

ESTTA Tracking number: **ESTTA225125**

Filing date: **07/18/2008**

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

Proceeding	91172536
Party	Plaintiff NEWPORT ELECTRONICS, INC
Correspondence Address	Nicole M. Meyer Dickinson Wright PLLC 1901 L Street, N.W. , Suite 800 Washington, DC 20036 UNITED STATES NMeyer@dickinsonwright.com, trademark@dickinson-wright.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Nicole M. Meyer
Filer's e-mail	nmeyer@dickinsonwright.com
Signature	/Nicole M. Meyer/
Date	07/18/2008
Attachments	Newport_Gainco_JULY_EOT.pdf ( 4 pages )(37833 bytes )

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

<b>NEWPORT ELECTRONICS, INC.,</b>	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91172536
	)	
<b>GAINCO, INC.,</b>	)	
	)	
Applicant.	)	

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE  
OPPOSER'S BRIEF AND EXTENSION OF SUBSEQUENT DEADLINES**

Opposer, Newport Electronics, Inc. ("Newport" or "Opposer"), hereby files this Unopposed Motion for Extension of Time to extend the deadline for Opposer's Brief by thirty (30) days. Newport respectfully requests that its current deadline for filing its brief, which is July 20, 2008, be extended by thirty (30) days, until and including **August 19, 2008**. Counsel for Applicant, Gainco, Inc. ("Gainco" or "Applicant"), was contacted on July 16, 2008 and consented to this Motion and the relief sought herein thereafter.

The parties have also agreed to extend the subsequent deadlines for Applicant's brief and Opposer's reply brief, by thirty (30) days, as follows: Applicant's brief, which is currently due no later than August 19, 2008, shall be due no later than **September 18, 2008** (or 30 days after the filing of Opposer's brief, whichever is sooner), and Opposer's reply brief, which is currently due no later than September 3, 2008, shall be due no later than **October 3, 2008** (or 15 days after the filing of Applicant's brief, whichever is sooner). Both parties have consented to the above-identified deadlines, and seek these extensions due to ongoing settlement discussions.

In the Interlocutory Attorney's Order dated June 23, 2008, he requested that in

the event the parties seek an additional extension of time, that they provide a progress report regarding ongoing settlement negotiations since the time the last extension was granted. This Opposition proceeding began on August 22, 2006. The parties proceeded with this opposition through the end of discovery without seeking any extensions of time. While the parties' occasionally discussed settlement during that time, settlement did not truly progress. The parties' first request for extension of time in this case occurred in November 2007 when a new exchange of settlement terms appeared to have the potential to settle this matter. The parties have been engaged in settlement discussions since this time, however, a formal written agreement (as opposed to separate terms) was exchanged for the first time on February 21, 2008. The settlement discussions have continued since the last request for extension of time, the last exchange of a draft Co-Existence Agreement occurring on July 17, 2008. In particular, the parties have resolved issues relating to, *inter alia*, the language in certain "whereas" clauses, whether the proceeding and subject application will be dismissed with prejudice, adoption and registration of a new mark by Applicant, procedures for the parties to deal with any instances of actual confusion in the future, should any such instances arise in connection with Applicant's new mark, and how to handle venue/choice of law. While the parties are awaiting feedback from Opposer's Management, who is currently traveling, it is possible that the parties have narrowed the unresolved issues to only one remaining issue.

While the parties cannot guarantee settlement of this matter by a date certain, they both are hopeful to resolve this matter as soon as possible. The parties believe that resolution of this matter within thirty (30) days is possible.

Respectfully submitted,  
**Newport Electronics, Inc.**

Date: July 18, 2008

**/Nicole M. Meyer/**

Nicole M. Meyer, Esq.

Rebecca Gan, Esq.

Dickinson Wright PLLC

Attorneys for Opposer

1901 L Street, N.W., Suite 800

Washington, D.C. 20036

Tel: (202) 659-6924; Fax: (202) 659-1559

E-mail: [NMeyer@dickinsonwright.com](mailto:NMeyer@dickinsonwright.com)

## CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of July, 2008, the accompanying ***Unopposed Motion for Extension of Time to File Opposer's Brief and Extension of Subsequent Deadlines*** was served by e-mail (upon consent) on Applicant's counsel at the following address:

George L. Pinchak  
Tarolli, Sunheim, Covell & Tummino LLP  
1300 East Ninth Street, Suite 1700  
Cleveland, Ohio 44114

[gpinchak@wattshoff.com](mailto:gpinchak@wattshoff.com)  
[gpinchak@tarolli.com](mailto:gpinchak@tarolli.com)

/Nicole M. Meyer/