

12-09-2003

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

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

NY-EXOTICS, INC.

Petitioner ("Plaintiff")

vs.

EXOTICS.COM, INC.

Respondent ("Defendant")

Cancellation No. 92/040976

Registration No. 2,576,808

Mark: NY-EXOTICS.COM

**RESPONDENT'S REQUEST FOR EXTENSION
OF TIME TO OPPOSE MOTION FOR
SUMMARY JUDGMENT; DECLARATION OF
MICHAEL KRIEGER**

MEMORANDUM

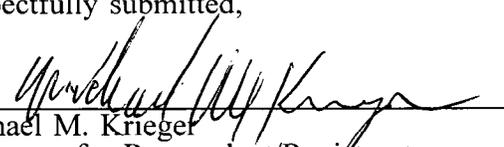
Pursuant to 37 CFR § 2.116(a) and TBMP §509(a) and the within declaration of Michael Krieger (*Declaration*), Respondent requests an extension of time beyond December 4, 2003 to oppose Petitioner's Motion for Summary Judgment, served by mail October 30, 2003. This is requested notwithstanding timely filing of a response by Respondent.

By its nature, a summary judgment poses a special threat to the opposing party and because of its draconian nature, a response requires unusual time for trial-like preparation. Despite the October 30, 2003 service date, Respondent received it only on November 13, 2003, a full two weeks after mailing. Moreover, the remaining interval spanned Thanksgiving week, a time of unavailability of many people, including potential declarants needed to authenticate evidence. The combination of such reduced time, coupled with unalterable obligations of Undersigned counsel, a sole practitioner, undertaken prior to service of the Motion, left inadequate time to respond fully, although a response was timely filed.

Accordingly, additional time as the Board thinks proper is requested for filing a complete response.

Dated: December 4, 2003

Respectfully submitted,


Michael M. Krieger
Attorneys for Respondent/Registrant
EXOTICS.COM, INC. a Nevada corp.
EXOTICS.COM, INC. a Delaware corp.

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vs.

EXOTICS.COM, INC.
Respondent/Registrant

) **Cancellation No. 92/040976**

) **Registration No. 2,576,808**

) **Mark: NY-EXOTICS.COM**

) **DECLARATION OF MICHAEL M.
KRIEGER IN EXTENSION OF TIME**

DECLARATION OF MICHAEL M. KRIEGER

I, Michael M. Krieger, declare as follows:

I am over twenty-one years of age, have personal knowledge of the matters set forth herein and each of them is true and correct.

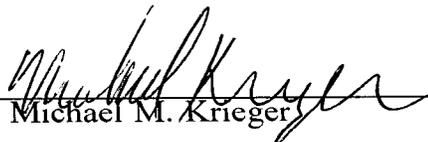
1. I am an attorney at law and member of the State Bar of California. I represent respresent Respondent/Registrant Exotics.com, Inc., and related Exotics.com, Inc entities (collectively, *Exotics*) in this proceeding. I am also on the UCLA Computer Science Faculty, and currently teaching a course.

2. On November 13, 2003 I received Petitioner's Motion for Summary Judgment (*Motion*), 14 days after its service date of Oct. 30. Mail is received in a post office box at the UCLA Wilshire Center. I had received the Petitioner's protective order, also filed Oct. 30 more than a week before directly in the box. The large size of the Motion required personally picking up the package but there had been no notice (as customarily put in the box, previously).

3. Despite the loss of 8-9 days, I nonetheless attempted to complete the response. The interposition of Thanksgiving week made various candidate declarants unavaialbe as my response began to focus.

4. Meanwhile, the few post-Thanksgiving days until Dec. 4, 2003, my time had already been heavily committed to two matters: the final week of teaching my course, CS239-Sec. 2 (Entrepreneurship and Technology Ventures) and final preparation for a Caltech conference/seminar on Dec. 6 for which I am one of the two organizers. As one might expect, there is no way to put off the final class of the quarter (Dec. 3). As to the Caltech program, it is a four hour program including approximately 8 speakers including two last minute invitee "ok's" from Nobel Prize winner David Baltimore and Brigadier General Simon Worden. Needless to say, there is no way to ignore, put off, or reschedule my commitment to the event.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. This declaration was executed on the 4th day of December, 2003.



Michael M. Krieger

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Respondent's Request for Extension of Time to Oppose Motion for Summary Judgment; Declaration of Michael Krieger is being served on Petitioner by deposit with the United States Postal Service on December 4, 2003, as first class mail in an envelope addressed to:

Jenkins & Gilchrist
Attn: Cathryn A. Berryman
1445 Ross Avenue, Suite 3200
Dallas TX 75202-2799


Michael M. Krieger

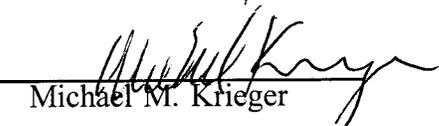
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Trademarks
TTAB - No Fee
2900 Crystal Drive
Arlington, VA 22202-3514

on December 4, 2003

By:


Michael M. Krieger