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

Proceeding	91190278
Party	Plaintiff NAC Harmonic Drive, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NAC Harmonic Drive, Inc.,	)	
Opposer,	)	
	)	
v.	)	
	)	Opposition No. 91190278
Harmonic Drive L.L.C,	)	
Applicant	)	
	)	
Attorney Docket: 0076290-000003	)	

**RESPONSE TO APPLICANT’S MOTION FOR EXTENSION OF TIME TO**  
**OPPOSE OPPOSER’S MOTION FOR SUMMARY JUDGMENT**

Respectfully, Opposer believes that Applicant’s motion to extend time to answer is lacking good cause and Applicant is being harmed by this further delay. TBMP 509.01(a) states that the Board will “scrutinize carefully” any motion to extend time, to determine whether the requisite good cause has been shown (citing Fairline Boats plc v. New Howmar Boats Corp., 59 USPQ2d 1479, 1480 (TTAB 2000) and others).

Applicant states, “because Opposer’s client is located in Japan, Opposer will need additional time to obtain materials in support of it’s opposition.” Giving careful scrutiny, this rationale is of course nonsensical as Opposer does not need additional time and is not in Japan, but perhaps the Applicant meant to say that the Applicant is located in Japan and Applicant’s Attorney needs more time to obtain materials. Assuming the latter, the Board and Applicant have ruled / admitted in Applicant’s prior motion that Applicant was put on notice

almost 70 days ago, and in fact, received a Federal Express package containing the Motion for Summary Judgment on December 22, 2009). No reason has been given which would show a good cause to delay sending materials for 70 days. Likewise, Applicant's production of documents and answers to interrogatories are almost as late.

Referring now to the prosecution history, Applicant's Attorney has requested (and received consent) to delay everything thus far, this being the fourth request. The first time, the request was based on waiting for instructions from the client in Japan. The second time, the request was based on the answer being due a few weeks after the December holidays, holidays which are not celebrated in almost the entire country of Japan and are extremely unlikely to be celebrated by the Attorney of Record for Applicant. This time, the request is based on a continued failure to receive information from the Japanese client, a full year after this proceeding has been commenced and months since the underlying motion was filed. While last week's snow storm is a convenient excuse, assuming Applicant had provided its Attorney with the requested materials in anything close to a timely manner, there would still be an additional week for Applicant's Attorney to respond.

At this point, it is abundantly clear that Applicant, simply does not take these proceedings seriously and is seeking delays for the benefit of the delay itself – the unfair detriment of my client. Due to the continued uncertainty surrounding Applicant's mark which may have been resolved in Summary Judgment half a year ago if not for Applicant delays, Opposer's ability to do business is being harmed, giving Applicant an unfair trade advantage. The Opposer should not be harmed by Applicant refusal to meet even this already twice extended deadline.

For the above stated reasons, Opposer respectfully requests that this motion be denied.

Respectfully submitted,

NAC Harmonic Drive, Inc.,



By \_\_\_\_\_

Michael J. Feigin, Esq.  
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Date: February 17, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing **RESPONSE TO APPLICANT'S MOTION FOR EXTENSION OF TIME TO OPPOSE OPPOSER'S MOTION FOR SUMMARY JUDGMENT** was served this 17th day of February 2010 by via first-class mail, postage prepaid, on:

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