

ESTTA Tracking number: **ESTTA852559**

Filing date: **10/17/2017**

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

| | |
|------------------------|---|
| Proceeding | 91236644 |
| Party | Plaintiff Damiani International S.A. and Damiani International B.V. |
| Correspondence Address | ANTHONY P VENTURINO VORYS SATER SEYMOUR AND PEASE LLP 1909 K STREET NW NINTH FLOOR WASHINGTON, DC 20006 UNITED STATES Email: iplaw@vorys.com , apventurino@vorys.com , vclombardozzi@vorys.com , ybourne@vorys.com |
| Submission | Opposition/Response to Motion |
| Filer's Name | Vincent C. Lombardozzi |
| Filer's email | iplaw@vorys.com , vclombardozzi@vorys.com , apventurino@vorys.com , ybourne@vorys.com |
| Signature | /vcl/ |
| Date | 10/17/2017 |
| Attachments | Response To Motion To Extend - DAVIANI.pdf(553120 bytes) |

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

In the matter of Application Serial Number 86/613,093
Filing Date: April 28, 2015

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|--------------------------------|---|-------------------------|
| DAMIANI INTERNATIONAL B.V. and |) | |
| DAMIANI INTERNATIONAL S.A. |) | |
| |) | |
| Opposers, |) | Opposition No. 91236644 |
| |) | |
| v. |) | |
| |) | |
| DAVIANI COLLECTION |) | |
| |) | |
| Applicant. |) | |
| <hr/> | | |

OPPOSERS' RESPONSE TO APPLICANT'S REQUEST TO EXTEND

On September 13, 2017, Opposers filed a Notice of Opposition against the application to register DAVIANI (Ser. No. 86/613,093). The same day, Opposers sent a courtesy copy of the Notice of Opposition to Gerard V. Kassabian. (**Exhibit A** – September 14, 2017 Email From Vincent C. Lombardozzi to Gerard Kassabian.) Although Mr. Kassabian is not listed as Applicant's correspondent in this proceeding, Mr. Kassabian filed to become attorney of record for Application Serial Number 86/613,093 on October 10, 2017. Therefore, Opposers consider Mr. Kassabian "Applicant's Counsel".

On October 10, 2017 at 6:40 p.m. Eastern Time, Applicant's Counsel requested Opposers' consent to extend Applicant's deadline to file its Answer. (**Exhibit A** – October 10, 2017 Email From Gerard Kassabian to Vincent C. Lombardozzi.) Exactly one hour later at 7:40 p.m. Eastern Time, before Opposers had any opportunity to consider the request, Applicant's Counsel filed an unconsented motion to extend the Answer deadline. (**Exhibit B** – October 10, 2017 ESTTA Notification.) At the time the motion was filed, Applicant still had fourteen (14) days remaining in which to file an Answer. Applicant's Counsel never served a copy of the motion upon Opposers' correspondent of record and, as the Board is already aware, did not provide proof of service. In support of the motion, Applicant's

Counsel claims that he fell ill but did not submit evidence in support of that claim or otherwise provide Applicant with any such evidence.

Notwithstanding the many deficiencies in the motion at issue and the fact that the motion may have been rendered moot had Applicant's Counsel given Opposers more than one hour to consider the request to extend, Opposers will not object to a reasonable extension of the deadline to file the Answer. Nevertheless, Opposers maintain that an additional ten (10) calendar days – rather than the requested 30 days – should be more than sufficient to prepare and file the Answer.

Respectfully submitted,



Dated: October 17, 2017

Anthony P. Venturino
Vincent C. Lombardozzi
Vorys, Sater, Seymour and Pease LLP
1909 K Street, NW, Ninth Floor
Washington, DC 20006
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Counsel for Opposers

CERTIFICATE OF SERVICE

I, Vincent C. Lombardozzi, hereby certify that a copy of the foregoing **OPPOSERS' RESPONSE TO APPLICANT'S REQUEST TO EXTEND** was served by electronic mail on October 17, 2017 upon Applicant and Gerard V. Kassabian at the following email addresses:

davianicollection@sbcglobal.net

gerard@kassabianlaw.com



EXHIBIT A

From: Gerard Kassabian <gerard@kassabianlaw.com>
Sent: Tuesday, October 10, 2017 6:40 PM
To: Lombardozzi, Vincent C.
Cc: Venturino, Anthony P.; Bourne, Yayoi; IPLaw
Subject: RE: Opposition: DAVIANI

Mr. Lombardozzi,

I was recently ill and out of the office for a few weeks (including hospitalization with proof). Would your office kindly refrain from opposing my motion to extend the time to answer this opposition, which I will file shortly? Thank you in advance for your anticipated courtesy. Kindly confirm.

Very Truly Yours,

Gerard V. Kassabian, J.D., LL.M.

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From: Lombardozzi, Vincent C. [<mailto:vc Lombardozzi@vorys.com>]
Sent: Thursday, September 14, 2017 6:09 PM
To: Gerard Kassabian <gerard@kassabianlaw.com>
Cc: Venturino, Anthony P. <apventurino@vorys.com>; Bourne, Yayoi <ybourne@vorys.com>; IPLaw <iplaw@vorys.com>
Subject: Opposition: DAVIANI

Dear Gerard,

Although we are not obligated to send this, attached is a courtesy copy of the Notice of Opposition that we filed against your client's application for DAVIANI. If you still represent Daviani Collection, you should take the necessary steps to ensure that you receive relevant communications.

Regards,

Vince

EXHIBIT B

From: estta-server@uspto.gov
Sent: Tuesday, October 10, 2017 7:40 PM
To: IPLaw; Venturino, Anthony P.; Lombardozi, Vincent C.; Bourne, Yayo;
davianicollection@sbcglobal.net; gerard@kassabianlaw.com
Subject: ESTTA. Motion to Extend confirmation receipt ID: ESTTA851299

Opposition No.: 91236644

Tracking No: ESTTA851299

ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS Filing Receipt

The Trademark Trial and Appeal Board (Board) has received a filing titled Opposition No.: 91236644 submitted through the Electronic System for Trademark Trials and Appeals (ESTTA). This Notice verifies receipt of the filing and includes an ESTTA Tracking Number.

Unless the filing fails to meet all applicable minimum legal requirements for filing, the Board will not retract the filing or refund any fees paid.

The filing, and any Board proceeding, may be viewed on TTABVUE at <http://ttabvue.uspto.gov/ttabvue/>. Please allow up to two hours for the system to process this filing unless the filing is a new opposition or new petition to cancel that must be processed by a TTAB staff member. Please allow up to one week from the date of filing for manual processing.

If the filer received an error message or experienced a technical issue while using ESTTA, please email estta@uspto.gov and provide your ESTTA Tracking Number along with a Serial, Registration or Proceeding Number. For further status or information inquiries, please email ttabinfo@uspto.gov. The TTAB Assistance Center is open Monday through Friday from 8:30 a.m. to 5:00 p.m. Eastern Time (ET) at 571-272-8500.

ESTTA server at <https://estta.uspto.gov>

ESTTA Tracking number: ESTTA851299
Filing date: 10/10/2017

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

Proceeding: 91236644
Party: Defendant
Daviani Collection

Correspondence Address: DAVIANI
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Los Angeles, CA 90014-1309
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