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

Proceeding	92050920
Party	Plaintiff Intellect Technical Solutions, Inc.
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Attachments	Reply to Sonis Opposition to amending.pdf (3 pages)(26037 bytes)

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

In re: Registration No. 3,009,990
Trademark: ENTELLECT
Registered November 1, 2005

INTELLECT TECHNICAL SOLUTIONS, INC.

Petitioner,

v.

MILENA SONI,

Respondent.

Cancellation No.: 92050920

**PETITIONER'S REPLY TO RESPONDENT'S OPPOSITION TO PETITIONER'S
MOTION FOR LEAVE TO FILE AMENDED PETITION TO CANCEL**

The Petitioner, Intellect Technical Solutions, Inc., by and through its undersigned counsel, replies to Respondent's Opposition to Petitioner's Motion for Leave to File Amended Petition to Cancel pursuant to 37 CFR 2.127, and states as follows:

1. Respondent asserts that granting Petitioner's motion would delay the proceedings because additional discovery would be required. In doing so, Respondent misconstrues Petitioner's motion. Petitioner's motion does not seek additional discovery time. Nor should Respondent need additional time as the new allegations pertain entirely to Respondent's own actions. Delays that have arisen in this case are not due to Petitioner's Motion for Leave to Amend, but instead are due to Respondent's failure to provide substantive discovery. *See* Petitioner's Motion to Compel, filed March 26, 2010. Therefore, Respondent's arguments that granting Petitioner's Motion for Leave to Amend will create undue delay are without merit.

2. Respondent argues that Petitioner misconstrues Respondent's testimony and inappropriately relies on selected sections of the deposition transcript instead of considering the testimony as a whole. Respondent then argues that Petitioner's motion should be denied in light of Respondent's differing interpretation of Respondent's own selections from the deposition testimony. Plaintiff respectfully argues that the deposition testimony speaks for itself and that Respondent's arguments regarding its preferred interpretation of that testimony should not prevent Petitioner from receiving a full hearing on all issues relating to Respondent's registration. Should Respondent disagree with Petitioner's interpretation of the deposition testimony, or wish to make arguments regarding contrary interpretations of any evidence, she may do so in response to dispositive motions or in the briefs on the case after the close of testimony. *See Flatley v. Trump*, 11 USPQ.2d 1284, 1286 (TTAB 1989) ("whether or not petitioner can prove the allegation sought to be added is a matter to be determined after the introduction of evidence at trial (or in connection with a proper motion for summary judgment)"). Respondent's arguments for its preferred interpretation of the testimony are insufficient to defeat a motion seeking to raise legitimate questions of non-use and should not be used to deny Petitioner a full hearing on all issues of law and fact impacting on the validity of Respondent's registration.

WHEREFORE, Petitioner requests that the Board grant Petitioner's Motion.

Respectfully submitted,

Date: April 9, 2010

/William G. Giltinan/
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Petitioner's Reply replies to Respondent's Opposition to Petitioner's Motion for Leave to File Amended Petition to Cancel on Respondent's counsel at the following addresses:

Surjit P. Soni
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via First Class United States Mail, postage prepaid, and deposited with the United States Postal Service on April 9, 2010.

Dated: April 9, 2010

/William G. Giltinan/

William G. Giltinan