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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.
Correspondence Address	Michael J. Feigin, Esq. Law Firm of Michael Feigin, Esq. 103 The Circle Passaic, NJ 07055 UNITED STATES patentlawnj@gmail.com
Submission	Reply in Support of Motion
Filer's Name	Michael J. Feigin, Esq.
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Date	04/23/2010
Attachments	NAC001-07f-Supplement to Rebuttal to Opposition to Summary Judgment.pdf (7 pages)(109689 bytes)

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)	
)	

SUPPLEMENT TO REPLY IN SUPPORT OF APPLICANT’S MOTION FOR
SUMMARY JUDGMENT

Opposer requests of the board to supplement his Reply based on the just-admitted Request for Admissions. As mentioned in section IV. C. of Opposer’s Reply, Opposer served Applicant with a Request for Admissions on March 22, 2010, the Request pertaining solely to objections by the Applicant in this motion. Applicant has failed to timely answer the Request. Thus, pursuant to FRCP Rule 36(3), as a matter of law, each statement has been admitted by the Applicant. The Request for Admissions, each statement having been admitted to by Applicant, is attached hereto.

As a matter courtesy, the undersigned notes herein that on the date of the deadline to respond, Opposer’s Attorney did e-mail the undersigned, arguing that the Request for Admissions are not due. Opposer referenced footnote two of the Order of March 10, 2010, and it’s cites, namely, Trademark Rule 2.127(d) and TBMP § 528.03 (herein, “the citations”). However, as clearly stated in both citations and brought to the attention of the Applicant by the undersigned, suspension is only “with respect to all matters not germane to the motion.” Here, the Requests for Admission are entirely germane to and pertain

solely to issues raised by the Applicant in response to the Motion for Summary Judgment. Further, a Motion for Admissions may be served at any time, even after discovery is closed, let alone, suspended. Thus, Applicant's justification for again failing to respond in a timely manner is without merit.

A handwritten signature in black ink, appearing to read "Michael J. Feigin". The signature is stylized with a large, looped initial "M" and a cursive "Feigin".

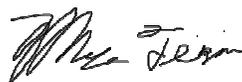
Michael J. Feigin, Esq.

Attorney for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **SUPPLEMENT TO REPLY IN SUMMARY JUDGMENT MOTION** was served this 23rd day of April 2010 by via Federal Express, postage prepaid, on:

Bassam N. Ibrahim
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Michael J. Feigin, Esq.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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NAC Harmonic Drive, Inc.,)	
Opposer,)	
)	
v.)	
)	Opposition No. 91190278
Harmonic Drive L.L.C,)	
Applicant)	
)	

REQUEST FOR ADMISSIONS

Opposer in the above-captioned matter, by and through its undersigned attorney, requests that Applicant, within thirty days of service of this request, admit pursuant to the truth of the following statements:

1. Exhibit C as referenced and provided in the Motion for Summary Judgment in the captioned case is a true and accurate undated copy of a marketing brochure of the Applicant mailed in the United States.

2. Exhibit D as referenced and provided in the Motion for Summary Judgment in the captioned case is a true and accurate copy of excerpts of a trademark history for a mark filed by the Applicant and may be entered based on judicial notice.

3. Exhibit F as referenced and provided in the Motion for Summary Judgment in the captioned case contain true and accurate copies of articles in Encyclopedia Britannica and other reference sources.

4. Exhibit G as referenced and provided in the Motion for Summary Judgment in the captioned case is a true and accurate copy of excerpts

of relevant pages from the voluminous “Fundamental of Mechanical Design” textbook, copyright info/date included.

5. Exhibit H as referenced and provided in the Motion for Summary Judgment in the captioned case comprises true and accurate copies of sample pages of an article published in the Journal of Dynamic, Systems, Measurements, and Control.
6. Exhibit I and L as referenced and provided in the Motion for Summary Judgment in the captioned case comprises true and accurate copies of excerpts and/or abstracts of learned journal articles, obtained on the date at the URL indicated thereon, where applicable.
7. Exhibit J as referenced and provided in the Motion for Summary Judgment in the captioned case comprises a true and accurate summary of patents comprising the term, “harmonic drive” conducted at www.uspto.gov as of September 25, 2009.
8. Exhibit M as referenced and provided in the Motion for Summary Judgment in the captioned case is a true and accurate copy of a website of Applicant located at the URL indicated on the document and on the date indicated on the document.
9. Exhibit N as referenced and provided in is a true and accurate copy of a webpage of Applicant, waltmusser.org, as available on February 11, 2009.
10. Exhibits O, P, Q as referenced and provided in Opposer’s Rebuttal in the Motion for Summary Judgment are true and accurate copies of issued patents obtained from The United States Patent and Trademark Office.

11. Harmonic Drive, LLC was formed from a merger of HD Systems, Inc. and Harmonic Drive Technologies, Inc in 2005.
12. HD Systems, Inc. previously conducted business as Harmonic Drive Systems, Inc.
13. HD Systems, Inc. and Harmonic Drive Technologies were competitors prior to 2005.
14. Before 2005, HD Systems, Inc. sold products marketed as “harmonic drives”.
15. Before 2005, HD Systems, Inc. sold products marketed as “harmonic drive gearing”.
16. Before 2005, Harmonic Drive Technologies sold products marketed as “harmonic drives”.
17. Before 2005, Harmonic Drive Technologies sold products marketed as “harmonic drive gear sets”.
18. To the best of Applicant’s knowledge, between the years of 1987 and 2005, other third party entities sold gear drives marketed as “harmonic drives.”

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **REQUEST FOR ADMISSIONS** was served this 22nd day of March 2010 by via Federal Express, postage prepaid, on:

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