

ESTTA Tracking number: **ESTTA596047**

Filing date: **04/02/2014**

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

Proceeding	91210559
Party	Plaintiff NetCloud, LLC
Correspondence Address	MORRIS E TUREK YOURTRADEMARKATTORNEY.COM 167 LAMP AND LANTERN VILLAGE #220 CHESTERFIELD, MO 63017-8208 UNITED STATES morris@yourtrademarkattorney.com
Submission	Motion to Extend
Filer's Name	Morris E. Turek
Filer's e-mail	morris@yourtrademarkattorney.com
Signature	/met20/
Date	04/02/2014
Attachments	NetCloud Motion to Extend Testimony Period (FINAL).pdf(481055 bytes)

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

NetCloud, LLC)
Opposer,)
v.) Opposition No. 91210559
East Coast Network Services, LLC)
Applicant.)
_____)

**OPPOSER’S MOTION TO EXTEND TESTIMONY PERIOD AND
MOTION FOR PERMISSION TO PROCEED WITH TESTIMONY DEPOSITIONS
VIA TELEPHONE**

Opposer NetCloud, LLC (“Opposer”) hereby respectfully requests that the Board extend Opposer’s testimony period (and all subsequent dates in this proceeding) by **30 days** in order to provide Opposer additional time to coordinate, schedule, and conduct two testimony depositions of two separate witnesses located in two different states. In addition, Opposer seeks an order from the Board permitting it to proceed with the testimony depositions of its witnesses via telephone in order to save time and money. This Motion was necessitated by Applicant’s inexplicable inflexibility and uncooperativeness as fully explained below. The grounds for Opposer’s Motion are as follows:

1. On March 2, 2014, Opposer served on Applicant’s attorney a copy of its Pretrial Disclosures. The Pretrial Disclosures indicate that Opposer intends to take the testimony of Mehul Satasia (who lives in Texas) and Raj Viradia (who lives in Georgia). Opposer has attached a copy of the Pretrial Disclosures as **Exhibit A**.

2. On March 19, 2014 (one day after Opposer’s testimony period opened), Opposer’s attorney left a voicemail for Applicant’s attorney indicating his desire to schedule

mutually convenient dates/times for the testimony depositions. Opposer's attorney also sent an email to Applicant's attorney the same day. Applicant's attorney responded that his preference would be to have the depositions between April 1 and April 17 due to the travel required. On that same day, Opposer's attorney responded that he would like to schedule the depositions on April 2 and April 3, and that it would be preferable to conduct the depositions via telephone since Opposer's attorney lives in Missouri and the witnesses live in Texas and Georgia. Opposer has attached a copy of the email exchange as **Exhibit B**.

3. Not having heard from Applicant's attorney, Opposer's attorney followed up with him on March 21, 2014 via email. On that same day, Applicant's attorney stated that he needed to "further research and to what extent I am required to agree to such a procedure and discuss the advisability of doing so with my client." **Exhibit B**.

4. Not having heard from Applicant's attorney, Opposer's attorney sent an email to Applicant's attorney on March 25, 2014 inquiring as to whether he would consent to the depositions being held over the telephone. If such consent was not granted, Opposer's attorney indicated that he would need to request a 30 day extension of the testimony period in order to coordinate travel to two different witnesses in two different states. **Exhibit B**.

5. Not having heard from Applicant's attorney, Opposer's attorney sent an email to Applicant's attorney on March 30, 2014 indicating that he was going to schedule telephone depositions on April 10 and April 11 if he did not hear from Applicant's attorney by April 1. Opposer's attorney again indicated that he would need to extend the testimony period by 30 days if consent to telephone depositions was not granted in order to coordinate travel arrangements for in-person depositions in two different states. **Exhibit B**.

EXHIBIT A

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

NetCloud, LLC)
Opposer,)
v.) Opposition No. 91210559
East Coast Network Services, LLC)
Applicant.)
_____)

PRETRIAL DISCLOSURES OF OPPOSER
NETCLOUD, LLC

Pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.121(e), without waiving any claim of privilege, work product, or other basis for non-disclosure, Opposer NetCloud, LLC (“Opposer”) hereby makes these Pretrial Disclosures. Opposer’s Pretrial Disclosures are based on information that is currently reasonably available to Opposer. Opposer’s investigation into this matter is ongoing and it reserves the right to correct, modify, or supplement these Pretrial Disclosures as newly discovered information becomes available.

PRETRIAL DISCLOSURES

I. WITNESSES

Pursuant to Federal Rule of Civil Procedure 26(a)(3)(A)(i), Opposer identifies the following individuals as witnesses from whom it intends to take testimony. Opposer further provides a general summary of the types of documents and things which may be introduced as exhibits during the testimony of the witnesses.

Mehul Satasia
Managing Member of NetCloud, LLC
8813 Glen Canyon Dr.
Round Rock, TX 78681
(512) 568-9608

Mehul Satasia is expected to provide testimony regarding (1) the current use of the NETCLOUD trademark, (2) Opposer's acquisition of the NETCLOUD trademark, (3) the services with which the NETCLOUD trademark is used, (4) the marketing and advertising of the services offered under the NETCLOUD trademark, (5) the channels of trade in which Opposer's services are offered/sold, and (6) the buyers to whom Opposer's services are offered/sold.

Mehul Satasia intends to introduce into evidence (1) documents and things evidencing Opposer's current and prior use of its NETCLOUD trademark, (2) marketing and advertising materials, (3) invoices and receipts, and (4) trademark acquisition and ownership documents.

Raj Viradia
Former Owner of NETCLOUD Trademark
3462 Lockmed Dr.
Norcross, GA, 30092
(678) 283-5503

Raj Viradia is expected to provide testimony regarding (1) his previous use of the NETCLOUD trademark, (2) the sale of the NETCLOUD trademark to Mehul Satasia, (3) the services with which he used the NETCLOUD trademark, (4) the marketing and advertising of the services he offered under the NETCLOUD trademark, (5) the channels of trade in which his services were offered/sold, and (6) the buyers to whom his services were offered/sold.

Raj Viradia intends to introduce into evidence (1) documents and things evidencing his previous use of the NETCLOUD trademark, (2) marketing and advertising materials, (3) invoices and receipts, and (4) trademark assignment documents.

EXHIBIT B

[Print](#) | [Close Window](#)

Subject: RE: NETCLOUD Opposition (#91210559) - Testimony Depositions

From: "Morris E. Turek" <morris@yourtrademarkattorney.com>

Date: Wed, Apr 02, 2014 6:58 am

To: "Russell Logan" <russell.logan@gmail.com>

Bcc: "Morris Turek" <mturek@uwalumni.com>

Russell,

It's unfortunate that you and your client are not willing to be more cooperative, flexible, and professional. You have not provided any reason why these depositions must be conducted in person, nor any explanation as to why you would not consent to a mere 30 day extension of all remaining trial dates.

I will be filing an appropriate motion with the Board today.

Sincerely,
Morris

Morris E. Turek

YourTrademarkAttorney.com

167 Lamp and Lantern Village, #220

St. Louis, MO 63017-8208

Tel: (314) 749-4059

Fax: (800) 961-0363

Connect with Morris on:

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----- Original Message -----

Subject: Re: NETCLOUD Opposition (# 91210559) - Testimony Depositions

From: Russell Logan <russell.logan@gmail.com>

Date: Tue, April 01, 2014 9:10 pm

To: "Morris E. Turek" <morris@yourtrademarkattorney.com>

Hi Morris, my client and I will not consent to either telephone depositions or an extension of your trial period.

-Russell

On Sun, Mar 30, 2014 at 8:40 AM, Morris E. Turek <morris@yourtrademarkattorney.com> wrote:

Dear Russell,

Since I have not heard from you and time is starting to run out, I am going to be officially scheduling

the depositions of Mehul Satasia on April 10 at 2:00 Central, and Raj Viradia on April 11 at 2:00 Central. I will be conducting these depositions via telephone. If you object to a telephone deposition or the dates/times, then we will need to extend the testimony deadline by 30 days so that we can find suitable dates/times and/or make travel arrangements for in-person depositions.

Please let me know by Tuesday, April 1 whether (1) you are OK with the depositions as described above or (2) consent to a 30 day extension of the testimony deposition deadline.

Sincerely,
Morris

Morris E. Turek
YourTrademarkAttorney.com
167 Lamp and Lantern Village, #220
St. Louis, MO 63017-8208
Tel: [\(314\) 749-4059](tel:(314)749-4059)
Fax: [\(800\) 961-0363](tel:(800)961-0363)

Connect with Morris on:

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----- Original Message -----

Subject: RE: NETCLOUD Opposition (# 91210559) - Pretrial Disclosures
From: "Morris E. Turek" <morris@yourtrademarkattorney.com>
Date: Tue, March 25, 2014 8:26 am
To: "Russell Logan" <russell.logan@gmail.com>

Dear Russell,

I am just following up with you regarding the testimony depositions I plan on taking of two witnesses. I need to know whether you will consent to the witnesses testifying over the phone. If not, I will need to request a 30 day extension of the testimony period in order to coordinate travel to two different witnesses in two different states. Please let me know at your earliest convenience.

In addition, if we are going to do this over the phone, next week may not work anymore. We may be looking at some dates the following week.

Sincerely,
Morris

Morris E. Turek

YourTrademarkAttorney.com

167 Lamp and Lantern Village, #220

St. Louis, MO 63017-8208

Tel: [\(314\) 749-4059](tel:(314)749-4059)

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----- Original Message -----

Subject: Re: NETCLOUD Opposition (# 91210559) - Pretrial Disclosures

From: Russell Logan <russell.logan@gmail.com>

Date: Fri, March 21, 2014 10:09 am

To: "Morris E. Turek" <morris@yourtrademarkattorney.com>

Hi Morris, I need to further research whether and to what extent I am required to agree to such a procedure and discuss the advisability of doing so with my client.

-Russell

On Fri, Mar 21, 2014 at 10:36 AM, Morris E. Turek

<morris@yourtrademarkattorney.com> wrote:

Dear Russell,

I am just following up on my email of March 19 (below). Please let me know if those dates work and whether you consent to me conducting the depositions via telephone.

Sincerely,

Morris

Morris E. Turek

YourTrademarkAttorney.com

167 Lamp and Lantern Village, #220

St. Louis, MO 63017-8208

Tel: [\(314\) 749-4059](tel:(314)749-4059)

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----- Original Message -----

Subject: RE: NETCLOUD Opposition (# 91210559) - Pretrial Disclosures

From: "Morris E. Turek" <morris@yourtrademarkattorney.com>

Date: Wed, March 19, 2014 2:57 pm

To: "Russell Logan" <russell.logan@gmail.com>

Dear Russell,

Thank you for getting back to me. I am looking to conduct one deposition on April 2 and the other on April 3.

If I have your consent, I am planning to simply conduct the depositions over the telephone since I am in St. Louis and the witnesses live in Texas and Georgia. If you don't want to travel, we can simply conference you in. I will provide you with all of the documents I plan on entering into evidence prior to the deposition.

Please let me know if that arrangement works for you. I think it will save costs on both sides.

Sincerely,
Morris

Morris E. Turek
YourTrademarkAttorney.com
167 Lamp and Lantern Village, #220
St. Louis, MO 63017-8208
Tel: [\(314\) 749-4059](tel:(314)749-4059)
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----- Original Message -----

Subject: Re: NETCLOUD Opposition (# 91210559) - Pretrial

Disclosures

From: Russell Logan <russell.logan@gmail.com>

Date: Wed, March 19, 2014 10:27 am

To: "Morris E. Turek"

<morris@yourtrademarkattorney.com>

Hi Morris, my preference would be any time from April 1 to April 17. Due to the travel required I would appreciate if you could provide as much advance notice as possible.

-Russell

On Wed, Mar 19, 2014 at 9:27 AM, Morris E. Turek

<morris@yourtrademarkattorney.com> wrote:

Dear Russell,

I just left you a voicemail asking that you give me a call so that we can looking to dates for my client's testimony deposition. Please give me a call back at your convenience.

Sincerely,
Morris

Morris E. Turek

YourTrademarkAttorney.com

167 Lamp and Lantern Village, #220

St. Louis, MO 63017-8208

Tel: [\(314\) 749-4059](tel:(314)749-4059)

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----- Original Message -----

Subject: NETCLOUD Opposition (# 91210559) -

Pretrial Disclosures

From: "Morris E. Turek"

<morris@yourtrademarkattorney.com>

Date: Sun, March 02, 2014 11:09 am

To: russell.logan@gmail.com

Dear Russell,

I have attached your service copy of Opposer
NetCloud's Pretrial Disclosures.

Thank you,
Morris

Morris E. Turek
YourTrademarkAttorney.com
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