

ESTTA Tracking number: **ESTTA405150**

Filing date: **04/22/2011**

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

Proceeding	92052197
Party	Plaintiff Terri Yenko Gould, Executor
Correspondence Address	George E. Bullwinkel 425 Woodside Avenue Hinsdale, IL 60521 UNITED STATES geb@bullwinkel.com
Submission	Motion to Extend
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Date	04/22/2011
Attachments	MOTION for Extension.pdf (5 pages)(1373337 bytes)

A new actor stepped onto the stage. In September 2010, after initial discovery was completed, General Marketing Capital Inc. (GMCI), the current respondent, quietly bought up the registration in question and petitioned to substitute in. The Estate, out of professional courtesy, did not oppose. On November 23, 2010 the Board granted the motion and re-set the discovery and trial schedule accordingly.

GMCI, of course, is not and never was in the “toy car” business. As the testimony filed today clearly shows, it sells specialty automotive aftermarket parts and accessories to “hot rodders” and the like. It is the operating entity of one Jeffrey “Jeff” Leonard. This individual has for the past few years has made it his business to acquire, by whatever means, all rights to Don Yenke's name and heritage to the total exclusion of his rightful heirs and legatees.

The testimonial record will clearly show that from February 8, 1999, the date of Leonard's first application to register YENKO for “*Mail order catalogue services featuring parts and accessories for the restoration of classic automobiles; wholesale distributor-ships featuring parts and accessories for the restoration of classic automobiles*”, through his September 9, 2010 acquisition of the YENKO registration in question from Supercar Collectibles, Mr. Leonard has been purposefully and systematically *hijacking* – there is no better word – the good name and reputation of Don Yenke.

The purpose of this cancellation proceeding is to return at least some of it to its rightful owners. (The rest will follow in due course.) Why is this short trial period extension needed?

First, while all four of the Estate's four testimonial declarations, and all thirty-four trial exhibits have been provided to the respondents' attorney and are ready to be timely filed, the TTAB's electronic filing system is apparently unable to accept anything but the Petitioner's first three-page list of testimonial declarants and reference to the exhibits to follow. The TTAB technical support personnel are apparently not answering their telephones.

Second, the undersigned learned yesterday that one witness-declarant Mr. Lester Quam, is presently vacationing in the Bahamas and therefore temporarily unable to provide his signature.

Third, GMCI, the new assignee-respondent, now asserts that it will regard all of the testimonial declarations as “expert testimony”¹ and will insist on taking *voir dire* (or something like that) from all of them. This seems hardly necessary, particularly since GMCI took no discovery whatever while it had an opportunity to do so. Nevertheless – and perhaps out of an excess of professional courtesy, given the circumstances – the Estate would not oppose such a motion, if undertaken promptly and by electronic means which would not require personal appearances by the witnesses.²

For the reasons set forth above, and in the interest of giving both parties a full and fair opportunity to present their cases, The Estate of Donald Frank Yenke (Petitioner-Plaintiff herein) moves for an Order extending the close of its Trial Period by seven (7) days to April 29, 2011 (or later) to (1) permit it to obtain the signature of its fourth declarant, and (2) to permit the Respondent to take electronic “voir dire” of the Estate's testimonial witnesses if it still thinks it necessary to do so.

Date: April 22, 2011

Respectfully submitted

/George E. Bullwinkel/

George E. Bullwinkel
Attorney for Petitioner

The Respondent has indicated that it OPPOSES this motion.

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1 Which they clearly are not, being merely the opinions of lay witnesses, based on their own observations and experience, and thus admissible as such under Rule 701, Federal Rules of Evidence (Appendix A).

2 The undersigned is presently working from Paris, France, and will not return to the U.S. until May 10, 2011.

APPENDIX A

Rule 701. Opinion Testimony by Lay Witnesses

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of [Rule 702](#).

CERTIFICATE OF SERVICE

George E. Bullwinkel, an attorney of record, hereby certifies that one copy of the foregoing PETITIONER'S EMERGENCY MOTION FOR 7-DAY TRIAL PERIOD EXTENSION was served by electronic mail from Paris, France at **:**:** local time (**:**:** U.S. Eastern Daylight Time) on April 22, 2011.

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