

ESTTA Tracking number: **ESTTA329416**

Filing date: **01/29/2010**

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

Proceeding	91191003
Party	Defendant DynaSis Integrated Systems Corp.
Correspondence Address	Stacy Raphael Stewart Raphael Stewart Law Group, LLC 3525 Piedmont Road, 7 Piedmont Center, Suite 300 Atlanta, GA 30305 UNITED STATES sstewart@raphaelstewart.com, tmadmin@raphaelstewart.com
Submission	Other Motions/Papers
Filer's Name	Stacy Raphael Stewart
Filer's e-mail	tmadmin@raphaelstewart.com
Signature	/SRS/
Date	01/29/2010
Attachments	Motion for Leave to Filev2.pdf ( 5 pages )(21354 bytes )

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

ITILITY, L.L.C.,	)	
	)	
	)	
<b>Opposer,</b>	)	
	)	
v.	)	<b>Opposition No. 91191003</b>
	)	<b>Application No. 77/597,702</b>
DYNASIS INTEGRATED SYSTEMS CORP.,	)	
	)	
<b>Applicant.</b>	)	
<hr style="border: 1px solid black;"/>		

**APPLICANT’S MOTION FOR LEAVE TO  
FILE RESPONSES TO OPPOSERS DISCOVERY REQUESTS**

Dynasis Integrated Systems Corporation (“*Applicant*”) files this Applicant’s Motion for Leave to File Responses to Opposer’s Discovery Requests (as defined herein) and respectfully moves the Board pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120(a) for leave to file its Response to Opposer’s Discovery Requests in this action.

**BACKGROUND**

1. On July, 7, 2009, Opposer, Itility, L.L.C. initiated this action against Applicant by filing its Opposition.
2. Applicant filed its timely response to the Opposition on August 20, 2009.
3. Opposer sent to Applicant its First Request for the Production of Documents and First Set of Interrogatories, and Request for Admissions (“Discovery Requests”) on November 10, 2009.
4. the undersigned received Opposer’s Discovery Requests on January 27, 2010. Immediately upon receiving Opposer’s Discovery Requests on January 27, 2010, the

undersigned called Opposer's Counsel, Theodore Breiner to inform him that the Discovery Requests was received on January 28, 2010.

5. Prior to January 28, 2010, Applicant's attorney received no correspondence from Opposer's counsel regarding the Discovery Requests.

6. By way of this Motion, Applicant requests authority to file its responses to Opposer's Discovery Requests.

### **ARGUMENT AND CITATION OF AUTHORITY**

7. Pursuant to 37 C.F.R. § 2.120(a), the Board may extend the time to respond "upon motion granted by the Board."

8. Sufficient cause exists to grant the relief requested herein and the interests of justice support the same because the Applicant's failure to timely respond to Opposer's Discovery Requests was because of "excusable neglect." See Fed. R. Civ. P. 6(b).

9. Further, Opposer will not be unduly prejudiced by an order granting Applicant's Motion for Leave to File, as the discovery period as set by the Board does not expire until March 18, 2010.

10. Applicant intends to file the responses to Opposer's Discovery Requests on or before February 12, 2010.

11. This Motion is not being filed for purposes of delay and there has been no delay in presenting this Motion for Leave to File. Moreover, Applicant does not move this Court for leave to file out of bad faith.

12. For the reasons stated above, the Board should GRANT the Motion for Leave to File Responses to Opposer's Discovery Requests.

Dated this 29<sup>th</sup> day of January, 2010.

**RAPHAEL STEWART LAW GROUP, LLC**

/s/ Stacy R. Stewart

Stacy R. Stewart (Ga Bar No. 556730)

3525 Piedmont Road

7 Piedmont Center, Suite 300

Atlanta, Georgia 30305

Telephone: (404) 602-0340

Facsimile: (678) 922-7521

sstewart@raphaelstewart.com



