

ESTTA Tracking number: **ESTTA505435**

Filing date: **11/14/2012**

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

Proceeding	91203701
Party	Defendant Ben Franklin Technology Partners, Central and Northern Pennsylvania and Northern Pennsylvania
Correspondence Address	KELLEY CLEMENTS KELLER THE KELLER LAW FIRM, LLC 401 E LOUTHER STREET, SUITE 209 CARLISLE, PA 17013-1867 UNITED STATES kelley@kellerlaw.net, kkeller@kellerlaw.net, margaret@kellerlaw.net
Submission	Stipulated/Consent Motion to Reopen
Filer's Name	Kelley Clements Keller, Esq.
Filer's e-mail	kkeller@thekellerlawfirm.com
Signature	/kck/
Date	11/14/2012
Attachments	Motion to Reopen and Extend Discovery Period signed_2012.1114.pdf (3 pages)(54611 bytes)

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

CITY OF SURPRISE,

Opposer,

vs.

BEN FRANKLIN TECHNOLOGY PARTNERS,
CENTRAL AND NORTHERN PENNSYLVANIA,

Applicant.

Opposition No.: 91203701

App. Serial No.: 85/358,462

Filed: 06/28/2011

Published: 01/10/ 2012

STIPULATED MOTION TO REOPEN AND EXTEND DISCOVERY PERIOD

Ben Franklin Technology Partners, Central and Northern Pennsylvania (“Applicant”), with the express consent of City of Surprise (“Opposer”), hereby requests that the discovery period for Opposition No. 91203901 be reopened and extended for sixty (60) days pursuant to Fed. R. Civ. P. 6(b), 37 CFR §2,120(a)(2), and TBMP Rules 403.04 and 501.03.

Fed. R. Civ. P. 6(b) provides that the discovery period may be reopened upon the showing of excusable neglect. The reason the motion was not filed on time was due to a miscommunication between the parties. In an e-mail exchange, the parties concurred to the filing of a motion to extend discovery by sixty (60) days; however, the Opposer misunderstood that they had agreed to file the motion in said exchange. Applicant assumed the Opposer took care of the filing. When the mistake was realized, the Applicant immediately telephoned the Interlocutory Attorney and explained the situation.

Pursuant to 37 CFR §2.120(a)(2), the discovery period may be extended upon stipulation of the parties and approval by the Trademark Trial and Appeal Board (“the Board”). Applicant

and Opposer consent to extension of the discovery period in the above-captioned matter for a period of sixty (60) days according to the following schedule:

Discovery Period to Close:	1/12/2013
Plaintiff Pretrial Disclosures:	2/26/2013
Plaintiff's 30-day Trial Period Ends:	4/12/2013
Defendant's Pretrial Disclosures:	4/27/2013
Defendant's 30-day Trial Period Ends:	6/11/2013
Plaintiff's Rebuttal Disclosures:	6/26/2013
Plaintiff's 15-day Rebuttal Period Ends:	7/26/2013

WHEREFORE, it is respectfully requested that the Board grant this motion with consent.

Respectfully submitted,

THE KELLER LAW FIRM, LLC

By: *Kelley C. Keller*
Kelley Clements Keller, Esq.

Dated: November 14, 2012

401. E. Louthier Street, Suite 209
Carlisle, PA 17013
(717) 386-5035
Attorneys for Applicant
Ben Franklin Technology Partners, Central
and Northern Pennsylvania

WOODS OVIATT GILMAN LLP

By: *Ronald J. Kisicki*
Ronald J. Kisicki, Esq.


Dated: 11-14-12

2 State Street, Suite 300
Rochester, NY 14614-1396
(212) 238-8601
Attorneys for Opposer
City of Surprise

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Stipulated Motion to Reopen and Extend Discovery Period has been served on the Opposer by mailing the same on November 14, 2012 via electronic mail, to:

Ronald J. Kisicki, Esq.
Woods Oviatt Gilman LLP
Attorneys for Opposer
2 State Street, Suite 300
Rochester, NY 14614-1396
(212) 238-8601
rkisicki@woodsoviatt.com

By: 

Lisa Bolinger Gehman
Paralegal