

TTAB

02-10-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #01

TRADEMARK

Docket No. 020579.9040

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

In the matter of application Serial No. 76/158,577

Filed November 3, 2000

For the mark NETONTAP

Published in the OFFICIAL GAZETTE on January 15, 2002

NETWORK APPLIANCE, INC.,

Opposer,

Opposition No.: 91152167

vs.

JONATHON SIMPSON and EMILIO DEL BUSTO,

Applicant.

BOX TTAB NO FEE

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

**CONSENTED MOTION TO EXTEND
THE DISCOVERY PERIOD AND ALL OTHER TRIAL DATES**

Pursuant to 37 C.F.R. § 2.121(a)(1) and TBMP 403.04, Opposer Network

Appliance respectfully requests the Honorable Board to extend the discovery period and all other trial dates in the above-identified proceeding for sixty (60) days as follows:

Discovery Period to Close:

April 10, 2003

Testimony period for party in position of Opposer
to close (opening 30 days prior thereto):

July 9, 2003

Testimony period for party in position of Applicant
to close (opening 30 days prior thereto):

September 7, 2003

Rebuttal testimony period to close
(opening 15 days prior thereto):

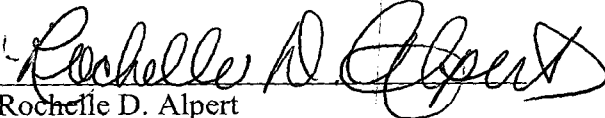
October 22, 2003

On February 4, 2003, counsel for Applicant, Eliot Clauss, agreed and stipulated to this extension via telephone. This extension is requested because the parties require more time to prepare their cases and the requested extension will enable them to evaluate and complete the requests for discovery in this opposition.

The Parties hereby STIPULATE to this Motion to Extend Discovery and Trial Dates and respectfully request that the Board grant this stipulated motion.

Dated: February 6, 2003

Respectfully submitted,

By: 
Rochelle D. Alpert
Attorney for Opposer
Network Appliance, Inc.

One Market, Spear Street Tower
San Francisco, California 94105
(415) 442-1326 (telephone)
(415) 442-1010 (facsimile)

PROOF OF SERVICE BY MAIL

1 I, Dennis L. Labaria, declare:

2 I am and was at the time of the service mentioned in this declaration, employed in
3 the County of San Francisco, California. I am over the age of 18 years and not a party to this
4 cause. My business address is Brobeck, Phleger & Harrison LLP, Spear Street Tower, One
5 Market, San Francisco, California 94105.
6

7 On February 6, 2003, I served a copy(ies) of the following document(s):

8 CONSENTED MOTION TO EXTEND THE DISCOVERY PERIOD AND ALL
9 OTHER TRIAL DATES

10 on the parties to this action by placing them in a sealed envelope(s) addressed as follows:

11 Eliot R. Clauss
12 Attorney for Jonathon Simpson and Emilio Del Busto
13 Clauss & Sabatini
14 1350 Broadway
15 Suite 1710
16 New York, NY 10018

17 I placed the sealed envelope(s) for collection and mailing by following the ordinary
18 business practices of Brobeck, Phleger & Harrison LLP, San Francisco, California. I am readily
19 familiar with Brobeck, Phleger & Harrison LLP's practice for collecting and processing of
20 correspondence for mailing with the United States Postal Service, said practice being that, in the
21 ordinary course of business, correspondence (with postage fully prepaid) is deposited with the
22 United States Postal Service the same day as it is placed for collection.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct, and that this declaration was executed on February 6, 2003, at San
25 Francisco, California.

26 
27 _____
28 Dennis L. Labaria

6.

PROOF OF SERVICE

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Applicant.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

BOX TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Dear Sir:

I hereby certify that the attached consented motion to extend the discovery period and all other trial dates (in triplicate), proof of service and receipt verification postcard are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: BOX TTAB NO FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, VA 22202-3513, on February 6, 2003.

Respectfully submitted,


Dennis L. Labaria