAIN
*STATE (Required for U.S. applicants)	Pennsylvania
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	18901
PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	cquinn@frof.com
<b>LEGAL ENTITY INFORMATION</b>	

TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Pennsylvania
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
*INTERNATIONAL CLASS	
*IDENTIFICATION	BANKING SERVICES
FILING BASIS	SECTION 1(b)
<b>ATTORNEY INFORMATION</b>	
NAME	CHARLES N. QUINN
ATTORNEY DOCKET NUMBER	23372.50501
FIRM NAME	FOX ROTHSCHILD LLP
STREET	2000 MARKET STREET
CITY	PHILADELPHIA
STATE	Pennsylvania
COUNTRY	United States
ZIP/POSTAL CODE	19103
PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	cquinn@frof.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>DOMESTIC REPRESENTATIVE INFORMATION</b>	
NAME	CHARLES N. QUINN
FIRM NAME	FOX ROTHSCHILD LLP
STREET	2000 MARKET STREET
CITY	PHILADELPHIA
STATE	Pennsylvania
COUNTRY	United States
ZIP CODE	19103
PHONE	215-299-2135
FAX	215-299-2150

EMAIL ADDRESS	cquinn@frof.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>CORRESPONDENCE INFORMATION</b>	
NAME	CHARLES N. QUINN
FIRM NAME	FOX ROTHSCHILD LLP
STREET	2000 MARKET STREET
CITY	PHILADELPHIA
STATE	Pennsylvania
COUNTRY	United States
ZIP/POSTAL CODE	19103
PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	cquinn@frof.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
<b>SIGNATURE INFORMATION</b>	
SIGNATURE	/CHARLES N. QUINN/
SIGNATORY'S NAME	CHARLES N. QUINN
SIGNATORY'S POSITION	ATTORNEY FOR APPLICANT
DATE SIGNED	12/22/2008

## Trademark/Service Mark Application, Principal Register

Serial Number: 77637892

Filing Date: 12/22/2008

### To the Commissioner for Trademarks:

**MARK:** YOUR BANK OF CHOICE (Standard Characters, see mark)

The literal element of the mark consists of YOUR BANK OF CHOICE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, C.N.B. Investments, Inc., a corporation of Pennsylvania, having an address of  
215 MATHEWS AVENUE  
NEW BRITAIN, Pennsylvania 18901  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class \_\_\_\_\_: BANKING SERVICES

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints CHARLES N. QUINN of FOX ROTHSCHILD LLP  
2000 MARKET STREET  
PHILADELPHIA, Pennsylvania 19103  
United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 23372.50501.

The applicant hereby appoints CHARLES N. QUINN of FOX ROTHSCHILD LLP

2000 MARKET STREET  
PHILADELPHIA Pennsylvania 19103  
United States

as applicant's representative upon whom notice or process in the proceedings affecting the mark may be served.

Correspondence Information: CHARLES N. QUINN

2000 MARKET STREET  
PHILADELPHIA, Pennsylvania 19103  
215-299-2135(phone)  
215-299-2150(fax)  
cquinn@frof.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /CHARLES N. QUINN/ Date Signed: 12/22/2008  
Signatory's Name: CHARLES N. QUINN  
Signatory's Position: ATTORNEY FOR APPLICANT

RAM Sale Number: 11440  
RAM Accounting Date: 12/22/2008

Serial Number: 77637892  
Internet Transmission Date: Mon Dec 22 13:54:38 EST 2008  
TEAS Stamp: USPTO/BAS-38.115.17.66-20081222135438973  
595-77637892-400576f734bf895677b5af8dc2c  
17e56c5-DA-11440-20081222132714201232

**YOUR BANK OF CHOICE**

# **EXHIBIT H**

ESTTA Tracking number: **ESTTA256933**

Filing date: **12/23/2008**

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

Applicant: **Strokin, LLC**  
Application Serial Number: **77533541**  
Application Filing Date: **07/29/2008**  
Mark: **IRIDE**  
Date of Publication **12/09/2008**

## **First 90 Day Request for Extension of Time to Oppose for Good Cause**

Pursuant to 37 C.F.R. Section 2.102, PRIDE MOBILITY PRODUCTS CORPORATION, 182 SUSQUEHANNA AVENUE, EXETER, PA 18643, UNITED STATES, a corporation organized under the laws of PENNSYLVANIA, respectfully requests that it be granted a 90-day extension of time to file a notice of opposition against the above-identified mark for cause shown.

Potential opposer believes that good causes are established for this request by:

- The potential opposer needs additional time to investigate the claim
- The potential opposer needs additional time to confer with counsel

The time within which to file a notice of opposition is set to expire on 01/08/2009. PRIDE MOBILITY PRODUCTS CORPORATION respectfully requests that the time period within which to file an opposition be extended until 04/08/2009.

Respectfully submitted,  
/CHARLES N. QUINN/  
12/23/2008

**CHARLES N. QUINN**  
**FOX ROTHSCHILD LLP**  
**2000 MARKET STREET**  
**PHILADELPHIA, PA 19103**  
**UNITED STATES**  
**cquinn@frof.com**  
**215-299-2135**

# **EXHIBIT I**

## SOU Extension Request (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78588180
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 111
<b>MARK SECTION</b>	
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	TOTAL ACCESS
<b>OWNER SECTION (no change)</b>	
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	010
<b>CURRENT IDENTIFICATION</b>	Catheters and catheter kits consisting of catheters, removable hubs, injection caps; guide wires, introducer needles; scalpels, tunneling instruments or devices for use in subcutaneous anchoring of catheters during their implantation; tear away sheath introducers, vessel dilators; arterial extension sets; and clamps
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
<b>EXTENSION NUMBER</b>	2
<b>ONGOING EFFORT</b>	product or service research development; manufacturing activities
<b>ALLOWANCE MAIL DATE</b>	12/25/2007
<b>STATEMENT OF USE</b>	NO
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	1

<b>SUBTOTAL AMOUNT</b>	150
<b>TOTAL AMOUNT</b>	150
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/CHARLES N. QUINN/
<b>SIGNATORY'S NAME</b>	Charles N. Quinn
<b>SIGNATORY'S POSITION</b>	Attorney for Applicant
<b>DATE SIGNED</b>	12/24/2008
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Wed Dec 24 09:46:19 EST 2008
<b>TEAS STAMP</b>	USPTO/ESU-38.115.17.66-20 081224094619726534-785881 80-4007f1fa51c5257cd783a8 e215775cdaa6-DA-6292-2008 1224094236235815

PTO Form 1581 (Rev 9/2005)  
OMB No. 0651-0054 (Exp. 09/30/2011)

### **SOU Extension Request (15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK: TOTAL ACCESS**  
**SERIAL NUMBER: 78588180**

The applicant, Medical Components, Inc., having an address of 1499 Delp Drive, Harleysville, Pennsylvania United States 19438, requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 12/25/2007.

For International Class 010:

Current identification: Catheters and catheter kits consisting of catheters, removable hubs, injection caps; guide wires, introducer needles; scalpels, tunneling instruments or devices for use in subcutaneous anchoring of catheters during their implantation; tear away sheath introducers, vessel dilators; arterial extension sets; and clamps

The applicant has a continued bona fide intention to use or use through the applicant's related company or

licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

This is the second extension request. The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods and/or services covered by the extension request: product or service research development; manufacturing activities

A fee payment in the amount of \$150 will be submitted with the form, representing payment for 1 class.

### **Declaration**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /CHARLES N. QUINN/ Date Signed: 12/24/2008  
Signatory's Name: Charles N. Quinn  
Signatory's Position: Attorney for Applicant

RAM Sale Number: 6292  
RAM Accounting Date: 12/24/2008

Serial Number: 78588180  
Internet Transmission Date: Wed Dec 24 09:46:19 EST 2008  
TEAS Stamp: USPTO/ESU-38.115.17.66-20081224094619726  
534-78588180-4007f1fa51c5257cd783a8e2157  
75cdaa6-DA-6292-20081224094236235815

# **EXHIBIT J**

## SOU Extension Request (15 U.S.C. Section 1051(d))

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	78946000
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 106
<b>MARK SECTION</b>	
<b>STANDARD CHARACTERS</b>	NO
<b>USPTO-GENERATED IMAGE</b>	NO
<b>OWNER SECTION (no change)</b>	
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	037
<b>CURRENT IDENTIFICATION</b>	Leasing and maintenance of construction equipment; maintenance and repair of waste and water treatment equipment and electrical power generation and distribution equipment
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>INTERNATIONAL CLASS</b>	040
<b>CURRENT IDENTIFICATION</b>	Leasing of waste and waste water treatment equipment and electrical power generation and distribution equipment
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
<b>EXTENSION NUMBER</b>	1
<b>ALLOWANCE MAIL DATE</b>	06/24/2008
<b>STATEMENT OF USE</b>	NO
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	2

<b>SUBTOTAL AMOUNT</b>	300
<b>TOTAL AMOUNT</b>	300
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/CHARLES N. QUINN/
<b>SIGNATORY'S NAME</b>	Charles N. Quinn
<b>SIGNATORY'S POSITION</b>	Attorney for Applicant
<b>DATE SIGNED</b>	12/24/2008
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Wed Dec 24 09:28:51 EST 2008
<b>TEAS STAMP</b>	USPTO/ESU-38.115.17.66-20 081224092851022534-789460 00-40034c4f0df715929949d0 66642150ed-DA-6196-200812 24092330597743

## SOU Extension Request (15 U.S.C. Section 1051(d))

To the Commissioner for Trademarks:

**MARK:** S (stylized and/or with design)

**SERIAL NUMBER:** 78946000

The applicant, Braccini Jr., Frank J., having an address of 295 Schooley Avenue, Exeter, Pennsylvania United States 18643, requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 06/24/2008.

For International Class 037:

Current identification: Leasing and maintenance of construction equipment; maintenance and repair of waste and water treatment equipment and electrical power generation and distribution equipment

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

For International Class 040:

Current identification: Leasing of waste and waste water treatment equipment and electrical power generation and distribution equipment

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

This is the first extension request.

A fee payment in the amount of \$300 will be submitted with the form, representing payment for 2 classes.

### **Declaration**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /CHARLES N. QUINN/      Date Signed: 12/24/2008

Signatory's Name: Charles N. Quinn

Signatory's Position: Attorney for Applicant

RAM Sale Number: 6196

RAM Accounting Date: 12/24/2008

Serial Number: 78946000

Internet Transmission Date: Wed Dec 24 09:28:51 EST 2008

TEAS Stamp: USPTO/ESU-38.115.17.66-20081224092851022

534-78946000-40034c4f0df715929949d066642

150ed-DA-6196-20081224092330597743

# **EXHIBIT K**

## Trademark/Service Mark Application, Principal Register

Serial Number: 77640470

Filing Date: 12/29/2008

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77640470
<b>MARK INFORMATION</b>	
*MARK	<u>YOUR BANK OF CHOICE</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	YOUR BANK OF CHOICE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	FIRST CORNERSTONE BANK
*STREET	1004 WEST 9TH AVENUE
INTERNAL ADDRESS	SUITE 10
*CITY	KING OF PRUSSIA
*STATE (Required for U.S. applicants)	Pennsylvania
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	19406
PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	equinn@frof.com

<b>LEGAL ENTITY INFORMATION</b>	
<b>TYPE</b>	corporation
<b>STATE/COUNTRY OF INCORPORATION</b>	Pennsylvania
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>*INTERNATIONAL CLASS</b>	
<b>*IDENTIFICATION</b>	BANKING SERVICES
<b>FILING BASIS</b>	SECTION 1(b)
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	CHARLES N. QUINN
<b>ATTORNEY DOCKET NUMBER</b>	23372.50501
<b>FIRM NAME</b>	FOX ROTHSCHILD LLP
<b>STREET</b>	2000 MARKET STREET
<b>INTERNAL ADDRESS</b>	10TH FLOOR
<b>CITY</b>	PHILADELPHIA
<b>STATE</b>	Pennsylvania
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	19103
<b>PHONE</b>	215-299-2135
<b>FAX</b>	215-299-2150
<b>EMAIL ADDRESS</b>	cquinn@frof.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>DOMESTIC REPRESENTATIVE INFORMATION</b>	
<b>NAME</b>	CHARLES N. QUINN
<b>FIRM NAME</b>	FOX ROTHSCHILD LLP
<b>STREET</b>	2000 MARKET STREET
<b>INTERNAL ADDRESS</b>	10TH FLOOR
<b>CITY</b>	PHILADELPHIA
<b>STATE</b>	Pennsylvania
<b>COUNTRY</b>	United States

<b>ZIP CODE</b>	19103
<b>PHONE</b>	215-299-2135
<b>FAX</b>	215-299-2150
<b>EMAIL ADDRESS</b>	cquinn@frof.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	CHARLES N. QUINN
<b>FIRM NAME</b>	FOX ROTHSCHILD LLP
<b>STREET</b>	2000 MARKET STREET
<b>INTERNAL ADDRESS</b>	10TH FLOOR
<b>CITY</b>	PHILADELPHIA
<b>STATE</b>	Pennsylvania
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	19103
<b>PHONE</b>	215-299-2135
<b>FAX</b>	215-299-2150
<b>EMAIL ADDRESS</b>	cquinn@frof.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	325
<b>*TOTAL FEE DUE</b>	325
<b>*TOTAL FEE PAID</b>	325
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/CHARLES QUINN/
<b>SIGNATORY'S NAME</b>	CHARLES QUINN/
<b>SIGNATORY'S POSITION</b>	ATTORNEY FOR APPLICANT; MEMBER OF PA. BAR
<b>DATE SIGNED</b>	12/29/2008

## Trademark/Service Mark Application, Principal Register

**Serial Number: 77640470**

**Filing Date: 12/29/2008**

### To the Commissioner for Trademarks:

**MARK:** YOUR BANK OF CHOICE (Standard Characters, see mark)

The literal element of the mark consists of YOUR BANK OF CHOICE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, FIRST CORNERSTONE BANK, a corporation of Pennsylvania, having an address of  
SUITE 10,

1004 WEST 9TH AVENUE

KING OF PRUSSIA, Pennsylvania 19406

United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class \_\_\_\_\_: BANKING SERVICES

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints CHARLES N. QUINN of FOX ROTHSCHILD LLP

10TH FLOOR

2000 MARKET STREET

PHILADELPHIA, Pennsylvania 19103

United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 23372.50501.

The applicant hereby appoints CHARLES N. QUINN of FOX ROTHSCHILD LLP

10TH FLOOR

2000 MARKET STREET

PHILADELPHIA Pennsylvania 19103

United States

as applicant's representative upon whom notice or process in the proceedings affecting the mark may be

served.

Correspondence Information: CHARLES N. QUINN  
10TH FLOOR  
2000 MARKET STREET  
PHILADELPHIA, Pennsylvania 19103  
215-299-2135(phone)  
215-299-2150(fax)  
cquinn@frof.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /CHARLES QUINN/ Date Signed: 12/29/2008  
Signatory's Name: CHARLES QUINN/  
Signatory's Position: ATTORNEY FOR APPLICANT; MEMBER OF PA. BAR

RAM Sale Number: 9033  
RAM Accounting Date: 12/29/2008

Serial Number: 77640470  
Internet Transmission Date: Mon Dec 29 12:00:55 EST 2008  
TEAS Stamp: USPTO/BAS-38.115.17.66-20081229120055376  
452-77640470-40066125a37ed1bd26f7c67eafe  
52bbca99-DA-9033-20081229115037256401

**YOUR BANK OF CHOICE**

# **EXHIBIT L**

# Trademark/Service Mark Application, Principal Register

**Serial Number: 77640457**

**Filing Date: 12/29/2008**

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77640457
<b>MARK INFORMATION</b>	
<b>*MARK</b>	<u>FIRST CORNERSTONE BANK</u>
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	FIRST CORNERSTONE BANK
<b>MARK STATEMENT</b>	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
<b>*OWNER OF MARK</b>	FIRST CORNERSTONE BANK
<b>*STREET</b>	1004 WEST 9TH AVENUE
<b>INTERNAL ADDRESS</b>	SUITE 10
<b>*CITY</b>	KING OF PRUSSIA
<b>*STATE</b> (Required for U.S. applicants)	Pennsylvania
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b> (Required for U.S. applicants only)	19406
<b>PHONE</b>	215-299-2135
<b>FAX</b>	215-299-2150
<b>EMAIL ADDRESS</b>	cquinn@frof.com

<b>LEGAL ENTITY INFORMATION</b>	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Pennsylvania
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
*INTERNATIONAL CLASS	
*IDENTIFICATION	BANKING SERVICES
FILING BASIS	SECTION 1(b)
<b>ATTORNEY INFORMATION</b>	
NAME	CHARLES QUINN
ATTORNEY DOCKET NUMBER	23372.50001
FIRM NAME	FOX ROTHSCHILD LLP
STREET	2000 MARKET STREET
INTERNAL ADDRESS	10TH FLOOR
CITY	PHILADELPHIA
STATE	Pennsylvania
COUNTRY	United States
ZIP/POSTAL CODE	19103
PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	cquinn@frof.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>CORRESPONDENCE INFORMATION</b>	
NAME	CHARLES QUINN
FIRM NAME	FOX ROTHSCHILD LLP
STREET	2000 MARKET STREET
INTERNAL ADDRESS	10TH FLOOR
CITY	PHILADELPHIA
STATE	Pennsylvania
COUNTRY	United States

ZIP/POSTAL CODE	19103
PHONE	215-299-2135
FAX	215-299-2150
EMAIL ADDRESS	cquinn@frof.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
<b>SIGNATURE INFORMATION</b>	
SIGNATURE	/CHARLES QUINN/
SIGNATORY'S NAME	CHARLES QUINN
SIGNATORY'S POSITION	ATTORNEY FOR APPLICANT, PA. BAR MEMBER
DATE SIGNED	12/29/2008

PTO Form 1478 (Rev 9/2006)  
OMB No. 0651-0009 (Exp 12/31/2008)

## Trademark/Service Mark Application, Principal Register

**Serial Number: 77640457**

**Filing Date: 12/29/2008**

### To the Commissioner for Trademarks:

**MARK:** FIRST CORNERSTONE BANK (Standard Characters, see mark)

The literal element of the mark consists of FIRST CORNERSTONE BANK.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, FIRST CORNERSTONE BANK, a corporation of Pennsylvania, having an address of SUITE 10,

1004 WEST 9TH AVENUE  
KING OF PRUSSIA, Pennsylvania 19406  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class \_\_\_\_\_: BANKING SERVICES

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints CHARLES QUINN of FOX ROTHSCHILD LLP  
10TH FLOOR  
2000 MARKET STREET  
PHILADELPHIA, Pennsylvania 19103  
United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 23372.50001.

Correspondence Information: CHARLES QUINN  
10TH FLOOR  
2000 MARKET STREET  
PHILADELPHIA, Pennsylvania 19103  
215-299-2135(phone)  
215-299-2150(fax)  
cquinn@frof.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

#### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /CHARLES QUINN/ Date Signed: 12/29/2008

Signatory's Name: CHARLES QUINN

Signatory's Position: ATTORNEY FOR APPLICANT, PA. BAR MEMBER

RAM Sale Number: 8890

RAM Accounting Date: 12/29/2008

Serial Number: 77640457

Internet Transmission Date: Mon Dec 29 11:42:50 EST 2008

TEAS Stamp: USPTO/BAS-38.115.17.66-20081229114250376

302-77640457-4001c481f7b2fbb991964d23ea2

9cc2a9-DA-8890-20081229113054562134

FIRST CORNERSTONE BANK

# **EXHIBIT M**

ESTTA Tracking number: **ESTTA257536**

Filing date: **12/29/2008**

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

Applicant: **RideVehicles LLC**  
Application Serial Number: **77164223**  
Application Filing Date: **04/24/2007**  
Mark: **RIDE**  
Date of Publication **12/16/2008**

**First 90 Day Request for Extension of Time to Oppose for Good Cause**

Pursuant to 37 C.F.R. Section 2.102, PRIDE MOBILITY PRODUCTS CORPORATION, 182 SUSQUEHANNA AVENUE, EXETER, PA 18643, UNITED STATES, a corporation organized under the laws of PENNSYLVANIA, respectfully requests that it be granted a 90-day extension of time to file a notice of opposition against the above-identified mark for cause shown.

Potential opposer believes that good causes are established for this request by:

- The potential opposer needs additional time to investigate the claim
- The potential opposer needs additional time to confer with counsel

The time within which to file a notice of opposition is set to expire on 01/15/2009. PRIDE MOBILITY PRODUCTS CORPORATION respectfully requests that the time period within which to file an opposition be extended until 04/15/2009.

Respectfully submitted,  
/CHARLES QUINN/  
12/29/2008

**CHARLES QUINN**

**FOX ROTHSCHILD LLP**

**2000 MARKET STREET**

**PHILADELPHIA, PA 19103**

**UNITED STATES**

**cquinn@frof.com, ipdocket@frof.com, dmcgregor@frof.com**

**215-299-2135**

# **EXHIBIT N**

ESTTA Tracking number: **ESTTA257599**

Filing date: **12/29/2008**

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

Applicant: **STONEXPRESS, INC.**  
Application Serial Number: **77531420**  
Application Filing Date: **07/25/2008**  
Mark: **STONESKIN**  
Date of Publication **12/16/2008**

**First 90 Day Request for Extension of Time to Oppose for Good Cause**

Pursuant to 37 C.F.R. Section 2.102, STONCOR GROUP, INC., 1 PARK AVENUE, MAPLE SHADE, NJ 08052, UNITED STATES, a corporation organized under the laws of DELAWARE, respectfully requests that it be granted a 90-day extension of time to file a notice of opposition against the above-identified mark for cause shown.

Potential opposer believes that good causes are established for this request by:

- The potential opposer needs additional time to investigate the claim
- The potential opposer needs additional time to confer with counsel

The time within which to file a notice of opposition is set to expire on 01/15/2009. STONCOR GROUP, INC. respectfully requests that the time period within which to file an opposition be extended until 04/15/2009.

Respectfully submitted,  
/CHARLES QUINN/  
12/29/2008

**CHARLES QUINN**  
**FOX ROTHSCHILD LLP**  
**2000 MARKET STREET 10TH FLOOR**  
**PHILADELPHIA, PA 19103**  
**UNITED STATES**  
**cquinn@frof.com**  
**215-299-2135**

# **EXHIBIT 0**

## Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	78935733
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 115
<b>NOTICE OF ALLOWANCE</b>	YES
<b>EXTENSION OF USE</b>	NO
<b>REQUEST TO DIVIDE</b>	NO
<b>MARK SECTION</b>	
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	STONTEC
<b>OWNER SECTION (no change)</b>	
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	001
<b>CURRENT IDENTIFICATION</b>	Methyl methacrylate resins; methyl methacrylate resin-based primers including resin, catalyst and aggregate; methyl methacrylate resin-based sealers including resin and catalyst; methyl methacrylate resin-based undercoatings including resin, catalyst and aggregate; Urethane resins; urethane resin-based primers including resin and curing agent; urethane resin-based undercoatings including curing agent, resin and filler; urethane resin-based sealers including curing agent and resin

<b>GOODS AND/OR SERVICES</b>	KEEP ALL LISTED
<b>FIRST USE ANYWHERE DATE</b>	12/31/2002
<b>FIRST USE IN COMMERCE DATE</b>	12/31/2002
<b>SPECIMEN FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<u>SPN0-381151766-100608927 . Specimen - Stontec.pdf</u>
<b>CONVERTED PDF FILE(S) (4 pages)</b>	<u>\\TICRS\EXPORT5\IMAGEOUT5\789\357\78935733\xml1\SOU0002.JPG</u>
	<u>\\TICRS\EXPORT5\IMAGEOUT5\789\357\78935733\xml1\SOU0003.JPG</u>
	<u>\\TICRS\EXPORT5\IMAGEOUT5\789\357\78935733\xml1\SOU0004.JPG</u>
	<u>\\TICRS\EXPORT5\IMAGEOUT5\789\357\78935733\xml1\SOU0005.JPG</u>
<b>SPECIMEN DESCRIPTION</b>	Product Data Sheet
<b>INTERNATIONAL CLASS</b>	019
<b>CURRENT IDENTIFICATION</b>	non-metal floors, namely, vinyl flake decorated and colored floors, aspartic urethane-based floors
<b>GOODS AND/OR SERVICES</b>	KEEP ALL LISTED
<b>FIRST USE ANYWHERE DATE</b>	12/31/2002
<b>FIRST USE IN COMMERCE DATE</b>	12/31/2002
<b>SPECIMEN FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<u>SPN1-381151766-100608927 . Specimen - Stontec.pdf</u>
<b>CONVERTED PDF FILE(S) (4 pages)</b>	<u>\\TICRS\EXPORT5\IMAGEOUT5\789\357\78935733\xml1\SOU0006.JPG</u>
	<u>\\TICRS\EXPORT5\IMAGEOUT5\789\357\78935733\xml1\SOU0007.JPG</u>
	<u>\\TICRS\EXPORT5\IMAGEOUT5\789\357\78935733\xml1\SOU0008.JPG</u>

	\\TICRS\EXPORT5\IMAGEOUT5\789\357\78935733\xml1\SOU0009.JPG
<b>SPECIMEN DESCRIPTION</b>	Product Data Sheet
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	2
<b>SUBTOTAL AMOUNT</b>	200
<b>TOTAL AMOUNT</b>	200
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/CHARLES N. QUINN/
<b>SIGNATORY'S NAME</b>	Charles N. Quinn
<b>SIGNATORY'S POSITION</b>	Attorney for Applicant
<b>DATE SIGNED</b>	12/29/2008
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Mon Dec 29 10:18:15 EST 2008
<b>TEAS STAMP</b>	USPTO/SOU-38.115.17.66-20 081229101815003239-789357 33-400644e6ab57a3d8c94cd5 f46f91e2059-DA-6688-20081 229100608927091

PTO Form 1553 (Rev 9/2005)  
OMB No. 0651-0054 (Exp. 09/30/2011)

**Trademark/Service Mark Statement of Use  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

MARK: STONTEC  
SERIAL NUMBER: 78935733

This Allegation of Use is being filed after a Notice of Allowance has issued.

The applicant, STONCOR GROUP, INC., having an address of ONE PARK AVENUE, MAPLE SHADE, New Jersey United States 08052, is using or is using through a related company or licensee the mark in commerce on or in connection with the goods and/or services as follows:

For International Class 001:

Current identification: Methyl methacrylate resins; methyl methacrylate resin-based primers including resin, catalyst and aggregate; methyl methacrylate resin-based sealers including resin and catalyst; methyl methacrylate resin-based undercoatings including resin, catalyst and aggregate; Urethane resins; urethane resin-based primers including resin and curing agent; urethane resin-based undercoatings including curing agent, resin and filler; urethane resin-based sealers including curing agent and resin

The applicant, or the applicant's related company or licensee, is using the mark in commerce on or in connection with all goods and/or services listed in the application or Notice of Allowance or as subsequently modified.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 12/31/2002, and first used in commerce at least as early as 12/31/2002, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Product Data Sheet.

**Original PDF file:**

[SPN0-381151766-100608927 . Specimen - Stontec.pdf](#)

**Converted PDF file(s) (4 pages)**

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

For International Class 019:

Current identification: non-metal floors, namely, vinyl flake decorated and colored floors, aspartic urethane-based floors

The applicant, or the applicant's related company or licensee, is using the mark in commerce on or in connection with all goods and/or services listed in the application or Notice of Allowance or as subsequently modified.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 12/31/2002, and first used in commerce at least as early as 12/31/2002, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Product Data Sheet.

**Original PDF file:**

[SPN1-381151766-100608927 . Specimen - Stontec.pdf](#)

**Converted PDF file(s) (4 pages)**

[Specimen File1](#)

[Specimen File2](#)

Specimen File3  
Specimen File4

A fee payment in the amount of \$200 will be submitted with the form, representing payment for 2 classes.

### **Declaration**

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /CHARLES N. QUINN/      Date Signed: 12/29/2008

Signatory's Name: Charles N. Quinn

Signatory's Position: Attorney for Applicant

RAM Sale Number: 6688

RAM Accounting Date: 12/29/2008

Serial Number: 78935733

Internet Transmission Date: Mon Dec 29 10:18:15 EST 2008

TEAS Stamp: USPTO/SOU-38.115.17.66-20081229101815003

239-78935733-400644e6ab57a3d8c94cd5f46f9

1e2059-DA-6688-20081229100608927091

# **EXHIBIT P**

ESTTA Tracking number: **ESTTA258127**

Filing date: **12/31/2008**

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

Applicant: **Engler, Meier & Justus, Inc.**  
Application Serial Number: **77542410**  
Application Filing Date: **08/08/2008**  
Mark: **STONECOAT PROFILES**  
Date of Publication **12/09/2008**

**First 90 Day Request for Extension of Time to Oppose for Good Cause**

Pursuant to 37 C.F.R. Section 2.102, STONCOR GROUP, INC., ONE PARK AVENUE, MAPLE SHADE, NJ 08052, UNITED STATES, a corporation organized under the laws of DELAWARE, respectfully requests that it be granted a 90-day extension of time to file a notice of opposition against the above-identified mark for cause shown.

Potential opposer believes that good causes are established for this request by:

- The potential opposer needs additional time to investigate the claim
- The potential opposer needs additional time to confer with counsel

The time within which to file a notice of opposition is set to expire on 01/08/2009. STONCOR GROUP, INC. respectfully requests that the time period within which to file an opposition be extended until 04/08/2009.

Respectfully submitted,  
/CHARLES QUINN/  
12/31/2008

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# **EXHIBIT Q**

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

Proceeding	91177161
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## TABLE OF CONTENTS

INDEX OF CASES.....	3
I. INTRODUCTION .....	4
II. ARGUMENT.....	4
A. <i>duPont</i> Factor One—Contrary to Stonel’s Position, the Marks are Similar in Appearance, and Highly Similar in Sound, Connotation, and Commercial Impression.....	5
B. <i>duPont</i> Factor Two—Contrary to Stonel’s Position, the Goods Recited in Stonel’s Application are Highly Related to StonCor’s Goods, Both as Recited in StonCor’s Registrations and as Sold by StonCor.....	6
C. <i>duPont</i> Factor Three—Contrary to Stonel’s Position, the Trade Channels are Identical.....	8
D. <i>duPont</i> Factor Four—Contrary to Stonel’s Position, Customers of Both Parties are Likely to Confuse Stonel’s Mark with StonCor’s Family of Marks and One or More of the Individual Marks of that Family.....	9
E. <i>duPont</i> Factor Five—Contrary to Stonel’s Assertion, StonCor has Presented Evidence of Fame of StonCor’s Marks and is Entitled to a Broad Scope of Protection .....	10
F. <i>duPont</i> Factor Six—Contrary to Stonel’s Assertion, Stonel Presented No Evidence of Similar Marks in Use on Related Goods.....	11
G. <i>duPont</i> Factor Seven—Contrary to Stonel’s Assertion, Lack of Actual Confusion Results from Stonel’s De Minimis Use of its Mark in Commerce .....	12
H. <i>duPont</i> Factor Nine—Contrary to Stonel’s Position, StonCor’s Family of Marks is in Extensive Use on a Variety of Goods Highly Related to Stonel’s Goods and Hence is Entitled to Protection from Stonel’s Mark.....	12
I. Contrary to Stonel’s Position, Preference Should be Accorded to StonCor in Resolving Conflicting Evidence as to Likelihood of Confusion .....	15
III. CONCLUSION.....	17

**INDEX OF CASES**

*Barbara’s Bakery, Inc. v. Landesman*, 82 USPQ2d 1283 (T.T.A.B. 2007) .....7, 8

*Black and Decker Corp. v. Emerson Elec. Co.*, 2007 WL 894416 (T.T.A.B. 2002).....14

*Gio. Buton & C. S.p.A. v. Buitoni Foods Corp.*, 205 USPQ 477 (T.T.A.B. 1979).....5

*In re Code Consultants, Inc.*, 60 USPQ2d 1699 (T.T.A.B. 2001).....5

*In re Continental Graphics Corp.*, 52 USPQ2d 1374 (T.T.A.B. 1999).....5

*In re E.I. DuPont DeNemours & Co.*, 476 F.2d 1357 (C.C.P.A 1973) .....8, 9, 11, 12

*J & J Snack Foods Corp. v. McDonald’s Corp.*, 932 F.2d 1460 (Fed. Cir. 1991) .....4, 12, 13, 15

*L.A. Gear, Inv. v. Thom McAn Shoe Co.*, 988 F.2d 1117 (Fed. Cir. 1993).....12

*Life Technologies, Inc. v. Gibbco Scientific, Inc.*, 826 F.2d 775 (8th Cir. 1987) .....8, 9

*Lominger Ltd., Inc. v. Seddio*, Opposition No. 91176811 (T.T.A.B. 2008) .....14

*McDonald’s Corp. v. McBagel’s, Inc.*, 649 F. Supp. 1268 (S.D.N.Y. 1986) .....13

*Recot Inc. v. Becton*, 56 USPQ2d 1859 (T.T.A.B. 2000) .....4, 12, 15, 16

## I. INTRODUCTION

Stonel has answered StonCor's Principal Brief, asserting that there is no likelihood of confusion between StonCor's family of marks that include the formative "S T O N," and Stonel's applied-for mark "STONEL (stylized logo)." In doing so Stonel repeatedly misapplies the law to the facts of this case.

First, Stonel impermissibly engages in side-by-side comparison of Stonel's mark and StonCor's family of marks.

Second, Stonel wrongly asserts that in an opposition proceeding, parties' goods must be identical to establish likelihood of confusion.

Third, Stonel confuses the issue of the similarity of likely-to-continue trade channels with the irrelevant issue of whether the parties' goods compete with each other.

Fourth, Stonel confusingly muddles the analysis respecting establishment of StonCor's family of marks with the issue of fame acquired by StonCor's marks.

Here, preference should be given to StonCor when weighing the evidence or resolving any factual disputes as to the likelihood of confusion because (1) StonCor is the senior user of a family of marks,<sup>1</sup> and (2) Stonel did not reasonably investigate whether use of Stonel's mark would cause confusion with StonCor's family of marks prior to adopting its mark and filing its application.<sup>2</sup>

"Where there is any doubt on the question of likelihood of confusion, it must be resolved against the newcomer as the newcomer has the opportunity of avoiding confusion, and is obligated to do so."<sup>3</sup>

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<sup>1</sup> "In determining whether [applicant's mark] is likely to cause confusion or mistake or to deceive as to the source of the [goods], preference is accorded the prior user of a mark or family of marks, as against a newcomer." *J & J Snack Foods Corp. v. McDonald's Corp.*, 932 F.2d 1460, 1464 (Fed. Cir. 1991).

<sup>2</sup> Applicant has admitted that it performed only the most cursory investigation as to whether it had the right to use and to register the mark at issue. *See* Jumppanen Dep., July 10, 2008, at 146:3-148:4.

<sup>3</sup> *Recot Inc. v. Becton*, 56 USPQ2d 1859, 1862 (T.T.A.B. 2000).

Accordingly, Stonel's repeated misapplication of the law and inaccurate depictions of the record,<sup>4</sup> as detailed below, do not alter the conclusion that Stonel's mark is likely to be viewed as a member of StonCor's family of marks, that a high likelihood of confusion exists, and that Stonel's mark should be refused registration.

## II. ARGUMENT

### A. *duPont* Factor One—Contrary to Stonel's Position, the Marks are Similar in Appearance, and are Highly Similar in Sound, Connotation, and Commercial Impression

StonCor's family of marks including the formative "S T O N" is similar to Stonel's mark in appearance, sound, connotation, and commercial impression. As to appearance Stonel asserts, *contrary to established precedent*, that "the best method to evaluate the similarity or dissimilarity in appearance of the marks themselves is to look at them side-by-side."<sup>5</sup> However, the Trademark Manual of Examining Procedure states that the test "is not whether the marks can be distinguished when subjected to a side-by-side comparison, but rather whether the marks are sufficiently similar that there is a likelihood of confusion as to the source of the goods or services."<sup>6</sup>

It is the "word only" form, in contrast with any graphic form, of any mark that should largely be heavily considered in evaluating likelihood of confusion. "[I]t is the word feature of the mark which the purchasing public would be most likely to remember and associate with the goods of the parties."<sup>7</sup> Therefore, it is the formative "S T O N" forming the basis of StonCor's family of marks that the purchasers in the trade channel will remember and associate with the

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<sup>4</sup> See Appendix A.

<sup>5</sup> Applicant's Brief at 5. Notably, Stonel provides no support for this statement.

<sup>6</sup> Trademark Manual of Examining Procedure § 1207.01(b).

<sup>7</sup> *Gio. Buton & C. S.p.A. v. Buitoni Foods Corp.*, 205 USPQ 477, 482 (T.T.A.B. 1979); see also *In re Code Consultants, Inc.*, 60 USPQ2d 1699, 1702 (T.T.A.B.); *In re Continental Graphics Corp.*, 52 USPQ2d 1374, 1375-76 (T.T.A.B. 1999).

parties' goods. Because the "S T O N" formative is also a part of Stonel's mark, some similarity in appearance is undeniable.

As to sound, Stonel **concedes** "[t]here is a similarity in sound with the first syllable"<sup>8</sup> of Stonel's mark and each of StonCor's marks that include the formative "S T O N." Thus, when considered as a whole, Stonel's mark and StonCor's family of marks are similar in appearance and highly similar in sound.

Stonel presented no evidence regarding connotation and commercial impression. Instead, Stonel relies upon a mischaracterization of the testimony of StonCor's witness, Mr. Jewell, stating that he "admitted Stonel's mark is easy to distinguish from StonCor's marks."<sup>9</sup> That is not what Mr. Jewell said. Rather, Mr. Jewell said that Stonel's mark was "unique."<sup>10</sup> Indeed, all of the parties' marks forming the basis of this opposition proceeding are "unique." The fact that a mark may be "unique" does not preclude that mark from being likely to be confused with another's mark.

Here, Stonel's mark is similar to StonCor's family of marks because Stonel has adopted the formative "S T O N" defining StonCor's family. Thus, the marks are similar in appearance, and highly similar in sound, connotation, and commercial impression. This factor strongly favors StonCor.

**B. *duPont* Factor Two—Contrary to Stonel's Position, the Goods Recited in Stonel's Application are Highly Related to StonCor's Goods, Both as Recited in StonCor's Registrations and as Sold by StonCor**

The goods described in Stonel's trademark application and the goods recited in StonCor's registrations and sold under StonCor's marks are highly related. Stonel fails to recognize that

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<sup>8</sup> Applicant's Brief at 13.

<sup>9</sup> *Id.*

<sup>10</sup> Jewell Dep., May 9, 2008, at 170:15-23.

there is no requirement that the parties' goods be identical in a likelihood of confusion analysis.

The Trademark Trial and Appeal Board has stated that:

*[I]t is not necessary that the respective goods be identical or even competitive in order to support a finding of likelihood of confusion. That is, the issue is not whether consumers would confuse the goods themselves, but rather whether they would be confused as to the source of the goods. It is sufficient that the goods be related in some manner, or that the circumstances surrounding their use be such that they would be likely to be encountered by the same persons in situations that would give rise, because of the marks used thereon, to a mistaken belief that they originate from or are in some way associated with the same source or that there is an association or connection between the sources of the respective goods.<sup>11</sup>*

Stonel conceded that the parties' goods are likely to be encountered by the same persons in the same situations. Stonel's witness, Mr. Jumppanen even admitted that the grout and mortar used in installing Stonel's panels could be supplied by StonCor:

Q. And at the third paragraph down, the second sentence reads, "Either grout or expansion joint sealant materials are placed in the joints between the Stonel brick panels at the jobsite and then hand tooled and treated with the same micro-stone."  
Do you see that sentence?

A. Yes.

Q. What kind of grout is used for that job?

A. It's a cement-base mortar, brick mortar, some people just call it grout.

\* \* \* \* \*

Q. Is there any reason that you could not buy it from our client?

A. No, there's absolutely no reason why we couldn't buy it.<sup>12</sup>

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<sup>11</sup> *Barbara's Bakery, Inc. v. Landesman*, 82 USPQ2d 1283, 1286 (T.T.A.B. 2007) (emphasis added).

<sup>12</sup> *Jumppanen Dep.*, July 10, 2008, at 93:17-94:23.

Additionally, Stonel's panels can be used as a flooring to be placed over, or even used as a subflooring under, StonCor's flooring products.<sup>13</sup> Thus, the goods, notably the panels, recited in Stonel's application are highly related to StonCor's flooring, mortar, and grout products.

Stonel's attempt to distinguish the goods at issue fails, strongly favoring StonCor.

### **C. *duPont* Factor Three—Contrary to Stonel's Position, the Trade Channels are Identical**

The similarity of established and likely to continue trade channels is identical for both parties. Stonel and StonCor both offer building materials that are specified by architects and used by construction contractors in the same situations. Accordingly, the parties' goods occupy the same channels of trade—those for building materials.

Stonel cites an Eighth Circuit case, *Life Technologies, Inc. v. Gibbco Scientific, Inc.*,<sup>14</sup> in support of its irrelevant argument that Stonel's and StonCor's goods serve different functions and thus do not compete with each other.<sup>15</sup> In doing so, Stonel completely mischaracterizes *duPont* Factor Three, which is the "similarity or dissimilarity of established, likely-to-continue *trade channels*."<sup>16</sup> Stonel has confused this trade channel issue by relying on *Life Technologies*, which is directed towards "the degree to which the products compete with each other."<sup>17</sup>

Plainly stated, the issue is not whether the products *compete* with each other, but whether they *occupy the same trade channels*. "[I]t is not necessary that the respective goods be . . . competitive in order to support a finding of likelihood of confusion."<sup>18</sup> It is not surprising that Stonel's witness, Mr. Jumppanen, conceded that potential customers of both parties would be general contractors, architects, and specifiers.<sup>19</sup> Additionally, Stonel conceded that "both parties

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<sup>13</sup> See Jewell Dep., May 9, 2008, at 5:12-6:10.

<sup>14</sup> 826 F.2d 775, 776 (8th Cir. 1987).

<sup>15</sup> See Applicant's Brief at 20.

<sup>16</sup> *In re E.I. DuPont DeNemours & Co.*, 476 F.2d 1357, 1361 (C.C.P.A. 1973) (emphasis added).

<sup>17</sup> *Life Techs.*, 826 F.2d at 776.

<sup>18</sup> *Barbara's Bakery*, 82 USPQ2d at 1286.

<sup>19</sup> See Jewell Dep., May 9, 2008, at 51:22-52:19.

may call on architects/designers of buildings.”<sup>20</sup> Clearly, the parties’ goods are sold in the same manner to the same parties, and occupy the same trade channels.

**D. *duPont* Factor Four—Contrary to Stonel’s Position, Customers of Both Parties are Likely to Confuse Stonel’s Mark with StonCor’s Family of Marks and One or More of the Individual Marks of that Family**

Stonel ignores the fact that the customers of both parties are likely to confuse Stonel’s mark with StonCor’s family of marks, and with individual members of StonCor’s family of marks, such as STONLUX, STONLINER, STONSET, STONCRETE, and STONFIL. Instead, Stonel has mischaracterized *duPont* Factor Four, which when correctly stated is directed towards the “conditions under which and buyers to whom sales are made.”<sup>21</sup> Stonel has completely misread the Eighth Circuit case that it relies on. First, Stonel states that: “As explained in *Life Technologies*, environments involving architects and engineers are highly sophisticated and unlikely to be confused.”<sup>22</sup> Puzzlingly, *Life Technologies* does not involve architects or engineers. Rather, *Life Technologies* centers around purchasers of hospital laboratory instruments, such as “Nunc cryotubes.”<sup>23</sup>

Second, Stonel confuses the deposition testimony of StonCor’s witness, Mr. Jewell. To begin with, Stonel inaccurately cites to Mr. Jewell’s deposition testimony.<sup>24</sup> Moreover, Stonel’s counsel’s line of questioning presumed that a customer seeking to purchase a flooring or coating product would mistakenly buy a thin face brick veneer.<sup>25</sup> Perhaps the more pertinent issue is resolved by the deposition testimony conspicuously left out of Stonel’s Brief, in which Mr. Jewell states: “I believe that it is possible that someone could purchase Stonel’s product and

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<sup>20</sup> Applicant’s Brief at 20.

<sup>21</sup> *DuPont*, 476 F.2d at 1361.

<sup>22</sup> Applicant’s Brief at 22.

<sup>23</sup> *Life Techs.*, 826 F.2d at 776.

<sup>24</sup> Applicant, without any indication in the excerpted portion, leaves out nine lines of text from the deposition testimony. Cf. Applicant’s Brief at 22, with Jewell Dep., May 9, 2008, at 168:3-18.

<sup>25</sup> Applicant’s Brief at 22-23.

think that they were doing business with StonCor.”<sup>26</sup> Stonel is unable to accept that StonCor’s customers associate and identify StonCor’s family of marks with the formative “S T O N,” and thus are likely to view Stonel’s mark as a member of StonCor’s family of marks. This factor weighs strongly in favor of StonCor.

**E. *duPont* Factor Five—Contrary to Stonel’s Assertion, StonCor has Presented Evidence of Fame of StonCor’s Marks and is Entitled to a Broad Scope of Protection**

Stonel incorrectly states that the fame of StonCor’s family of marks “is not established by reliable evidence.”<sup>27</sup> To the contrary, StonCor submitted survey results taken by the magazine *Food Processing* soliciting readers’ opinions respecting the best suppliers of various categories of equipment, ingredients, packaging, and the like. In one survey, StonCor’s STONHARD and STONCLAD floor system and flooring ranked first as the flooring of choice as selected by readers of *Food Processing* in 2005.<sup>28</sup> In another survey conducted by *Food Processing*, readers selected STONHARD as the supplier of choice for flooring by more than a three to one margin over StonCor’s nearest competitor.<sup>29</sup> In yet another reader survey, StonCor’s STONHARD and STONCLAD flooring was the choice of nearly twice as many readers as StonCor’s nearest competitor.<sup>30</sup> These third party surveys in which StonCor has been named the supplier of choice for flooring sold under StonCor’s marks STONHARD and STONCLAD collectively demonstrate the fame and recognition of StonCor’s family of marks, particularly StonCor’s STONHARD and STONCLAD.

By these surveys, StonCor has presented ample evidence of StonCor’s fame and recognition among consumers. Stonel cannot point to any deficiency in this evidence, and has

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<sup>26</sup> Jewell Dep., May 9, 2008, at 170:12-14.

<sup>27</sup> Applicant’s Brief at 25.

<sup>28</sup> Exhibit O-10.

<sup>29</sup> Exhibit O-13.

<sup>30</sup> Exhibit O-14.

no contrary evidence to present. Based on the evidence, StonCor is entitled to a broad scope of protection for its family of marks and Stonel should be denied registration.

**F. *duPont* Factor Six—Contrary to Stonel’s Assertion, Stonel Presented No Evidence of Similar Marks in Use on Similar Goods**

Stonel has not presented significant evidence of similar marks in use on similar goods. Instead, Stonel essentially ignores *duPont* Factor Six, which is directed towards the “number and nature of similar marks in use on similar goods,” and directs its attention to the spelling of the respective parties’ marks.<sup>31</sup> Perhaps realizing that the record contains no evidence of similar marks in use on similar goods, Stonel inexplicably focuses on whether the marks are similar in spelling.<sup>32</sup> In doing so, Stonel again mischaracterizes the deposition testimony of StonCor’s witness, Mr. Jewell. Stonel incorrectly states in its Brief that “Mr. Jewell’s testimony established that its numerous marks are not similar to Applicants [sic].”<sup>33</sup> If one reads pages 161 through 165 of Mr. Jewell’s testimony one will quickly recognize that Stonel has “cut/pasted/edited” Mr. Jewell’s testimony to present out of context only those portions that arguably favor Stonel. The deposition testimony cited by Stonel merely points out the obvious—that StonCor does not own a registration for the mark “STONEL.” Indeed, had StonCor obtained such a registration, Stonel’s trademark application would presumably have been rejected prior to this opposition being filed. Stonel entirely ignores the fact that StonCor’s family of marks is based on the formative “S T O N.”

Stonel is unable to provide any significant evidence of similar marks in use on similar goods. In turn, this factor weighs strongly in favor of StonCor.

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<sup>31</sup> *DuPont*, 476 F.2d at 1361.

<sup>32</sup> See Applicant’s Brief at 27-28. Oddly, Applicant has itself confused the spelling of Opposer’s name, inconsistently referring to Opposer as “StonCor” and “StoneCor” (as indicated on the caption and page 7 of Applicant’s Brief). Applicant’s very own confusion underscores the likelihood of confusion among consumers.

<sup>33</sup> *Id.* at 27.

**G. *duPont* Factor Seven—Contrary to Stonel’s Assertion, Lack of Actual Confusion Results from Stonel’s De Minimis Use of its Mark in Commerce**

Stonel states that “over two-and-one-half years have passed with no actual confusion discovered.”<sup>34</sup> Realistically, the chance of any confusion having occurred is extremely limited because, as Stonel’s witness, Mr. Jumppanen, has conceded, Stonel has only sold two projects, both of those in the far northwest.<sup>35</sup> This makes the lack of actual confusion a neutral factor. Had there been any confusion established, it is well established that “where there is any doubt on the question of the likelihood of confusion, it must be resolved against the newcomer as the newcomer has the opportunity of avoiding confusion, and is obligated to do so.”<sup>36</sup> So, this factor must be weighed in favor of StonCor.

**H. *duPont* Factor Nine—Contrary to Stonel’s Position, StonCor’s Family of Marks is in Extensive Use on a Variety of Goods Related to Stonel’s Goods and Hence is Entitled to Protection from Stonel’s Mark**

StonCor’s family of marks is entitled to protection from Stonel’s mark. StonCor’s marks are used on a variety of goods, namely on StonCor’s flooring products, on StonCor’s coating products, and on StonCor’s mortar, grout, and other products. Stonel completely ignores these facts, and again engages in a mischaracterization of StonCor’s position.<sup>37</sup> Specifically, Stonel confuses the analysis of *duPont* Factor Nine, which is directed towards the “variety of goods on which a mark is or is not used (house mark, ‘family’ mark, product mark),”<sup>38</sup> with *duPont* Factor

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<sup>34</sup> Applicant’s Brief at 29.

<sup>35</sup> See Jumppanen Dep., July 10, 2008, 88:11-89:1.

<sup>36</sup> *Recot Inc. v. Becton*, 56 USPQ2d 1859, 1862 (T.T.A.B. 2000); see also *L.A. Gear, Inc. v. Thom McAn Shoe Co.*, 988 F.2d 1117, 1132 (Fed. Cir. 1993); *J & J Snack Foods Corp. v. McDonald’s Corp.*, 932 F.2d 1460, 1464 (Fed. Cir. 1991).

<sup>37</sup> Applicant states that “Opposer . . . repeatedly asserts that its mark(s) constitute a family of marks – and therefore are entitled to protection as famous.” Applicant’s Brief at 30. Applicant misses the point—while the fame of StonCor’s marks is a factor that favors StonCor, the analysis surrounding StonCor’s family of marks is an entirely separate factor that also strongly weighs in favor StonCor.

<sup>38</sup> *DuPont*, 476 F.2d at 1361.

Five, which is directed towards the “fame of the prior mark.”<sup>39</sup> Stonel goes on at length in its discussion of *McDonald’s Corp. v. McBagel’s Inc.*,<sup>40</sup> incorrectly asserting that the court protected McDonald’s family of marks because it “found that ‘Mc’ is famous for McDonald’s.”<sup>41</sup> To the contrary, a review of *McDonald’s Corp.* reveals no such analysis. Rather, the *McDonald’s* court allowed McDonald’s to use the family of marks denoted by the “Mc” formative as a basis for enforcement of its trademarks because the formative “has been extensively used, promoted widely at great expense, made the subject of numerous federal registrations, and actively policed.”<sup>42</sup>

Similarly, StonCor’s family of marks denoted by the “S T O N” formative has been extensively used, promoted widely at great expense, made the subject of numerous federal registrations, and actively policed. First, StonCor’s witness, Mr. Jewell, testified that StonCor performs “somewhere between 7 and 10,000 installations annually.”<sup>43</sup> Second, StonCor has promoted its marks at great expense through extensive advertising in various business journals<sup>44</sup> in addition to the 15,000 to 18,000 brochures that are distributed annually to actual and potential customers, namely architects and building construction contractors.<sup>45</sup> Third, the trademarks that are members of the family defined by the formative “S T O N” have been made the subject of numerous federal registrations, fifteen of which are the basis of the instant opposition. Fourth, as a matter of policy, StonCor regularly defends its family of marks, defined by the “S T O N”

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<sup>39</sup> Id.

<sup>40</sup> 649 F. Supp. 1268 (S.D.N.Y. 1986).

<sup>41</sup> Applicant’s Brief at 31.

<sup>42</sup> *McDonald’s Corp.*, 649 F. Supp. at 1272.

<sup>43</sup> Jewell Dep., May 9, 2008, at 37:16-17.

<sup>44</sup> See Jewell Dep., May 9, 2008, at 50:15-51:1.

<sup>45</sup> See Jewell Dep., May 9, 2008, at 36:17-21.

formative, “in the trademark arena whenever a mark that is similar sounding . . . comes up specifically in the building trade arena.”<sup>46</sup>

Thus, StonCor has established ownership of a family of marks that is entitled to protection. The analysis involved in determining the scope of such protection was laid out in a recent precedential<sup>47</sup> opinion of this Board:

“In comparing opposer’s marks with applicant’s marks . . . the question is not whether each of applicant’s marks is similar to opposer’s individual marks, but **whether applicant’s marks would be likely to be viewed as members of opposer’s . . . family of marks.**”<sup>48</sup>

As established above, Stonel’s mark is likely to be viewed as a member of StonCor’s family of marks because it shares the “S T O N” formative and is used on goods that qualify as “related goods” to those sold in the building trade under the marks of the StonCor “S T O N” trademark family.

Stonel’s confusion over the analysis involved in this issue is underscored by its extensive quotation of *Lominger Limited, Inc. v. Seddio*.<sup>49</sup> Stonel fails to understand that the passage on which it relies has no bearing on whether a family of marks exists. Indeed, applicant in *Lominger* admitted that opposer had a family of marks, bypassing any analysis of the issue.<sup>50</sup> Stonel’s analysis is misplaced and inapplicable to this factor.

Finally, Stonel erroneously states that “Opposer’s contention that it is a leader in the field and well known in the market is not supported by any evidence.”<sup>51</sup> As noted above, StonCor has

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<sup>46</sup> Jewell Dep., May 9, 2008, at 106:3-7.

<sup>47</sup> StonCor notes that Applicant cites to *Lominger Limited, Inc. v. Seddio*, Opposition No. 91176811, at 6-7 (T.T.A.B. 2008), which is not a citable precedent of the Trademark Trial and Appeal Board, in support of its analysis regarding this factor.

<sup>48</sup> *Black & Decker Corp. v. Emerson Electric Co.*, Opposition Nos. 91158891, 91158941, at 20 (T.T.A.B. 2007) (emphasis added).

<sup>49</sup> Opposition No. 91176811 (T.T.A.B. 2008).

<sup>50</sup> *Id.* at 4.

<sup>51</sup> Applicant’s Brief at 51.

submitted a number of third party surveys in which StonCor has been named the supplier of choice for flooring, each of which demonstrates the recognition of StonCor's marks.<sup>52</sup> Also StonCor has established that it has about 7,000 construction projects annually and advertises and extensively promotes its product at trade shows as well as to individual architects and engineers. In light of Stonel's misguided analysis and misstatements of the facts, Stonel's position must fail. The evidence for this factor weighs strongly in favor of StonCor.

#### **I. Contrary to Stonel's Position, Preference Should be Accorded to StonCor in Resolving Conflicting Evidence as to Likelihood of Confusion**

Stonel incorrectly states that *duPont* makes moot the issue of according evidentiary preference to a senior user when the junior user fails to reasonably investigate the availability of its mark.<sup>53</sup> Case law subsequent to *duPont* holds to the contrary.<sup>54</sup> StonCor is entitled to evidentiary preference in evaluating the likelihood of confusion because (1) StonCor is the senior user of a family of marks, and (2) Stonel did not meet its burden of reasonably investigating whether use of Stonel's mark would cause confusion with StonCor's family of marks or any individual member thereof, or any other party's mark.

The Federal Circuit has stated that "[i]n determining whether [applicant's mark] is likely to cause confusion or mistake or to deceive as to the source of the [goods], preference is accorded the prior user of a mark or family of marks, as against a newcomer."<sup>55</sup> This Board has also stated that "[w]here there is any doubt on the question of likelihood of confusion, it must be resolved against the newcomer as the newcomer has the opportunity of avoiding confusion, and

---

<sup>52</sup> See Exhibit O-10; Exhibit O-13; Exhibit O-14.

<sup>53</sup> See Applicant's Brief at 36.

<sup>54</sup> See *J & J Snack Foods Corp. v. McDonald's Corp.*, 932 F.2d 1460, 1464 (Fed. Cir. 1991); *Recot Inc. v. Becton*, 56 USPQ2d 1859, 1862 (T.T.A.B. 2000).

<sup>55</sup> *J & J Snack Foods*, 932 F.2d at 1464.

is obligated to do so.”<sup>56</sup> Here, preference should be accorded to StonCor because it is the prior user of the “S T O N” formative that forms the basis of its family of marks. Moreover, Stonel’s witness, Mr. Jumppanen, admitted that Stonel performed only the most cursory investigation as to whether it had the right to use and to register the mark at issue.

Q. Did you perform any investigations, did your company perform – strike that, let’s start again.

Did your company perform any investigation regarding the availability of the mark at issue in the United States before you decided to use it here?

A. I don’t remember. We might have looked at a web page somewhere that, you know, if there was one registered like that or not. But based on, based on Exhibit 1, I mean the patent office stated the mark of the application identified appears to be entitled to registration.

So I mean they seem to believe that it, based on their research that, you know, it’s doable.

Q. But we’re not talking about their research because that’s the reason we have opposition proceedings.

A. Okay. Sorry.

Q. Agreements with their research. My question for you is, and I believe you said, “No,” whether you performed any investigation regarding the availability of that mark before you decided to use it. You said, “No.”

A. Well, not anymore extensive than maybe looking at a web page on Internet, if there was one like that registered.<sup>57</sup>

Clearly, Stonel did not satisfy its obligation to investigate the availability of its mark in a reasonable manner. Thus, preference should be accorded to StonCor in resolving any factual disputes regarding the likelihood of confusion.

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<sup>56</sup> *Recot*, 56 USPQ2d at 1862.

<sup>57</sup> See Jumppanen Dep., July 10, 2008, at 146:5-147:10.

### III. CONCLUSION

The record demonstrates a likelihood of confusion between StonCor's family of marks, defined by the "S T O N" formative, and "Stonel (stylized logo)" for the parties' respective goods. Stonel's mark is likely to be viewed by architects, building construction managers, and contractors as a member of StonCor's family of marks. Additionally, Stonel's improper side-by-side comparison of the marks, erroneous legal analysis, and repeated mischaracterizations of the testimonial record cannot alter the conclusion that the relevant *duPont* factors favor StonCor. StonCor respectfully requests that the opposition be sustained and registration to Stonel be refused.

To the extent there is any fee required in connection with the receipt, acceptance and/or consideration of declaration and/or any accompanying papers herewith, please charge all such fees to Deposit Account 50-1943.

Respectfully submitted,

Date: January 7, 2009

---

CHARLES N. QUINN  
EDWARD L. BRANT  
Attorneys for Opposer, StonCor Group, Inc.  
Fox Rothschild LLP  
2000 Market Street, Tenth Floor  
Philadelphia, PA 19103  
Tel: 215-299-2135  
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<b>Certificate of Mailing Under 37 C.F.R. 1.10</b>	
EXPRESS MAIL NO.: _____	
<small>I hereby certify that this paper, along with any paper referred to as being attached or enclosed and/or fee is being deposited with the United States Postal Service, "Express Mail - Post Office to Addressee" service under 37 C.F.R. 1.10, on the date indicated below, and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.</small>	
<u>1/7/09</u> Date of Deposit	_____ Signature
	<u>Beth Palmerchuck</u> Type or print name of person

# **EXHIBIT R**

ESTTA Tracking number: **ESTTA259420**

Filing date: **01/08/2009**

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

Proceeding	91177161
Party	Plaintiff StonCor Group, Inc.
Correspondence Address	Charles N. Quinn Fox Rothschild LLP 2000 Market Street, 10th Floor Philadelphia, PA 19103-3291 UNITED STATES cquinn@foxrothschild.com
Submission	Other Motions/Papers
Filer's Name	Charles N. Quinn
Filer's e-mail	cquinn@foxrothschild.com, dmcgregor@foxrothschild.com, bpalmerchuck@foxrothschild.com
Signature	/CHARLES N QUINN/
Date	01/08/2009
Attachments	Opposer Motion - 91177161.pdf ( 6 pages )(96776 bytes )



2009 is, by stipulation of the parties, considered to be timely. We respectfully request indication of the same from this Board.

To the extent there is any fee required in connection with the receipt, acceptance and/or consideration of declaration and/or any accompanying papers herewith, please charge all such fees to Deposit Account 50-1943.

Respectfully submitted,

Date: January 8, 2009

/Charles N. Quinn/  
CHARLES N. QUINN  
Attorney for Opposer, StonCor Group, Inc.  
Fox Rothschild LLP  
2000 Market Street, Tenth Floor  
Philadelphia, PA 19103  
Tel: 215-299-2135; Fax: 215-299-2150  
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UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

StonCor Group, Inc.	:	
	:	
v.	:	Opposition 91177161
	:	
	:	Application 78/879,396
	:	
Stonel Inc.	:	
	:	
Applicant	:	

**CERTIFICATE OF SERVICE**

I, Charles N. Quinn, of full age, by way of certification, state that a copy of Memorialization of Stipulation Respecting Timely Filing of StonCor's Reply Brief to applicant's counsel on the date set forth below via electronic mail and first class mail, postage prepaid, addressed as follows:

Gordon P. Raisanen, Esquire  
Raisanen & Assoc. Law Firm, Ltd.  
15725 U.S. Highway 12 SW  
Cokato, MN 55321  
gpraisanen@earthlink.net

Date: January 8, 2009

/Charles N. Quinn/  
Charles N. Quinn

**McGregor, Deanna M.**

---

**From:** Quinn, Charles N.  
**Sent:** Thursday, January 08, 2009 12:54 PM  
**To:** McGregor, Deanna M.  
**Subject:** FW: StonCor v. Stonel

**Charles N. Quinn**  
Attorney at Law  
**Fox Rothschild LLP**  
PH: 215.299.2135  
[cquinn@foxrothschild.com](mailto:cquinn@foxrothschild.com)

---

**From:** Quinn, Charles N.  
**Sent:** Thursday, January 08, 2009 10:44 AM  
**To:** 'Gordon Raisanen'  
**Subject:** RE: StonCor v. Stonel

Gordon:

Thank you.

Charlie Quinn

**Charles N. Quinn**  
Attorney at Law  
**Fox Rothschild LLP**  
PH: 215.299.2135  
[cquinn@foxrothschild.com](mailto:cquinn@foxrothschild.com)

---

**From:** Gordon Raisanen [<mailto:gpraisanenmobile@earthlink.net>]  
**Sent:** Thursday, January 08, 2009 10:31 AM  
**To:** Quinn, Charles N.  
**Subject:** Re: StonCor v. Stonel

No motion needed Charlie.  
Gordon

Sent from my iPhone  
Gordon P. Raisanen

On Jan 7, 2009, at 2:45 PM, "Quinn, Charles N." <[CQuinn@foxrothschild.com](mailto:CQuinn@foxrothschild.com)> wrote:

Gordon:

Please see below and let me know as to whether I am going to need to file a motion or not.

Thanks,

Charlie Quinn

**Charles N. Quinn**  
Attorney at Law  
**Fox Rothschild LLP**  
PH: 215.299.2135  
[cquinn@foxrothschild.com](mailto:cquinn@foxrothschild.com)

---

**From:** Quinn, Charles N.  
**Sent:** Wednesday, January 07, 2009 12:44 PM  
**To:** 'Gordon P. Raisanen (Mobile)'  
**Cc:** Palmerchuck, Beth; McGregor, Deanna M.; Brant, Edward L.  
**Subject:** StonCor v. Stonel

Gordon:

In view of the difficulties we had yesterday in trying to electronically file StonCor's Reply Brief, and the fact that we sent a copy of StonCor's Reply Brief to you yesterday by first class mail and electronically this morning, will you, as a matter of professional courtesy, consent to our filing of StonCor's Reply Brief today (which is one day late)?

On another front, I very much appreciate and thank you for your consenting to the two week extension for us to file StonCor's Reply Brief in view of my illness last month. I missed 11 days of work in December and lost 16 pounds. Thanks again for your consideration.

Regards,

Charlie Quinn

Charles N. Quinn  
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215-299-2150 (fax)  
[cquinn@foxrothschild.com](mailto:cquinn@foxrothschild.com)  
[www.foxrothschild.com](http://www.foxrothschild.com)

ATTENTION:

IRS CIRCULAR 230 DISCLOSURE:

Pursuant to Treasury Regulations, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used or relied upon by you or any other person, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any tax advice addressed herein.

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Thank you.

# **EXHIBIT S**



**Fox Rothschild** LLP  
ATTORNEYS AT LAW

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Mark Silow-Administrative Partner

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## Intellectual Property

"A future without protection is no future at all. By passionately pursuing and protecting intellectual property rights, we help companies secure a profitable tomorrow – whether incubator, start-up, or Fortune 100."

Gerry Norton-Chair of the Intellectual Property Department

### Overview

- More than 40 attorneys in six offices
- 32 patent attorneys; six Ph.D.s
- Prosecuted 50 plus TROs in 2006
- 1000's of successful prosecutions of patents/trademarks/copyrights

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Alan C. Chen	Associate	Los Angeles, California	310.598.4156	
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Name	Title	Office	Phone	Email
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<b>Sarah Klosek</b>	<b>Associate</b>	Princeton, New Jersey	609.844.3024	
<b>Jeffrey S. Kravitz</b>	<b>Partner</b>	Los Angeles, California	310.598.4162	
<b>Jonathan R. Lagarenne</b>	<b>Partner</b>	Princeton, New Jersey	609.896.4588	
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Gerard P. Norton, Ph.D.	Partner	Princeton, New Jersey	609.844.3020	
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Charles N. Quinn	Partner	Philadelphia, Pennsylvania	215.299.2135	
Tara L. Rachinsky, Ph.D.	Special Counsel	Philadelphia, Pennsylvania	215.299.2903	
Abraham C. Reich	Co-Chair of the Firm; Partner	Philadelphia, Pennsylvania	215.299.2090	

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- 1000's of successful prosecutions of patents/trademarks/copyrights

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<b>Staci Jennifer Riordan</b>	<b>Associate</b>	Los Angeles, California	310.598.4180	
<b>Roy J. Rosser, Ph.D.</b>	<b>Patent Agent</b>	Princeton, New Jersey	609.844.7406	
<b>Ronald J. Shaffer</b>	<b>Partner</b>	Philadelphia, Pennsylvania	215.299.2196	
<b>Shahnam Sharareh</b>	<b>Associate</b>	Princeton, New Jersey	609.844.3030	
<b>Michael I. Slapo</b>	<b>Partner</b>	New York, New York	212.878.7920	
<b>J. Eric Sumner</b>	<b>Associate</b>	Philadelphia, Pennsylvania	215.299.2772	
<b>Lindette C. Thornton</b>	<b>Associate</b>	Philadelphia, Pennsylvania	215.299.2186	
<b>Vyacheslav (Slava) Vasilyev, Ph.D.</b>	<b>Associate</b>	Princeton, New Jersey	609.844.3021	
<b>Mariou E. Watson</b>	<b>Partner</b>	Blue Bell, Pennsylvania	610.397.6517	

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- 1000's of successful prosecutions of patents/trademarks/copyrights

Name	Title	Office	Phone	Email
<b>Richard C. Woodbridge</b>	<b>Partner</b>	Princeton, New Jersey	609.844.7436	
<b>Cynthia Yializis</b>	<b>Associate</b>	Pittsburgh, Pennsylvania	412.394.5349	

Previous 1-2-3-4-5

# **EXHIBIT T**

ESTTA Tracking number: **ESTTA256365**

Filing date: **12/19/2008**

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

Proceeding	91177161
Party	Plaintiff StonCor Group, Inc.
Correspondence Address	Charles N. Quinn Fox Rothschild LLP 2000 Market Street, 10th Floor Philadelphia, PA 19103-3291 UNITED STATES cquinn@foxrothschild.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Deanna M. McGregor
Filer's e-mail	cquinn@foxrothschild.com, dmcgregor@foxrothschild.com, bpalmerchuck@foxrothschild.com
Signature	/-d-/
Date	12/19/2008
Attachments	Consented Motion - 91177161.pdf ( 5 pages )(40599 bytes )

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

In re Application Serial No. 78/879396

STONCOR GROUP, INC.	:	Opposition No. 91177161
	:	
Opposer,	:	
	:	
v.	:	
	:	
STONEL INC.	:	
	:	
Applicant.	:	

**OPPOSER'S CONSENTED MOTION FOR  
EXTENSION OF TIME TO FILE ITS REPLY BRIEF**

Opposer, StonCor Group, Inc. ("StonCor" or "Opposer"), for good cause, hereby moves for a fourteen (14) day extension of time to file its reply brief. Applicant consented to this motion via a telephone call between the undersigned and Gordon P. Raisanen on December 19, 2008.

StonCor's reply brief is presently due on December 23, 2008. The attorney of record, Charles N. Quinn, has been ill and absent from the workplace during the past three weeks. *See* Declaration of Deanna M. McGregor. Although he made plans to timely prepare and file the reply brief, Mr. Quinn has been unable to do so and it is presently unknown when he will return. *Id.* Accordingly, Opposer requests an extension of time to file its reply brief.

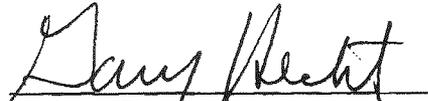
The appropriate standard for allowing an extension of a prescribed period prior to the expiration of the time period is "good cause." *See* Fed. R. Civ. P. 6(b) and TBMP § 509. The Board generally is liberal in granting extensions of time before the period to act has elapsed so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused. *American Vitamin Products Inc., v. DowBrands Inc.*, 22 U.S.P.Q.2d 1313 (TTAB 1992).

Opposer has good cause for the fourteen-day extension, and is not guilty of negligence or bad faith. In view of Mr. Quinn's illness and the holidays during the last two weeks of December, fourteen additional days is requested to allow Opposer to prepare and file its reply brief.

**CONCLUSION**

For the foregoing reasons, Opposer respectfully moves for a fourteen-day extension of time to file its reply brief, resetting the deadline to January 6, 2009.

Dated: December 19, 2008

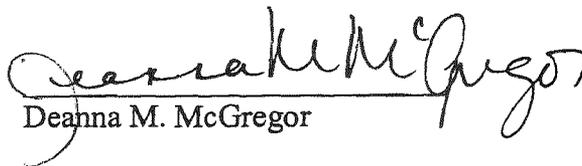
  
Gary A. Hecht  
Edward L. Brant  
Fox Rothschild LLP  
2000 Market St, 10<sup>th</sup> Floor  
Philadelphia, PA 19103-3291  
Tel: 215-299-2416  
Fax: 215-299-2150  
Email: ghect@foxrothschild.com

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of this paper and the Declaration of Deanna M. McGregor in support of this motion has been served upon all parties via electronic mail and at their addresses listed below by First Class Mail on this date.

Gordon P. Raisanen  
Raisanen & Associates Law Firm, Ltd.  
15725 US Highway 12 SW  
Cokato, MN 55321-4624

Dated: December 19, 2008

  
Deanna M. McGregor

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

In re Application Serial No. 78/879396

STONCOR GROUP, INC.	:	Opposition No. 91177161
	:	
Opposer,	:	
	:	
v.	:	
	:	
STONEL INC.	:	
	:	
Applicant.	:	

**DECLARATION OF DEANNA M. MCGREGOR IN SUPPORT OF  
OPPOSER'S MOTION TO EXTEND TIME TO FILE ITS REPLY BRIEF**

1. I, Deanna McGregor, am employed as a paralegal at the law offices of Fox Rothschild LLP in its Philadelphia offices at 2000 Market Street, Tenth Floor, Philadelphia, PA 19103. I am a citizen of the United States and reside in Wilmington, Delaware.

2. I work under the direction of attorney Charles N. Quinn and have been in contact with Mr. Quinn and his wife over the past three weeks. Mr. Quinn is the lawyer representing Opposer StonCor Group, Inc. in the above identified Opposition proceeding.

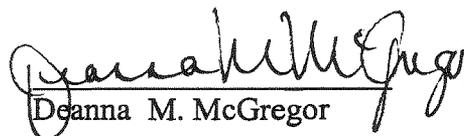
3. Mr. Quinn was absent from work beginning December 3 through to today, December 19, 2008, with exceptions of a half day on December 8, and on December 9, 10 and 11.

4. I spoke with Mr. Quinn and his wife at various times during the week of December 15, 2008, and was informed that he is extremely ill. I was also informed that he initially had the flu beginning on December 3, 2008, which has since developed into secondary infections, and that his illness has been complicated by his heart related problems. I spoke with Mr. Quinn's wife today, December 19, 2008, and was informed that Mr. Quinn is still very ill and that it is presently unknown as to when he will return to work.

6. Mr. Quinn had previously coordinated with the staff at Fox Rothschild LLP to work on the reply brief the end of the week of December 8, 2008, and during the week of December 15, 2008. Due to his illness he has not been able to do any work associated with the reply brief.

I declare under penalty of perjury under the laws of the United States that the foregoing statements, made of my own knowledge, are true and correct.

Dated: December 19, 2008

  
Deanna M. McGregor

# **EXHIBIT U**

ESTTA Tracking number: **ESTTA253402**

Filing date: **12/05/2008**

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

Proceeding	91168700
Party	Plaintiff StonCor Group, Inc.
Correspondence Address	CHARLES N. QUINN FOX ROTHSCHILD LLP 2000 MARKET STREET PHILADELPHIA, PA 19103-3291 UNITED STATES cquinn@frof.com
Submission	Other Motions/Papers
Filer's Name	Tristram R. Fall, III
Filer's e-mail	tfall@foxrothschild.com
Signature	/Tristram R. Fall, III/
Date	12/05/2008
Attachments	Stipulated Motion - STONECRETE.pdf ( 2 pages )(48218 bytes )



GRANTED and so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

---