

ESTTA Tracking number: **ESTTA263198**

Filing date: **01/28/2009**

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

Proceeding	91186473
Party	Defendant Apex Pavers, Inc
Correspondence Address	Leslie A. Burgk Leslie A. Burgk, P.A. 900 East Ocean Blvd, Suite D-130 Stuart, FL 34994 UNITED STATES leslie@leslieburgk.com
Submission	Opposition/Response to Motion
Filer's Name	Leslie A. Burgk, Esq.
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Signature	/LAB/
Date	01/28/2009
Attachments	Apex Pavers Response to Extension.pdf ( 2 pages )(82875 bytes )

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

APEX, LLC	)	
	)	Opposition No. 91186473
v.	)	
APEX PAVERS INC.	)	Mark: APEX PAVERS (and design)
	)	
Applicant.	)	Serial No.: 77/243,433
	)	Filing Date: July 31, 2007

**APPLICANT’S RESPONSE TO OPPOSER’S MOTION FOR THIRTY (30) DAY  
EXTENSION OF TIME TO RESPOND**

Applicant, APEX PAVERS INC. (hereinafter the “Applicant”), by and through the undersigned counsel, hereby files 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. The Opposer’s response, if any, 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, which must set forth 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.

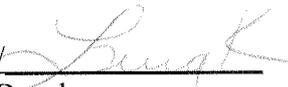
3. The Opposer’s motion does not set forth the requisite good cause for its request nor does it demonstrate that the request is not necessitated by the Opposer’s lack of diligence or unreasonable delay. The Applicant would like to move this case forward without delay. Therefore, the Applicant is respectfully requesting that the Opposer’s motion be denied.

WHEREFORE, the Applicant respectfully requests that the Board deny the Opposer's Motion for a Thirty (30) day extension of time to respond.

Dated: January 28, 2009

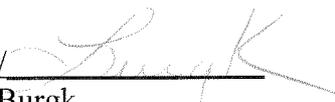
Respectfully Submitted,

LESLIE A. BURGK, P.A.

By: /LAB/   
Leslie A. Burgk  
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#### **CERTIFICATE OF ELECTRONIC FILING**

I HEREBY CERTIFY that the foregoing Answer and Affirmative Defenses is being submitted electronically through the Trademark Trial and Appeal Board's ESTTA System on this 28<sup>th</sup> day of January 2009.

By: /LAB/   
Leslie A. Burgk

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the correspondent of record for the Opposer this 28th day of January 2009 via First Class U.S. Postal Mail:

Ms. Gwenn Roos, Esq.  
Apex, LLC  
100 Main Street  
Pawtucket, Rhode Island 02860

By: /LAB/   
Leslie A. Burgk