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

Proceeding	91186473
Party	Plaintiff Apex, LLC
Correspondence Address	Andrew Gates Apex, LLC 100 Main St. Pawtucket, RI 02860 UNITED STATES theapexcompanies@gmail.com
Submission	Opposition/Response to Motion
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Date	02/25/2009
Attachments	Opposition to Response 2.23.2009.pdf (3 pages)(447940 bytes)

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

APEX, LLC

Opposer,

v.

APEX PAVERS, INC.

Applicant

Opposition No. 91186473

Trademark: APEX PAVERS (and design)

Serial No. 77/243,433

**OPPOSER'S RESPONSE TO APPLICANT'S RESPONSE TO OPPOSER'S
MOTION TO EXTEND**

Opposer, APEX, LLC. (hereinafter "Opposer"), by and through the undersigned counsel, hereby files Opposer's Response to Applicant's Response to Opposer's Motion for Thirty (30) Day Extension of Time to Respond, and in support thereof states as follows:

1. On January 3, 2009, the Applicant served the Opposer with its Motion to Amend Applicant's Application by United States First Class mail. Opposer then received the motion upon return from vacation. The Opposer's response was due on January 23, 2009.

2. Pursuant to TBMP §§ 502.02(b) and 509.01 (a), the time period for responding to motions shall apply unless another time is ordered by the Board upon a motion for good cause with particularity the facts said to constitute good cause and demonstrate that the request is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time period allotted.

3. In order to expedite this matter, Opposer hired the undersigned counsel to handle this matter on its behalf. The undersigned counsel began working for Opposer on January 22, 2009, one day before the Response was due.

4. On January 23, 2009, the date the Response was due, the undersigned counsel contacted counsel for Applicant in order to request a thirty (30) day extension of time to Respond to Applicant's Motion to Amend its Application. Counsel for Applicant responded late that afternoon, denying the Request on the grounds that Applicant believed that this would unnecessarily delay the proceedings of this matter.

5. Nonetheless, Opposer filed a Motion to Extend on the grounds that counsel for Opposer has not had sufficient time to review the motion or the case.

6. Opposer believes that the Opposer's Motion to Extend should be granted on the grounds that the Extension does not delay the proceedings or prejudice Applicant in any manner, particularly at this early stage in the proceeding, and that there is no impact on the proceedings and that all other deadlines shall remain unchanged.

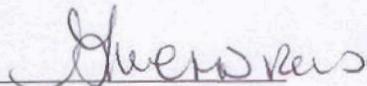
7. Further, it is Opposer's understanding that the Board prefers that the parties work together amicably without unnecessarily involving the Board. Opposer attempted to work out a reasonable extension of time, given the circumstances, which was denied by Applicant.

WHEREFORE, the Opposer respectfully requests that the Board Grant Opposer's Motion for a Thirty (30) day Extension of Time to Respond.

Dated: February 17, 2009

Respectfully Submitted,

Apex, LLC

By: 

Gwenn Roos, Esq.
Attorney for Opposer
Apex, LLC

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the correspondent of record for the Applicant on this 23rd day of February, 2009 via First Class U.S. Postal Mail:

Ms. Leslie A. Burgk
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