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

Proceeding	94002580
Party	Applicant Morro Castle Corporation
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Date	11/18/2013
Attachments	Morro Castle Motion to File Notice of Service.pdf(22501 bytes)

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

MORRO CASTLE CORPORATION)
Applicant,)
)
v.) Concurrent Use No. 94002580
) Against App. No. 85/405169
)

MORRO CASTLE CAFETERIA CORP.,) Mark: 
DBA MORRO CASTLE)
Defendant.)

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Trademark Trial and Appeal Board
Alexandria, Virginia 22313-1450

APPLICANT’S MOTION TO FILE NOTICE OF SERVICE
PURSUANT TO 37 C.F.R. 2.99(d)(1) OUT OF TIME

Applicant, Morro Castle Corporation (“Morro Castle”) hereby advises the Board that it has properly served a copy of Applicant’s application, drawing of the mark and specimens on the Defendant as required by 37 C.F.R. 2.99(d)(1) and pursuant to the Board’s Order of October 6, 2013. However, such service was made on November 18, 2013, after the deadline to serve and Applicant respectfully requests that such service be accepted, as the delay was due to personnel changes at the firm representing Applicant, which led to the inadvertent oversight of docketing the deadline to serve documents on the Defendant. The delay in serving the documents was not intentional.

Applicant advises the Board that the partner responsible for this file recently left the firm and thought this file would be transferred. Therefore, the Time to Answer and other deadlines specifically set out in the Board’s order of October 6, 2013 were docketed and the file was pulled for transfer. We only recently discovered that the file would not be transferred and that the service date had not been docketed. Therefore, the docket showed the next deadline as the November 15, 2013 deadline wherein the Defendant was to file its answer in the proceeding. Upon discovering this oversight in serving the application, drawing and specimens on the Defendant, we immediately investigated whether the Defendant’s company was still in business and prepared the appropriate copies of the application, drawing of the mark and specimens and served them today on the Defendant via certified mail return receipt requested.

Applicant does not believe the Defendant will be prejudiced by this delay in service, as the Board also sent copies of its October 6, 2013 notices of the Concurrent Use Proceeding to

Defendant. Therefore, Defendant had knowledge of the proceeding and was aware of Applicant's application.

Based on the extenuating circumstances, Applicant prays that the Board grant this motion to accept the notice of service upon the Defendant out of time.

Respectfully submitted,

/Lisa R. Hemphill/

Lisa R. Hemphill

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