

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

DAVID H. MEHL, INDIVIDUAL, :

Applicant :

v. :

Serial No: 75W/8334  
Opposition No. 91153630

KNIGHT CORPORATION, :

Opposer. :



07-02-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #66

**OPPOSER'S MOTION TO REOPEN DISCOVERY AND TESTIMONY PERIODS AND  
RESET TRIAL DATES**

Opposer, Knight Corporation, hereby moves to reopen the discovery and testimony periods in the above-referenced opposition, and respectfully requests that the Board reset the trial dates accordingly. The testimony period closed on September 15, 2003. On May 29, 2003 Opposer served Applicant with a First Request for Documents and First Set of Interrogatories, but the Applicant never responded to the discovery requests, and the Applicant did not take any testimony or file a motion to compel the responses. Opposer's failure to take testimony or file a motion to compel was inadvertent and unintentional, and resulted primarily from counsel being unexpectedly out of the office during the deadline for the testimony period. For the reasons set forth herein, Opposer respectfully requests that the discovery and testimony periods be reopened and the trial dates reset.

First, the testimony period passed and the Applicant has not filed any motion to set aside the proceedings or enter judgment in the opposition. It is due to this lack of action by Applicant, that Opposer believes in good faith, that the Applicant would not be prejudiced by the reopening of the discovery and testimony periods and the resetting of the dates thereof. It is clear, based upon the Applicant's silence, that the Applicant would not be at a loss of tactical advantage if the

dates were reset. Indeed, if the dates are reset, Applicant would be given an opportunity to serve discovery in this matter and litigate the opposition, and the Opposer would be afforded an opportunity to determine if the Applicant's silence indicates a lack of interest in proceeding. Either way, the Applicant and Opposer would have the opportunity to set forth their arguments in the opposition and proceed with a determination on the merits.


Second, Opposer did not act in bad faith by failing to take testimony or file papers within the testimony period, and is not acting in bad faith in requesting that the periods be reopened. The failure to file a motion to compel was unintentional and inadvertent, and is not for the purpose of delay in the opposition.

For the foregoing reasons, Opposer respectfully requests that excusable neglect be found and that the opposition discovery and testimony periods be reopened and reset accordingly.

In the event that any fees are due with respect to this paper, please charge our Deposit Account No. 01-2300, referencing our docket number of 102195-00004.

Dated: June 30, 2004

KNIGHT CORPORATION

By:   
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*Attorney for Opposer*

**CERTIFICATE OF MAILING**

It is hereby certified that the foregoing Opposer's Motion to Reopen Discovery and Testimony Periods and Reset Trial Dates is being deposited with the U.S. Postal Service marked first class mail, postage prepaid, addressed to the Hon. Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202 this 30th day of June 2004.



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Sarah Wolf Crispi

**CERTIFICATE OF SERVICE**

I hereby certify that on June 30, 2004, a true and correct copy of foregoing Opposer's Motion to Reopen Discovery and Testimony Periods and Reset Trial Dates was placed in the U.S. mail, postage prepaid, addressed to:

Thomas I. Rozsa  
Rozsa & Chen LLP  
15910 Ventura Blvd.  
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Sarah Wolf Crispi

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