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

|                        |   |
|------------------------|---|
| Proceeding             | 91171889  |
| Party                  | Plaintiff<br>FULL SPEED AHEAD, INC  |
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| Date                   | 08/31/2007  |
| Attachments            | Memorandum in Support of FSA's Moiton to Extend Testimony Taking Periods-<br>FSAv.SRAM08-31-2007.pdf ( 6 pages )(253226 bytes )               |

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

In the matter of trademark application Serial No. 78589700  
For the mark SRAM FORCE  
Opposition No. 91171889

Full Speed Ahead, Inc.,

v.

SRAM Corporation,

**MEMORANDUM IN SUPPORT OF FSA'S MOTION TO EXTEND  
TESTIMONY TAKING PERIODS**

Opposer, Full Speed Ahead, Inc. ("FSA") respectfully submits this memorandum in support of its Motion to Extend Testimony Taking Periods.

**INTRODUCTION**

FSA respectfully moves the Board for a sixty-one (61) day extension of the testimony taking periods in this proceeding. SRAM does not oppose this extension. FSA requests this extension for good cause on two grounds. First, counsel for FSA, Mr. Todd M. Lander, who bore the primary responsibility for conducting the discovery phase of this action on behalf of FSA, and who had extensive trademark expertise, left the Adolph Law Group at the end of July 2007, and is no longer representing FSA. As a result, FSA's remaining senior counsel at the Adolph Law Group, Mr. Robert Adolph, realized the need to associate with additional counsel, specializing in the area of trademarks, to ensure a continued level of expertise for FSA in this specialized area, as well as with regard to proceedings before the Trademark Trial and Appeal Board. Acting promptly, in August 2007, Mr. Adolph associated with additional counsel, who specifically specializes

in trademark issues. However, because FSA's initial testimony taking period begins on September 3, 2007, FSA's associated counsel is absent for the first two weeks of September, 2007 requires additional time to prepare for the testimony taking period of this proceeding.

Second, Applicant SRAM had requested the entry of a protective order in May, 2007 prior to producing confidential documents in this proceeding. The parties sought to agree on appropriate language and complete their respective document productions, but the effort was deferred. Shortly after May, 2007, SRAM and FSA's principals exchanged a series of settlement proposals. As the parties were engaged in settlement negotiations, neither side sought to extend unnecessary legal expenses in efforts that appeared very promising for some time. Those settlement discussions ended unsuccessfully in mid-August 2007. At that point, FSA sent a draft to SRAM to facilitate the completion of the parties' document productions. Nevertheless, at this point in time, the parties need additional time prior to the commencement of the testimony period to prepare an agreed protective order and then to complete their mutual document productions.

### **DISCUSSION**

Pursuant to Fed. R. Civ. P. 6(b), made applicable to Board proceedings by 37 C.F.R. § 2.116(a), a party may file a motion for an enlargement of the time in which an act is required or allowed to be done. *See* TTAB Rule 509.01. If a party's motion for an enlargement of time is filed prior to the expiration period as originally set or previously extended, then "...the moving party need only show good cause for the requested extension." *See id.*

FSA requests an extension of time with regard to the testimony taking period in this proceeding for two reasons – both of which constitute “good cause.” First, FSA requests a delay in the testimony period due to the untimely departure of one of its counsel, Todd Lander, who was a trademark specialist, from the Adolph Law Group, and the resulting need to associate with new trademark counsel just this current month. Mr. Todd M. Lander is relocating in late August, 2007 to Los Angeles, California. Counsel for FSA, Mr. Lander, who has extension experience in the trademark area, and had the primary responsibility for conducting the discovery phase of this proceeding on behalf of FSA, left the Adolph Law Group full time at the end of July 2007. Due to his departure from the Adolph Law Group, Mr. Lander will no longer be involved in the representation of FSA. Due to Mr. Lander’s departure, FSA’s senior counsel at the Adolph Law Group, Mr. Robert Adolph, decided to associate with additional counsel, who could provide specific expertise in the Trademark area, on behalf of FSA. 2007, Mr. Adolph intends to associate Mr. James R. Uhlir of Christensen O’Connor Johnson Kindness, who can again bring specialized expertise in the area of trademarks to FSA’s representation. Such association is intended to assure a continued level of specialized expertise for FSA particularly with regard to proceedings before the Trademark Trial and Appeal Board. However, the testimony period is presently scheduled to commence on September 3, 2007. *See* Order of the Trademark Trial and Appeal Board, dated May 31, 2007. Thus, the recent August addition of Mr. Uhlir as a trademark specialist to FSA’s team of counsel will require additional time for him to prepare for the September testimony period. Mr. Uhlir is out of the country for the first half of September, 2007. FSA,

therefore, respectfully requests that the Board grant its motion to extend the testimony taking periods.

Second, the parties have been engaged in settlement discussions, which delayed entry of a protective order, and consequently, completion of the parties' document production. The parties' settlement discussions began during the Spring of 2007, and continued in earnest until mid-August 2007, at which time it became apparent that the discussions would not be successful. During this time period, however, the parties did pursue discovery by issuing discovery requests, and by providing partial responses to one another. Nevertheless, in part as a result of the negotiations, the entry of an agreed order for the protection of confidential information during Trademark Trial and Appeal Board Proceedings was delayed. As a result, the parties have been unable to complete their production of confidential documents.

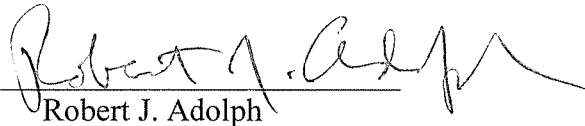
On April 10, 2007, counsel for Applicant SRAM provided a partial production of documents to Opposer FSA, but noted that SRAM had additional documents to produce once a protective order had been agreed upon and entered. On May 17, 2007, counsel for Opposer FSA provided responses to SRAM's second set of discovery, and also requested that SRAM send a draft of its requested protective order so that all responsive documents could be produced by both sides as soon as possible. FSA agreed that a protective order was in order but the parties deferred preparing an order while settlement efforts became serious. Settlement negotiations came to a standstill in mid-August 2007. At this point, because settlement negotiations had broken down, and because the draft of a protective order was never jointly prepared, counsel for FSA has just tendered its own draft protective order to counsel for SRAM. With settlement negotiations ended, the

parties need additional time prior to the onset of the testimony period, for entry of an agreed protective order and completion of the parties' document production. Thus, the Board should grant FSA's motion to extend the testimony taking periods in this proceeding.

### CONCLUSION

For all of the foregoing reasons, FSA respectfully requests that the Board grant its Motion to Extend the Testimony Taking Periods.

Dated: AUGUST <sup>5<sup>th</sup></sup> 2007

By: 

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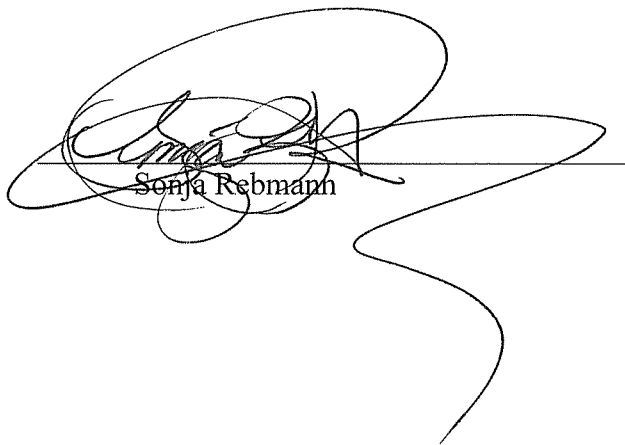
Attorneys for the Opposer, Full Speed Ahead, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion for Extension of the Testimony Periods has been served on counsel for Applicant SRAM Corporation, by mailing said copy on May 31, 2007, via First Class Mail, postage prepaid to:

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