

ESTTA Tracking number: **ESTTA166007**

Filing date: **10/01/2007**

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

Proceeding	91174328
Party	Defendant INNOVATIVE AFTERMARKET SYSTEMS, L.P.
Correspondence Address	DAVID G. HENRY Hughes & Luce LLP 1717 Main Street, Suite 2800 Dallas, TX 75201 UNITED STATES henryd@hughesluce.com
Submission	Other Motions/Papers
Filer's Name	R. Matthew Molash
Filer's e-mail	trademarks@hughesluce.com
Signature	/R. Matthew Molash/
Date	10/01/2007
Attachments	MotionToSetAside.pdf ( 12 pages )(252910 bytes )

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

**INTRAVISION TECHNOLOGIES,  
LLC.,**

**Opposer,**

v.

**Innovative Aftermarket Systems, L.P.,**

**Applicant.**

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**Opposition No. 91174328  
Serial No. 78/666,540**

**MOTION TO SET ASIDE NOTICE OF DEFAULT  
AND TO ALLOW FILING OF ANSWER**

Applicant, Innovative Aftermarket Systems, L.P. (“IAS”) files this Motion To Set Aside Notice Of Default And To Allow Filing Of Answer, and in support thereof, shows as follows:

1. This Motion pertains to a Notice of Default mailed on August 31, 2007 (the “Notice of Default”).
2. IAS’ grounds for setting aside the Notice of Default are as follows:
  - a) Lead counsel of record, David Henry, did not personally receive notice of the Notice of Default until October 1, 2007, when it was brought to his attention by another lawyer in his office; that lawyer first discovered the Notice of Default when he checked the USPTO website on September 30, 2007. Prior to September 30, 2007, Applicant understood that it had on file *a pending and unresolved* Motion to Reset Scheduling Order Dates And To Enlarge Time To Answer Notice of Opposition as discussed in c) below.

b) Lead counsel of record, David Henry, recently changed law firms, and he believes the transition issues associated with the change of firms is the reason he did not receive personal notice of the Notice of Default until October 1, 2007. *Accordingly, the delay in filing an answer was not the result of willful conduct or gross neglect on the part of the defendant, but rather a result of inadvertence.*

c) The Notice of Default states that IAS' answer was due on May 10, 2007, and that IAS failed to file a motion to further extend its time to answer. However, on May 10, IAS did file a Motion to Reset Scheduling Order Dates And To Enlarge Time To Answer Notice of Opposition, a copy of which is attached as Exhibit A and a copy of which appears in the records of the Trademark Trial And Appeals Board (the "Board"). Opposer did not respond to that Motion, and the Board has not ruled on that Motion.

d) Opposer's current deadline for submitting testimony in support of its Opposition was September 17, 2007, but Applicant's prior motion filed May 10, 2007 requests that Opposer's testimony period be extended until November 16, 2007. Further, Applicant has no objection to such reasonable additional extension of time as Opposer may request. *Accordingly, Opposer will not be substantially prejudiced by any delay in IAS filing its answer.* (Notably, Opposer did not initiate any discovery during the discovery phase, initiate any proceedings to take testimony during the testimony phase, or file a Motion For Default.)

e) *Applicant believes it has a meritorious defense to Opposer's Notice of Opposition.* For example, Applicant believes its use of the mark in issue preceded any use of a claimed similar mark by Opposer. In addition and in the alternative, Opposer believes the use of the two marks will not lead to a likelihood of confusion based on the

differences between Applicant's mark and Opposer's mark, as demonstrated, for example, by the fact that the examiner for Applicant's mark found no similar registered or pending marks which would bar registration of Applicant's mark. (The examiner did require Applicant to disclaim "F&I," which accounts for a portion of any similarity between Applicant's mark and Opposer's mark.)

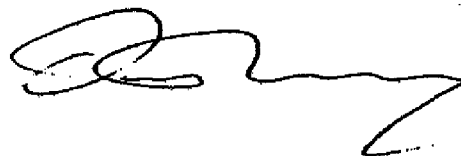
2. A copy of IAS' Answer is attached as Exhibit **B**.

3. This motion is not made for delay, but for good cause shown and so that justice may be done.

WHEREFORE, Applicant respectfully requests that the Board grant Applicant's Motion To Set Aside Notice Of Default And To Allow Filing Of Answer, allow Applicant to file the Answer attached hereto as Exhibit B, and grant Applicant's previously filed Motion to Reset Scheduling Order Dates

Dated: October 1, 2007

Respectfully submitted,



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**David G. Henry, Reg. No. 32,735**  
**R. Matthew Molash, TSB No. 14255300**  
**of HUGHES LUCE, LLP**  
1717 Main Street, Suite 2800  
Dallas, Texas 75201  
214-939-5500  
214-939-5849 – fax

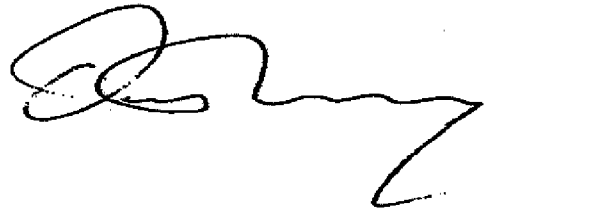
**ATTORNEYS FOR APPLICANT**  
**INNOVATIVE AFTERMARKET SYSTEMS,**  
**L.P.**

DECLARATION

This Declaration is made in accordance with the requirements of 28 U.S.C. § 1746 and under penalty of perjury.

1. "My name is David Henry. I am over 18 years of age and have never been convicted of any crime. I am of sound mind, and competent in all respects to make this declaration.

2. The factual statements contained in the foregoing Motion To Set Aside Notice Of Default And To Allow Filing Of Answer are within my personal knowledge and are true and correct to my information and belief.

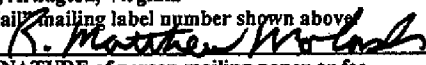
A handwritten signature in black ink, appearing to read "David G. Henry", written over a horizontal line.

David G. Henry

**FILING FEE STATEMENT**

Applicant does not believe any filing fee is required. However, if a fee is required, please charge any such fees to Deposit Account 501343.

**EXPRESS MAIL CERTIFICATE**

<b>CERTIFICATE OF MAILING BY "EXPRESS MAIL"</b>	
"EXPRESS MAIL" mailing label number: EV 605574682 US	
Date of Mailing: <u>October 1, 2007</u>	
I hereby certify that I have caused Applicant's Motion To Set Aside Notice Of Default And To Allow Filing Of Answer to be deposited with the United States Postal Service "Express Mail Post Office to Addressee" on the date indicated above, addressed to the Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 and mailed on the Date of Mailing with the "Express Mail" mailing label number shown above.	
<u>R. Matthew Molash</u>	
Typed or printed name of person mailing paper or fee	SIGNATURE of person mailing paper or fee

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Motion To Set Aside Notice Of Default And To Allow Filing Of Answer was forwarded by certified mail, return receipt requested, to the following counsel of record on this 1<sup>st</sup> day of October, 2007:

Susan E. Hollander  
Manatt, Phelps & Phillips, LLP  
1001 Page Mill Road, Building 2  
Palo Alto, CA 94304

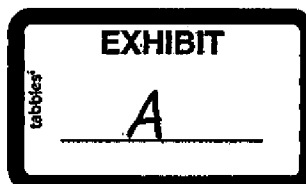
  
R. Matthew Molash

ESTTA Tracking number: **ESTTA139935**

Filing date: **05/10/2007**

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

Proceeding	91174328
Party	Defendant INNOVATIVE AFTERMARKET SYSTEMS, L.P. INNOVATIVE AFTERMARKET SYSTEMS, L.P. 12800 ANGEL SIDE DRIVE LEANDER, TX 78641  ipdocket@coxsmith.com
Correspondence Address	DAVID G. HENRY COX SMITH MATTHEWS INCORPORATED 112 E PECAN ST STE 1800 SAN ANTONIO, TX 78205-1521 UNITED STATES ipdocket@coxsmith.com
Submission	Other Motions/Papers
Filer's Name	Kristi F. Nickel
Filer's e-mail	ipdocket@coxsmith.com
Signature	/kfnickel/
Date	05/10/2007
Attachments	MOTRESETENLARGE.PDF ( 3 pages )(129904 bytes )



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

INTRAVISION TECHNOLOGIES, INC.	§	
Opposer	§	
	§	
v.	§	Opposition No. 91174328
	§	Serial No. 78/666,540
	§	
INNOVATIVE AFTERMARK SYSTEMS, INC.	§	
Applicant.	§	

**MOTION TO RESET SCHEDULING ORDER DATES  
AND TO ENLARGE TIME TO ANSWER NOTICE OF OPPOSITION**

In accordance with 37 C.F.R. §2.121(d), Applicant, Innovative Aftermarket Systems, L.P. ("IAS"), hereby requests that the discovery, testimony periods, and briefing schedule be reset as follows:

	Old Date	New Date
The Period for Discovery to Close	June 19, 2007	August 18, 2007
Testimony period for party in position of plaintiff to close (opening thirty days prior thereto)	September 17, 2007	November 16, 2007
Testimony period for party in position of defendant to close (opening thirty days prior thereto)	November 16, 2007	January 15, 2008
Rebuttal testimony period to close (opening fifteen days prior thereto)	December 30, 2007	February 28, 2008

The above schedule is sought in order to facilitate the orderly conduct of the proceedings and settlement efforts.

Further, pursuant to Rule 6(b), Federal Rules of Civil Procedure, IAS moves for Enlargement of Time to Answer Notice of Opposition. Applicant, IAS, located at 12800 Angel Side Drive, Leander, Texas 78641, through its undersigned attorney, requests an extension of



time to file an Answer to the Notice of Opposition against Application Serial No. 78/666,540 filed by Opposer, Intravision Technologies, Inc., through its attorney on December 1, 2006 and assigned Opposition No. 91174328. Applicant respectfully requests an additional sixty (60) day extension of time beyond the current due date of May 10, 2007, up to and including July 9, 2007.

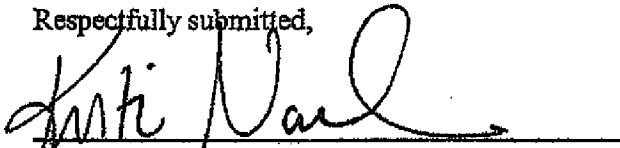
Respondent has good cause for requesting such a sixty (60) day extension of time in that one of Respondent's employees having relevant information needed to defend this Opposition is on extended medical leave and Respondent therefore needs additional time to investigate the claim and feasibility of defending this Opposition. This request is not made for the purpose of unduly delaying proceedings.

A copy of this request is being sent to Petitioner. A copy of the Certificate of Service enclosed.

WHEREFORE, Applicant respectfully requests that the Board grant this Motion to Reset Scheduling Order Dates and to Enlarge Time to Answer Notice of Opposition and allow Applicant an additional sixty (60) days to file its answer up to and including July 9, 2007.

Date: 5/10/07

Respectfully submitted,



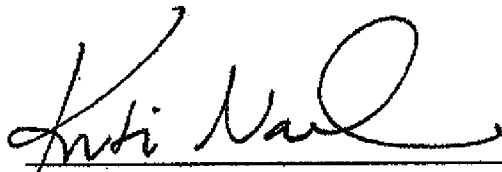
David G. Henry, Reg. No. 32,735  
Pamela B. Huff, Reg. No. 35,901  
Kristi F. Nickel, TSB No. 24027573  
COX SMITH MATTHEWS INCORPORATED  
112 East Pecan Street, Suite 1800  
San Antonio, Texas 78205  
(210) 554-5500  
(210) 226-8395 - Fax

**ATTORNEYS FOR APPLICANT,  
INNOVATIVE AFTERMARKET SYSTEMS, L.P.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing Motion for Enlargement of Time to Answer Notice of Opposition has been forwarded by certified mail, return receipt requested to the following counsel of record on this 10th day of May, 2007:

Mr. Daniel J. Noblitt  
Noblitt & Gilmore, LLC  
4800 North Scottsdale Road, Suite 6000  
Scottsdale, AZ 85251-7630

A handwritten signature in black ink, appearing to read "Kristi Nickel", written over a horizontal line.

Kristi F. Nickel



4. IAS is without information sufficient to admit or deny paragraph 4 of Intravision's Notice of Opposition.

5. IAS admits IAS is a Texas limited partnership and that its general partner is IAS Management Services, Inc. Except as admitted by the foregoing, IAS denies the allegations of paragraph 5 of Intravision's Notice of Opposition.

6. IAS admits the allegations of Paragraph 6 of Intravision's Notice of Opposition.

7. In response to paragraph 7 of Intravision's Notice of Opposition, IAS incorporates its responses to paragraphs 1-6 of Intravision's Notice of Opposition as set out above.

8. On information and belief, IAS denies the allegation in paragraph 8 that Opposer's use of its mark preceded IAS' use of the mark in question. IAS is without information sufficient to admit or deny the remaining provisions of paragraph 8 of Intravision's Notice of Opposition.

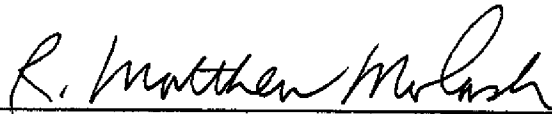
9. IAS denies the allegations paragraph 9 of Intravision's Notice of Opposition.

10. IAS denies the allegations paragraph 10 of Intravision's Notice of Opposition.

WHEREFORE, IAS respectfully requests that Opposer's Notice of Opposition be denied and for such other and further relief to which IAS may show itself entitled.

Date: October 1, 2007.

Respectfully submitted,



**David G. Henry, Reg. No. 32,735**  
**R. Matthew Molash, TSB No. 14255300**  
**of HUGHES LUCE, LLP**  
1717 Main Street, Suite 2800  
Dallas, Texas 75201  
214-939-5500  
214-939-5849 – fax

**ATTORNEYS FOR APPLICANT**  
**INNOVATIVE AFTERMARKET SYSTEMS,**  
**L.P.**

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Answer to Notice of Opposition was forwarded by certified mail, return receipt requested, to the following counsel of record on this 1<sup>st</sup> day of October, 2007:

Susan E. Hollander  
Manatt, Phelps & Phillips, LLP  
1001 Page Mill Road, Building 2  
Palo Alto, CA 94304

