



05-17-2002

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #71

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

In the Matter of Application Serial No. 75/678,378  
Published in the *Official Gazette* on November 13, 2001.  
Trademark: GASOLINE ALLEY

Indianapolis Motor Speedway Corporation,	)	
	)	
Opposer,	)	Opposition No. 91,150,545
	)	Serial No. 75/678,378
v.	)	
	)	
Wise, Robert William.	)	
	)	
Applicant.	)	
	)	

**STIPULATED MOTION REQUESTING ACCEPTANCE OF  
LATE-FILED ANSWER TO OPPOSITION**

Commissioner for Trademarks  
U.S. Patent and Trademark Office  
Box: TTAB NO FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

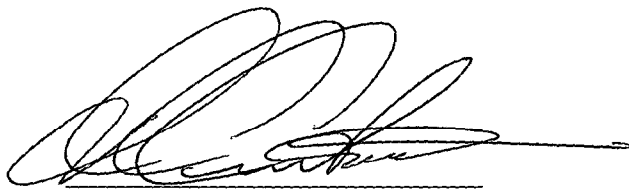
Defendant Applicant received a Notice of Opposition to the registration sought in the above-identified application. Defendant's Answer was due March 4, 2002 --- that is, forty days after the mailing date, January 24, 2002. However, owing to an inconsistency arising from the transfer of files and data from one docketing system to another, Defendant's Answer was timely prepared but inadvertently not filed.

Section 317.02 of the *Trademark Trial And Appeal Board Manual of Procedure* provides that the Board may set aside, or not issue a default judgment when the defendant shows that (1) "the delay in filing an answer was not the result of willful conduct or gross neglect on the part of the defendant," (2) "the plaintiff will not be substantially prejudiced by the delay," and (3) "the defendant has a meritorious defense to the action."

Defendant submits that this motion properly shows that there has been diligence in prosecuting the present application; there has been no delay in filing the present motion to request acceptance of its late-filed answer. Furthermore, Defendant has sought and obtained the consent of counsel for the Opposer to the late filing of the attached Answer and to such adjustments to the trial schedule as the Board may deem appropriate. In a telephone conversation on May 17, 2002, Opposer's counsel, Rachel L. St. Peter confirmed to the undersigned counsel, Robert C. Cumbow that Opposer will not object to the late filing of this answer.

Applicant and Opposer therefore respectfully request that the Board accept the Answer herewith submitted and adjust the trial schedule as appropriate to avoid any prejudice to Opposer.

DATED this 17th day of May, 2002.



Robert C. Cumbow  
R. Corbin Houchins

**GRAHAM & DUNN**  
1420 Fifth Avenue, Suite 3300  
Seattle, Washington 98101-2390  
(206) 340-9619 (direct)  
rcumbow@grahamdunn.com

Attorneys for Applicant/Defendant

## CERTIFICATE OF SERVICE

Pursuant to Rule 5(b) of the Federal Rules of Civil Procedure, the undersigned hereby certifies that on this 17th day of May, 2002, a true copy of the foregoing APPLICANT'S ANSWER TO OPPOSITION and MOTION TO REQUEST ACCEPTANCE OF LATE-FILED ANSWER (Opposition No. 91,150,545) regarding the mark "GASOLINE ALLEY" (Serial No.: 75/678,378) was served, by the United State Postal Service first class mail, postage prepaid, on the following counsel of record:

Rachel L. St. Peter  
Ice Miller  
One American Square, Box 82001  
Indianapolis, IN 46282-0002

A handwritten signature in black ink, appearing to read "Robert C. Cumbow", written over a horizontal line.

Robert C. Cumbow



05-17-2002

U.S. Patent & TMO/TM Mail Report Dt. #71

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

In the Matter of  
Trademark Application Serial No. 75/678,378  
For the Mark GASOLINE ALLEY  
Date Published: November 13, 2001

Indianapolis Motor Speedway Corporation, Opposer  v.  Wise, Robert William, Applicant	Opposition No. 91150545  APPLICANT'S ANSWER TO NOTICE OF OPPOSITION
---	--

Hon. Commissioner for Trademarks  
U.S. Patent and Trademark Office  
Box: TTAB NO FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

Attention: Box TTAB

**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION**

The Applicant, Robert William Wise ("Applicant"), is the owner of Trademark Application Serial No. 75/678,378, published November 13, 2001.

Applicant alleges as follows in answer to the Notice of Opposition filed by Opposer, Indianapolis Motor Speedway Corporation.:

1. Answering paragraph 1 of the Notice of Opposition, Applicant is without knowledge or information with which to form a belief as to the truth of the allegations therein and therefore denies the same.

2. Answering paragraph 2 of the Notice of Opposition, Applicant is without knowledge or information with which to form a belief as to the truth of the allegations therein and therefore denies the same.
3. Answering paragraph 3 of the Notice of Opposition, Applicant is without knowledge or information with which to form a belief as to the truth of the allegations therein and therefore denies the same.
4. Answering paragraph 4 of the Notice of Opposition, Applicant is without knowledge or information with which to form a belief as to the truth of the allegations therein and therefore denies the same.
5. Answering paragraph 5 of the Notice of Opposition, Applicant admits the allegations therein.
6. Answering paragraph 6 of the Notice of Opposition, Applicant is without knowledge or information with which to form a belief as to the truth of the allegations therein and therefore denies the same.
7. Answering Paragraph 7 of the Notice of Opposition, Applicant admits that its trademark is identical to Opposer's GASOLINE ALLEY trademark, but denies the remaining allegations therein.
8. Answering paragraph 8 of the Notice of Opposition, Applicant denies each and every allegation therein.
9. Answering paragraph 9 of the Notice of Opposition, Applicant denies the allegation therein.
10. Answering paragraph 10 of the Notice of Opposition, Applicant denies the allegation therein.

11. Answering paragraph 11 of the Notice of Opposition, Applicant denies the allegation therein.

In view of the foregoing, Applicant prays that the Notice of Opposition be dismissed and that the subject application be allowed for registration.

Respectfully submitted,

GRAHAM & DUNN PC



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Robert C. Cumbow  
R. Corbin Houchins  
Maureen D. Burke

Attorneys for Applicant,  
Robert William Wise

Dated: May 17, 2002  
Graham & Dunn PC  
1420 Fifth Avenue, 33<sup>rd</sup> Floor  
Seattle, WA 98101  
Telephone: (206) 624-8300  
Fax: (206) 340-9599

### CERTIFICATE OF MAILING

I CERTIFY that on May 17, 2002, I mailed (via U.S. EXPRESS MAIL #EL639147175US) the attached APPLICANT'S ANSWER TO OPPOSITION and MOTION TO REQUEST ACCEPTANCE OF LATE-FILED ANSWER in triplicate (Opposition No. 91,150,545) regarding the mark "GASOLINE ALLEY" (Serial No.: 75/678,378) to:

Hon. Commissioner for Trademarks  
U.S. Patent and Trademark Office  
BOX: TTAB NO FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

### CERTIFICATE OF SERVICE

I CERTIFY that on May 17, 2002, a copy of the foregoing APPLICANT'S ANSWER TO OPPOSITION and MOTION TO REQUEST ACCEPTANCE OF LATE-FILED ANSWER in triplicate (Opposition No. 91,150,545) regarding the mark "GASOLINE ALLEY" (Serial No.: 75/678,378) was served by U.S. MAIL, postage prepaid on the following counsel of record:

Rachel L. St. Peter  
Ice Miller  
One American Square, Box 82001  
Indianapolis, IN 46282-0002



Robert C. Cumbow



05-17-2002

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GRAHAM & DUNN PC

TTAB

May 17, 2002

ROBERT C. CUMBOW  
(206) 340-9619  
rcumbow@grahamdunn.com

**VIA U.S. EXPRESS MAIL**  
**(EL639147175US)**

Hon. Commissioner for Trademarks  
U.S. Patent and Trademark Office  
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Arlington, VA 22202-3513

TRADEMARK TRIAL AND  
APPEAL BOARD  
02 MAY 24 PM 11:14

**Re: *Answer to Opposition/Motion for Acceptance of Late-Filed Answer***  
**Indianapolis Motor Speedway Corporation v. Wise, Robert William**  
**Opposition No.: 91,150,545**  
**Mark: GASOLINE ALLEY**  
**Serial No.: 75/678,378**

Hon. Commissioner:

Enclosed for filing are Applicant's Answer to Opposition and Stipulated Motion to Request Acceptance of Late-Filed Answer in triplicate regarding the above-indicated Opposition No. 91,150,545.

Please address all communication regarding this matter to Robert C. Cumbow or R. Corbin Houchins at the address listed below, or by phone at (206) 624-8300.

Very truly yours,

GRAHAM & DUNN

Robert C. Cumbow

RCC/sh  
enclosures

cc: R. Corbin Houchins