

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

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)
)
Petitioner,)
v.)
PAVE TECH, INC.,)
)
Registrant.)

Cancellation No. 92041776



06-10-2005

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #11

**PETITIONER'S MOTION FOR EXTENSION
OF TESTIMONY PERIODS**

In accordance with Fed.R.Civ.P. 6(b)(1), Petitioner hereby requests a 45 day extension of the testimony periods to allow the preparation for deposition of its testimony witness, Mr. Kurt Tisdale, and the taking of his deposition. The standard for granting this request is good cause and the Board is liberal in granting extensions before the period to act has elapsed as long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions has not been abused. This is Petitioner's first request for an extension of its testimony period and Petitioner has been diligent in a good faith effort to complete testimony. Petitioner has good cause for the grant of this extension and this extension will not prejudice Registrant in any way. On the other hand, if the request for extension is denied, Petitioner will be extremely prejudiced in that it will be unable to present its testimony and the interests of justice will be thwarted. In support of its request for this short extension, Petitioner states as follows:

In addition to appropriate Notices of Reliance, Petitioner will present its testimony primarily through Mr. Kurt Tisdale. Mr. Tisdale is the Caterpillar General Construction Industry Division Manager. He leads the organization responsible for delivering the business plan for ten

CH26620.1
40076000044
06/03/2005 ms

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on June 6, 2005.

(10) lines of Building Construction and Compact Products in North America. This group is responsible for establishing the annual and monthly forecasts for those products and markets, completing the monthly Sales & Operations Planning process, determining market pricing and negotiating transfer prices with the manufacturing facilities, tracking and managing product discount and variance expenditures, developing advertising, promotion and communication campaigns, coordinating new product launches and training activities, improving effectiveness of the distribution chain for products sold into the General Construction market and developing market expertise for the company. In addition, Mr. Tisdale resides on the Worldwide General Construction Industry Council, is working on two Executive Office Special Projects, and is a member of an outside Corporate Relations Committee. Three managers and their professional marketing staffs report to Mr. Tisdale. As a result of his extensive responsibilities, Mr. Tisdale has an extremely busy schedule set long in advance and filled with out of town travel and supervisory meetings critical to Petitioner's day to day operation. Petitioner is unable to take the deposition of Mr. Tisdale because his schedule during the current testimony period of May 14 through June 13, 2005, makes him unavailable for his preparation for and taking of the deposition. Petitioner's counsel requires at least two and preferably three consecutive days of Mr. Tisdale's time to prepare him for his deposition and provide sufficient time for the taking of his deposition.

Mr. Tisdale's previously established schedule during this period is as follows:

May 9 through May 11:	In Dallas, Texas attending a district office meeting regarding quality control programs.
May 14 through May 21:	In Japan visiting one of Petitioner's manufacturing plants.

- May 23 through May 26: In Sanford, North Carolina, visiting one of Petitioner's manufacturing plants.
- May 31 through June 3: In Peoria, Illinois, in administrative staff meetings on Tuesday and Wednesday, May 31 and June 1 and in meetings on an Executive Office Special project on Thursday, June 2.
- June 8 through June 10: In Camden, Maine, attending the National Committee Meeting for Ducks Unlimited to discuss environmental issues.
- June 15 through June 17: In Clayton, North Carolina and Sanford, North Carolina, meeting with dealers on quality control programs.

Mr. Tisdale's schedule is similarly busy with travel and internal business meetings for the period immediately following the expiration of the current testimony period. However, Mr. Tisdale will be available in mid July for a period of time sufficient for his preparation for deposition and he can be made available for deposition on July 19, 2005. Contemporaneous with the filing of this Motion, Petitioner has filed the attached Notice of Taking Testimony deposition of Mr. Tisdale on July 19, 2005.

Mr. Tisdale's unavailability also should be considered against the background of the parties' discussions regarding the method of the taking of testimony. While the parties were completing discovery, Registrant suggested that testimony be presented by means of affidavit rather than by deposition. While the presentation of testimony by affidavit has some advantages regarding continuous time commitment by witnesses, it still requires the same cumulative amount of Mr. Tisdale's time to meet with counsel and provide information for the affidavit, create it, review it, and finalize it. While considering this request and completing supplemental production of documents, counsel for Petitioner inquired about the availability of Mr. Tisdale during the 30 day testimony period which was set to begin on May 14, and counsel learned that Mr. Tisdale would not be available either for testimony by affidavit or by deposition during the

entire 30 day testimony period. On April 26, 2005, counsel for Petitioner informed counsel for Registrant that while Petitioner would agree to testimony by affidavit it could only do so if Registrant agreed to an extension of the testimony period because Mr. Tisdale was often traveling and unavailable for a sufficient amount of time during the testimony period to prepare his affidavit. Petitioner asked that Registrant consent to an extension of the testimony periods, and informed Registrant that if Registrant would not agree to an extension of testimony, Petitioner would have no choice but to move for an extension of testimony and take testimony by deposition. On May 13, 2005, Registrant formally rejected the request for an extension claiming in part that Petitioner had already requested previous extensions of the testimony period when the parties were extending discovery and testimony periods in previous requests to extend discovery. Registrant's objection to the requested extension is spurious and factually incorrect.

This proceeding was instituted March 22, 2003. (Board Order of March 22, 2003 attached as Exhibit 1). Since then, there have been five (5) consented extensions of the discovery and testimony periods. (Copies of the Consented Motions are attached as Exhibits 2, 3, 4, 6, and 7). As stated in all of the consented requests, the requests for extensions were made in order to complete discovery before proceeding with the testimony periods. There also has been one unconsented request for extension to complete discovery made by Petitioner. This extension was granted by the Board after briefing by all parties. (Board Order of October 14, 2004 attached as Exhibit 5). Throughout these extensions, the parties have worked to complete discovery and except for some supplemental document production, discovery has been completed. Thus, contrary to Registrant's stated position that Petitioner has made previous requests to extend testimony, this is the first request to extend testimony unrelated to an extension of the discovery period.

The above facts establish good cause for the short 45 day extension of the testimony periods. Petitioner has been diligent and shown good faith in scheduling the deposition of its testimony witness, and Registrant will not be prejudiced by this short extension.

WHEREFORE, Petitioner requests that the Board grant Petitioner's Motion and extend the testimony periods 45 days as follows:

30-day testimony period for party in
position of plaintiff to close:

July 28, 2005

30-day testimony period for party in
position of defendant to close:

September 26, 2005

15-day rebuttal testimony period for
plaintiff to close:

November 10, 2005

Date: June 6, 2005

Respectfully submitted,

LOEB & LOEB LLP

By:



Edward G. Wierzbicki

Mary E. Innis

321 North Clark Street

Suite 2300

Chicago, Illinois 60610

Telephone: (312) 464-3100

Facsimile: (312) 464-3111

CERTIFICATE OF SERVICE

I, hereby certify that I caused a copy of the foregoing **MOTION FOR EXTENSION OF TESTIMONY PERIODS** to Michael J. O'Loughlin, Micheal J. O'Loughlin & Associates, P.A., 400 South 4th Street, 1012 Grain Exchange Building, Minneapolis, Minnesota 55415 and Rebecca Jo Bishop, Altera Law Group LLC, 6500 City West Parkway, Suite 100, Minneapolis, MN 55344, via first class mail, postage prepaid this 6th day of June, 2005.



3

UNITED STATES PATENT AND TRADEMARK
OFFICE

Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: March 22, 2003

Pave Tech, Inc.

15354 Flag Avenue P.O. Box 576
Prior Lake, MN 55372

Cancellation No. 92041776

Reg. No. 2684138

NERISSA COYLE MCGINN
PATTISHALL, MCAULIFFE, NEWBURY, HILLIARD & GERALDSON
311 SOUTH WACKER DRIVE - SUITE 5000
CHICAGO, IL 60606

CATERPILLAR INC.

V.

Pave Tech, Inc.

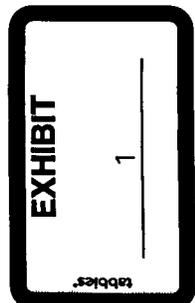
LATRICIA HARRISON, LEGAL ASSISTANT:

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

ANSWER IS DUE FORTY DAYS after the mailing date hereof.
(See Patent and Trademark Rule 1.7 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that became effective October 9, 1998. See Notice of Final Rulemaking published in the *Official Gazette* on September 29, 1998 at 1214 TMOG 145. Slight corrections to the rules, resulting in a correction notice, were published in the *Official Gazette* on October 20, 1998 at 1215 TMOG 64.



A copy of the recent amendments to the Trademark Rules, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), is available at <http://www.uspto.gov>.

Discovery and testimony periods are set as follows:

Discovery period to open: **April 11, 2003**
Discovery period to close: **October 08, 2003**

30-day testimony period for party
in position of plaintiff to close: **January 06, 2004**

30-day testimony period for party
in position of defendant to close: **March 06, 2004**

15-day rebuttal testimony period
for plaintiff to close: **April 20, 2004**

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). A hard copy of the *Official Gazette* containing this notice is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Telephone (202) 512-1800). The notice is also available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

The parties respectfully submit that this constitutes good cause for the requested extension. Petitioner's attorney, Michael J. O'Loughlin, consented to this extension via telephone on September 10, 2003.

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON

Date: September 10, 2003

By: 

Mary E. Innis

Jennifer E. Berner

Nerissa Coyle McGinn

311 South Wacker Drive

Suite 5000

Chicago, Illinois 60606

Telephone: (312) 554-8000

Facsimile: (312)554-8015

CERTIFICATE OF SERVICE

I, Nerissa Coyle McGinn, hereby certify that I caused a copy of the foregoing **CONSENTED MOTION TO EXTEND DISCOVERY AND TESTIMONY PERIODS** to Michael J. O'Loughlin, Micheal J. O'Loughlin & Associates, P.A., 400 South 4th Street, 1012 Grain Exchange Building, Minneapolis, Minnesota 55415 by first class mail, postage prepaid on September 10, 2003.

A handwritten signature in black ink, appearing to read "Nerissa Coyle McGinn", is written over a horizontal line.

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

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)
)
Petitioner,)
) Cancellation No. 41,776
v.)
)
PAVE TECH, INC.,)
)
Respondent.)

CONSENTED MOTION TO EXTEND DISCOVERY AND TESTIMONY PERIODS

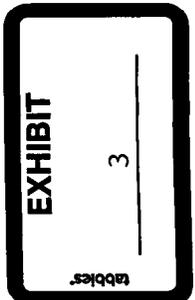
Petitioner hereby moves to extend the discovery period and all subsequent
testimony periods for sixty (60) days in the above proceeding as follows:

Discovery Period to close: April 5, 2004
30-day testimony period for party in
position of Plaintiff to close: July 6, 2004
30-day testimony period for party in
position of defendant to close: September 2, 2004
15-day rebuttal testimony period for
plaintiff to close: October 18, 2004

The parties have exchanged additional written discovery requests and are both in the
process of responding to each others' requests. In addition, Caterpillar has depositions scheduled
for February 23-24, 2004. This additional time is necessary to exchange documents, prepare for
the depositions, and complete discovery before proceeding with the testimony period.

Certificate of Mailing
I hereby certify that this correspondence is being deposited with the United States Postal Service as first
class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington Virginia
22202-3514 on February 2, 2004.

Spencer Perry

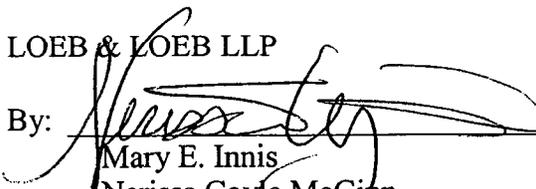


The parties respectfully submit that this constitutes good cause for the requested extension. Respondent's attorney, Michael J. O'Loughlin, consented to this extension via telephone on January 29, 2004.

Respectfully submitted,

LOEB & LOEB LLP

Date: February 2, 2004

By: 

Mary E. Innis

Nerissa Coyle McGinn

200 South Wacker Drive

Suite 3100

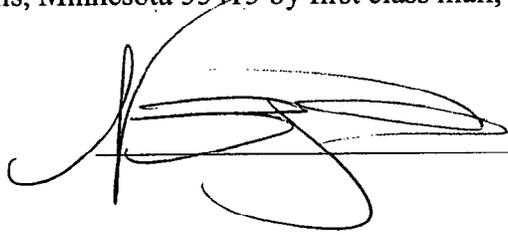
Chicago, Illinois 60606

Telephone: (312) 674-4780

Facsimile: (312) 674-4779

CERTIFICATE OF SERVICE

I, Nerissa Coyle McGinn, hereby certify that I caused a copy of the foregoing
CONSENTED MOTION TO EXTEND DISCOVERY AND TESTIMONY PERIODS to
Michael J. O'Loughlin, Micheal J. O'Loughlin & Associates, P.A., 400 South 4th Street, 1012
Grain Exchange Building, Minneapolis, Minnesota 55415 by first class mail, postage prepaid on
February 2, 2004.



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

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)
)
Petitioner,)
) Cancellation No. 41,776
v.)
)
PAVE TECH, INC.,)
)
Respondent.)

CONSENTED MOTION TO EXTEND DISCOVERY AND TESTIMONY PERIODS

Petitioner hereby moves to extend the discovery period and all subsequent testimony periods for thirty (30) days in the above proceeding as follows:

Discovery Period to close:	May 5, 2004
30-day testimony period for party in position of Plaintiff to close:	August 5, 2004
30-day testimony period for party in position of defendant to close:	October 4, 2004
15-day rebuttal testimony period for plaintiff to close:	November 17, 2004

The parties are responding to written discovery requests. This additional time is necessary to exchange documents, prepare for the depositions, and complete discovery before proceeding with the testimony period.

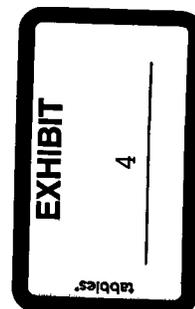
Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington Virginia 22202-3514 on February 25, 2004.

Shana Perry

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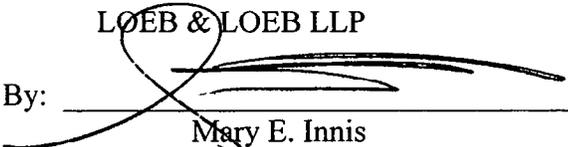
The parties respectfully submit that this constitutes good cause for the requested extension. Respondent's attorney, Michael J. O'Loughlin, consented to this extension via telephone on February 25, 2004.

Respectfully submitted,

LOEB & LOEB LLP

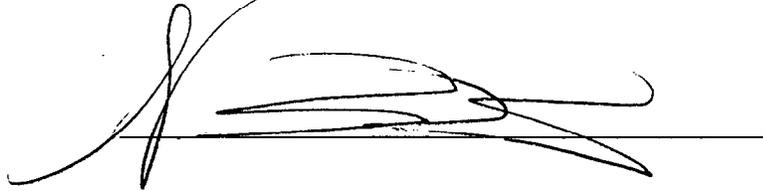
Date: February 25, 2004

By: _____


Mary E. Innis
Nerissa Coyle McGinn
200 South Wacker Drive
Suite 3100
Chicago, Illinois 60606
Telephone: (312) 674-4780
Facsimile: (312) 674-4779

CERTIFICATE OF SERVICE

I, Nerissa Coyle McGinn, hereby certify that I caused a copy of the foregoing **CONSENTED MOTION TO EXTEND DISCOVERY AND TESTIMONY PERIODS** to Michael J. O'Loughlin, Micheal J. O'Loughlin & Associates, P.A., 400 South 4th Street, 1012 Grain Exchange Building, Minneapolis, Minnesota 55415 by first class mail, postage prepaid on February 25, 2004.

A handwritten signature in black ink, appearing to read "Nerissa Coyle McGinn", is written over a horizontal line. The signature is stylized and cursive.

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3514

Mailed: October 15, 2004

Cancellation No. 92041776

CATERPILLAR INC.

v.

Pave Tech, Inc.

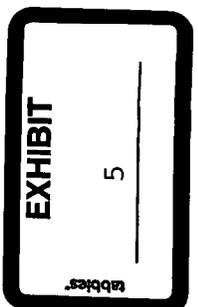
Linda Skoro, Interlocutory Attorney

This case now comes up on the following matters:
Petitioner's motion for an extension of discovery and
testimony dates, filed May 3, 2004; respondent's motion to
quash and for a protective order, filed May 12, 2004; and
petitioner's motion for a protective order, filed May 3,
2004.

Motion to Extend

As good cause for the extension of the discovery
period, petitioner states that more time is needed to
complete discovery due to an inability to schedule
depositions within the discovery period and an inability to
agree to an extension of the discovery period.

Discovery was scheduled to close on May 5, 2004. On
April 21 respondent noticed three depositions to be taken on
the last three days of discovery. Petitioner's counsel



Cancellation No. 92041776

contacted respondent's counsel through email, stating they were unable to attend the depositions on these dates, requested a rescheduling and an opportunity to take depositions on their end. Petitioner states that in a subsequent telephone conversation with opposing counsel, petitioner requested a 60-day extension and respondent's counsel indicated a 30-day extension would be acceptable but she needed to contact respondent for consent for a 60-day extension. Respondent's counsel then informed petitioner that they would only agree to allow respondent's depositions to be taken after the close of discovery. Respondent has opposed the motion, contending there was no verbal agreement to a 30-day extension; that it had been awaiting a settlement offer from petitioner and when none was forthcoming, it noticed its depositions at the end of the discovery period.

We believe that an extension of the periods is warranted. The standard for allowing an extension of a prescribed period prior to the expiration of that period is good cause. Fed. R. Civ. P. 6(b)(1). Further, the Board ordinarily is liberal in granting extensions before the period to act has elapsed, so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions has not been abused. Counsel for both sides were unable to arrive at a mutually agreeable date within the discovery period and further

Cancellation No. 92041776

discovery depositions were needed. Petitioner has shown good cause sufficient to justify an extension of the discovery and testimony periods for both parties. Accordingly, the discovery period will be extended by sixty days to enable both parties to notice and take the depositions they each seek.

Motions for Protective Orders

In that respondent had served its notices of deposition that opposing counsel was unable to attend, petitioner filed a motion for a protective order together with its motion for an extension of the discovery period. Additionally, in that petitioner may have misunderstood that respondent had agreed to a thirty day extension, it served notices of depositions on respondent, scheduled for early May, outside of the discovery period. Accordingly, respondent also filed a protective order and a motion to quash petitioner's depositions as untimely.

In that the Board has found good cause and granted the extension of the discovery period, and since the time has passed for all previously noticed depositions, the motions for protective orders and to quash are denied as moot. Both parties have the sixty days in additional discovery within which to find mutually agreeable dates for any further discovery depositions each feels necessary.

The motion to extend discovery is granted and dates are reset as indicated below.

Cancellation No. 92041776

DISCOVERY PERIOD TO CLOSE:	12/15/2004
Thirty-day testimony period for party in position of plaintiff to close:	3/15/2005
Thirty-day testimony period for party in position of defendant to close:	5/14/2005
Fifteen-day rebuttal testimony period to close:	6/28/2005

IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party **WITHIN THIRTY DAYS** after completion of the taking of testimony. Rule 2.125.

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Cancellation No. 92041776

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

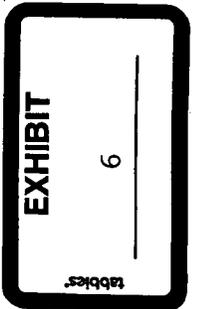
In the Matter of Registration No. 2,684,138: PAVERCAT
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CATERPILLAR INC.,)
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Petitioner,)
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PAVE TECH, INC.,)
)
Registrant.)

**CONSENTED MOTION TO
EXTEND DISCOVERY AND TESTIMONY PERIODS**

On October 15, 2004 the Board granted Petitioner's motion for an extension of discovery and testimony dates and extended discovery until December 15, 2004. The parties have been working together to reach mutually agreeable dates for certain depositions. However, because of the schedules and different geographic locations of the deponents and the current holiday season, the parties have been unable to schedule the depositions. Thus, in order to allow the depositions to proceed at a mutually agreeable time and place and to accommodate the schedules of the deponents, the parties request a sixty (60) day extension of the discovery and testimony periods as follows:

Discovery Period to close:	February 13, 2005
30-day testimony period for party in position of plaintiff to close:	May 14, 2005
30-day testimony period for party in position of defendant to close:	July 13, 2005
15-day rebuttal testimony period for plaintiff to close:	August 27, 2005



A handwritten signature in black ink, appearing to read "Michelle Sperry".

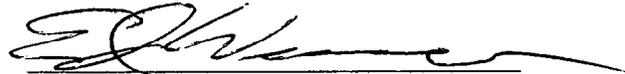
The parties respectfully submit that this constitutes good cause for the requested extension. Respondent's attorney, Rebecca Jo Bishop, consented to this extension on December 2, 2004.

Date: December 2, 2004

Respectfully submitted,

LOEB & LOEB LLP

By:



Edward G. Wierzbicki

Mary E. Innis

Nerissa Coyle McGinn

200 South Wacker Drive

Suite 3100

Chicago, Illinois 60606

Telephone: (312) 674-4780

Facsimile: (312) 674-4779

CERTIFICATE OF SERVICE

I, Edward G. Wierzbicki, hereby certify that I caused a copy of the foregoing **CONSENTED MOTION TO EXTEND DISCOVERY AND TESTIMONY PERIODS** to Michael J. O'Loughlin, Micheal J. O'Loughlin & Associates, P.A., 400 South 4th Street, 1012 Grain Exchange Building, Minneapolis, Minnesota 55415 and Rebecca Jo Bishop, Altera Law Group LLC, 6500 City West Parkway, Suite 100, Minneapolis, MN 55344, via first class mail, postage prepaid this 2nd day of December, 2004.

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

In the Matter of Registration No. 2,684,138: PAVERCAT
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PAVE TECH, INC.,)
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Registrant.)

**CONSENTED MOTION TO
EXTEND DISCOVERY AND TESTIMONY PERIODS**

The parties are nearing the completion of discovery and within the last 30 days two depositions have been taken. One further deposition is scheduled in March and the parties are in the process of supplementing discovery. In order to complete this discovery, the parties request a thirty (30) day extension of the discovery and testimony periods as follows:

Discovery Period to close:	March 15, 2005
30-day testimony period for party in position of plaintiff to close:	June 13, 2005
30-day testimony period for party in position of defendant to close:	August 12, 2005
15-day rebuttal testimony period for plaintiff to close:	September 26, 2005

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on February 9, 2005.

CA Nicholls Dybeck

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02/08/2005 ms

EXHIBIT

7

Tables

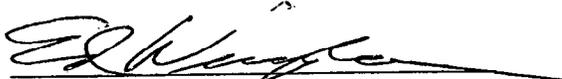
The parties respectfully submit that this constitutes good cause for the requested extension. Respondent's attorney, Rebecca Jo Bishop, consented to this extension on February 8, 2005.

Date: February 9, 2005

Respectfully submitted,

LOEB & LOEB LLP

By:



Edward G. Wierzbicki
Mary E. Innis
Nerissa Coyle McGinn
200 South Wacker Drive
Suite 3100
Chicago, Illinois 60606
Telephone: (312) 674-4780
Facsimile: (312) 674-4779

CERTIFICATE OF SERVICE

I, Michelle Shebesh, hereby certify that I caused a copy of the foregoing **CONSENTED MOTION TO EXTEND DISCOVERY AND TESTIMONY PERIODS** to Michael J. O'Loughlin, Micheal J. O'Loughlin & Associates, P.A., 400 South 4th Street, 1012 Grain Exchange Building, Minneapolis, Minnesota 55415 and Rebecca Jo Bishop, Altera Law Group LLC, 6500 City West Parkway, Suite 100, Minneapolis, MN 55344, via first class mail, postage prepaid this 9th day of February, 2005.

A handwritten signature in black ink, appearing to read "Michelle Shebesh", is written over a horizontal line.

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v.) Cancellation No. 92041776
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PAVE TECH, INC.,)
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Registrant.)

NOTICE OF TAKING TESTIMONY

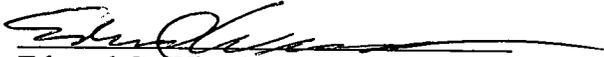
To: Michael J. O'Loughlin Rebecca Jo Bishop
Michael J. O'Loughlin & Associates, P.A. Altera Law Group LLC
400 South 4th Street 6500 City West Parkway, Suite 100
1012 Grain Exchange Building Minneapolis, MN 55344
Minneapolis, Minnesota 55415

Please take notice that testimony will be taken on behalf of the Petitioner, Caterpillar Inc., in the above entitled proceeding, on July 19, 2005, commencing at 10:00 a.m. at the offices of Caterpillar Inc., located at 100 NE Adams Street, Peoria, Illinois 61629.

The witness who will be examined is Kurt Tisdale, Caterpillar General Construction Industry Division Manager.

The testimony will be continued until completed. You are invited to attend and cross examine.

Date: June 6, 2005

Respectfully submitted,
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CERTIFICATE OF SERVICE

I, hereby certify that I caused a copy of the foregoing **NOTICE OF TAKING TESTIMONY** to Michael J. O'Loughlin, Michael J. O'Loughlin & Associates, P.A., 400 South 4th Street, 1012 Grain Exchange Building, Minneapolis, Minnesota 55415 and Rebecca Jo Bishop, Altera Law Group LLC, 6500 City West Parkway, Suite 100, Minneapolis, MN 55344, via first class mail, postage prepaid this 6th day of June, 2005.

