

ESTTA Tracking number: **ESTTA719700**

Filing date: **01/11/2016**

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

Proceeding	92058956
Party	Plaintiff SoCal Maico
Correspondence Address	KEN DALLARA LAW OFFICE OF KEN DALLARA 2775 TAPO STREET, SUITE 202 SIMI VALLEY, CA 93063 UNITED STATES kdallara@dallaralaw.com
Submission	Motion to Extend
Filer's Name	Ken Dallara
Filer's e-mail	kdallara@dallaralaw.com
Signature	/ken dallara/
Date	01/11/2016
Attachments	Motion_for_Extension_of_time_to_answer.pdf(582094 bytes)

1
2 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
3 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

4 In Re Registration Number : 4,156,487
5 Opposition Filing Date : March 4, 2015
6 Opposition Number : 92/058956
7 Registered Marks : MAICO DESIGN MARK

8 J. GARY KORTZ }
9 }
10 } Petitioner, } **PETITIONER'S MOTION FOR**
11 } **EXTENSION OF TIME TO FILE**
12 } **RESPONSE TO RESPONDENT'S**
13 } **MOTION FOR JUDGMENT ON**
14 } **THE PLEADINGS**
15 }
16 }
17 }
18 }
19 }
20 }
21 }
22 }
23 }
24 }
v. }
578539 B.C. LTD, }
Respondent, }

14 NOW COME Petitioner , J.Gary Kortz, , by and through his undersigned counsel and pursuant to
15 Rule 6(b) of the Federal Rules of Civil Procedure, and moves the Trademark Trials and Appeals
16 Board for an extension of time, up to and including the 11th day of January, 2016, to file a
17 Response to Respondent's Motion for Judgment on the Pleadings.

18 In support of this motion, the Petitioner show unto the Court the following:

- 19 (1) Petitioner was served Respondent's Motion on or about December 14, 2016;
20 (2) Petitioner, stating good cause, on January 4th, 2016 asked Respondent for an extension of one
21 (1) week up to January 11, 2016 to file his Response to Respondent's Motion;
22 (3) Counsel for Respondent initially granted the extension of time on January 4, 2016, but has
23 allegedly withdrawn his consent as he refused to sign a consent agreement to extend time;
24 (4) Petitioner has not sought any previous extensions of time in this case;
(5) Petitioner has made a good faith effort to work with Respondent and has made a good faith
effort to resolve with the Respondent as to the issues presented in this motion. Specifically,
Petitioner has met and conferred with Respondent;

1 (6) Petitioner, through his attorney, files an attached declaration sequencing the actions taken by
2 the Petitioner to avoid this Motion.

3 WHEREFORE, Petitioner moves the Board for an extension of time, up to and including, the
4 11th day of January, 2016, in which to serve a Response to Respondent's Motion for Judgment
5 on the Pleadings.

6 This the 11th day of January, 2016

7 

8
9 Ken Dallara, Esq,
10 Attorney for Petitioner, J. Gary Kortz

Dated : January 11, 2016

11 Law Office of Ken Dallara
12 2775 Tapo Street, Suite 202
13 Simi Valley, California 93063
14 805-297-4510 661-310-0449 Fax kdallara@dallaralaw.com
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In Re Registration Number : 4,156,487
Opposition Filing Date : March 4, 2015
Opposition Number : 92/058956
Registered Marks : MAICO DESIGN MARK

J. GARY KORTZ	}	
	}	
Petitioner,	}	DECLARATION OF COUNSEL
	}	REGARDING AGREEMENT
v.	}	FOR EXTENSION OF TIME TO
	}	RESPOND TO RESPONDENT'S
	}	MOTION FOR JUDGMENT ON
578539 B.C. LTD,	}	THE PLEADINGS
	}	
Respondent,	}	
	}	
	}	

Pursuant to 28 U.S.C. 1746,1, I, Ken Dallara, declare and state as follows:

1. I am the counsel of record for Petitioner J. Gary Kortz in this matter for the Trademark Trial and Appeal Board. I am a licensed Attorney in the state of California (CA SBN 207480), and I make this declaration in lieu of testimony before this Board. All statements made are of personal experience unless so stated .
2. On or about December 14, 2016 I received Respondent's Motion for Judgment on the Pleadings, which I discussed with my client.
3. On January 4, 2016, I telephoned Paul Riedl, counsel for Respondent, as asked under FRCP 6(b) to extend the time for response until January 11, 2016.
4. I explained that good cause existed as I had health issues over the holidays.
5. Mr. Riedl reluctantly granted the extension of one week and I relied on this one (1) week extension in conducting my practice during that week and preparing my response.

- 1 6. Mr. Riedl asked me to complete a written statement of consent for the extension and to
2 email it to him for his e signature, which was written by me and sent over Adobe
3 EchoSign E Signature platform on January 4, 2016. (Exhibit 1)
4 7. On Sunday January 10, 2016, in preparing to file my response with the TTAB, I noticed
5 that I had not received a signed copy back from Mr. Riedl.
6 8. I immediately emailed Mr. Riedl on the evening of January 10, 2016 asking if he had
7 signed the consent and he stated via email that he had not given me any extension of time
8 and that we had never spoken of this. (Exhibit 2)
9 9. I have attempted to communicate with Mr. Riedl (Exhibit 2 bottom of page 2) after
10 learning of this turn of events and have attempted to communicate via a phone call.
11 10. Having assumed that a Motion to Extend time was not necessary after the Parties had
12 agreed to an extension I am forced to file this Motion after the fact.
13 11. I wish for the Court to grant the one (1) week extension in light of the lack of any harm to
14 the Defendant nor to this Board's proceeding.

15 The undersigned being warned that willful false statements and the like are punishable by fine or
16 imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like
17 may jeopardize the validity of the application or document or any registration resulting
18 therefrom, declares that all statements made of his/her own knowledge are true; and all
19 statements made on information and belief are believed to be true.

20 "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and
21 correct. Executed on January 11, 2016 in Simi Valley California.

22 

23 Ken Dallara, Esq,
24 Attorney for Petitioner, J. Gary Kortz

Dated : January 11, 2016

Law Office of Ken Dallara
2775 Tapo Street, Suite 202
Simi Valley, California 93063
805-297-4510 661-310-0449 Fax kdallara@dallaralaw.com

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

3 In Re Registration Number : 4,156,487
4 Opposition Filing Date : March 4, 2015
5 Opposition Number : 92/058956
6 Registered Marks : MAICO DESIGN MARK

7 J. GARY KORTZ

Petitioner,

8 v.

9 578539 B.C. LTD,

10 Respondent,

}
} **PARTIES CONSENT TO**
} **EXTEND PERIOD OF TIME TO**
} **RESPOND TO RESPONDENT'S**
} **MOTION FOR JUDGMENT ON**
} **THE PLEADINGS**
}
}
}

11
12
13 Respondent has filed a Motion for Judgment on the Pleadings on the aforementioned case on
14 December 12, 2015. According to Federal Rules of Civil Procedure, a response to Respondent's
15 motion was due on January 4, 2016. On January 4, 2016, Parties met and conferred and agreed
16 under FRCP 6(b) to extend the time for response until January 11, 2016. Petitioner's response to
17 Respondent's Motion for Judgment on the Pleadings will be due on January 11, 2016.

18 Agreement on extension of time:

19 
Ken Dallara

20 Ken Dallara
21 Attorney for Petitioner

Paul Riedl
Attorney for Respondent



Ken Dallara <kdallara@dallaralaw.com>

Signature for Consent to Extend

3 messages

Ken Dallara <kdallara@dallaralaw.com>

Sun, Jan 10, 2016 at 9:28 PM

To: Paul Reidl <reidl@sbcglobal.net>

Just about to upload the response but I do not see that you signed and returned the consent for extension of time to me.

I am resending it through Adobe ESign but I am including it here as well.

I will file it as soon as I get it and I will sending your copy you of the response tomorrow.

Thanks

Ken

**Ken Dallara** *Principal, Law Office of Ken Dallara*

805-297-4510 | 661-609-3032 | Fax : 661-310-0449 | 2775 Tapo Street, #202, Simi Valley, California 93063 |

kdallara@dallaralaw.com | www.dallaralaw.com | Skype:

ken.dallara | Oxnard Office : 707 E. Hueneme Road, Oxnard CA 93033



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Get a signature like this: [Click here!](#)

**Consent for extra time to respond-signed-signed.pdf**

416K

EXHIBIT 2

Paul Reidl <reidl@sbcglobal.net>
Reply-To: Paul Reidl <reidl@sbcglobal.net>
To: Ken Dallara <kdallara@dallaralaw.com>

Mon, Jan 11, 2016 at 6:23 AM

This is not true. We did not meet and confer and I did not agree to an extension. If you draft a truthful request I might agree to it.

Paul

From: Ken Dallara <kdallara@dallaralaw.com>
To: Paul Reidl <reidl@sbcglobal.net>
Sent: Sunday, January 10, 2016 9:28 PM
Subject: Signature for Consent to Extend

[Quoted text hidden]

kdallara@dallaralaw.com <kdallara@dallaralaw.com>
To: Paul Reidl <reidl@sbcglobal.net>

Mon, Jan 11, 2016 at 8:51 AM

Paul, I am in court right now. What part of our phone conversation am I not recording properly. We spoke about a 1 week extension to January 11, you agreed but said I did not have a leg to stand on and you wanted me to send you the consent to extend for your e signature, which I did. I just noticed on Sunday that I did not have your signature. What am I not understanding? I will be out of here by noon today.

Ken

Sent from my iPhone
[Quoted text hidden]

CERTIFICATE OF SERVICE

1
2
3 1) I hereby certify that a copy of the PETITIONER'S MOTION FOR EXTENSION OF TIME
4 was caused to be transmitted to the Trademark Trial and Appeal Board via the ESTTA electronic
5 filing system on 1/11/2015
6

7 2) I hereby certify that a copy of the PETITIONER'S MOTION FOR EXTENSION OF TIME
8 was served upon aftmentioned counsel by depositing it with the United States Post Office,
9 postage prepaid, on 1/11/2016 via First Class Mail to the following recipient:

10 Law Office of Paul W. Reidl
11 241 Eagle Trace Drive
12 Half Moon Bay, California 94019
13 01.650.560.8530 (office)
14 01.209.613.1916 (cell)
15 paul@reidllaw.com

16
17 By : _____/Ken Dallara/
18 Ken Dallara, Esq - Attorney for Petitioner J. Gary Kortz
19
20
21
22
23
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