

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: May 31, 2006

Serial No.: 78500047

In re: ITT Industries, Inc.

David Mermelstein, Attorney:

The subject application was published for opposition on February 7, 2006. On March 9, 2006, potential opposer Sentra Industries, Inc. filed a request for a 90-day extension of time to oppose, based upon an allegation of good cause. The request was granted the same day.

On April 11, 2006, applicant filed a request for reconsideration of the granted extension of time to oppose. Applicant's paper, however, was not served upon the potential opposer.¹ Applicant's filing may be viewed and downloaded from TTABVue at the following link:
<http://ttabvue.uspto.gov/ttabvue/v?&pno=78500047>. The potential opposer is allowed THIRTY DAYS in which to respond, if desired

¹ Applicant's failure to serve the potential opposer was not a violation of Trademark Rule 2.119(a) - which requires service of a paper upon all other parties to a proceeding prior to consideration by the Board - because the cited rule applies only to *inter partes* proceedings. An extension of time is considered *ex parte* in nature.

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To facilitate consideration of applicant's request for reconsideration, the Board will treat applicant's request as if it were a motion in an inter partes proceeding pursuant to Trademark Rule 2.127. The parties should follow the Board's rules pertaining thereto, including any appropriate provisions of Trademark Rules 2.119 and 2.126, and 2.127.

Finally, we reserve comment on applicant's submission pending potential opposer's response, if any. However, one matter merits attention at this point. Applicant has submitted a copy of a letter from potential opposer dated March 22, 2006. We note the final paragraph:

Under the circumstances, we do not believe that you would have any objection to an additional 90 day extension of time to oppose. We are requesting your consent to such a request. If we do not hear from you to the contrary within 15 days, we will assume that we have your consent to the 90 day additional extension of time and we will file the said stipulated 90 day additional extension with the Board. Please contact us immediately if you have any objection to our request for an additional 90 day extension with the board to file our notice of opposition.

A final 60-day extension of time to oppose is available if the applicant consents thereto, or when the potential opposer has made an adequate showing of extraordinary circumstances. Trademark Rule 2.102(c)(3). We view the requirement for "consent" to a final extension to mean just that - the applicant must actually consent to

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the extension. Potential opposer may not shift the burden to applicant to deny its consent, and applicant's silence in the face of potential opposer's assumption does not in any way amount to consent.

As potential opposer is already aware, any extension of time to oppose reciting the applicant's consent for which applicant has not actually and positively consented will be denied. Any opposition based thereon will be dismissed, and potential opposer may be subject to sanctions for filing this or any other false statement or material misrepresentation with the Board. *Central Mfg. Inc. v. Third Millennium Technology Inc.*, 61 USPQ2d 1210 (TTAB 2001).

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