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

Proceeding	91245153
Party	Plaintiff Cyber X Designs, d/b/a Arteric
Correspondence Address	KAREN J BERNSTEIN BERNSTEIN IP 200 PARK AVENUE SUITE 1700 NEW YORK, NY 10166 UNITED STATES kjb@bernsteinip.com 212-339-9955
Submission	Opposition/Response to Motion
Filer's Name	Karen J Bernstein
Filer's email	kjb@bernsteinip.com
Signature	/kjb/
Date	03/15/2019
Attachments	arteric add-on timerx response to motion to extend time for initial disclosures responses to discovery.pdf(72494 bytes)

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

CYBER X DESIGNS, LLC,)	
d/b/a/ ARTERIC,)	Opposition No. 91245153
)	Application S/N: 87842992
Opposer,)	
)	Mark:
v.)	ADD-ON TIMERX (& Design)
)	
ADD-ON TIMER, LLC)	
)	
Applicant.)	

ARTERIC’S RESPONSE TO APPLICANT’S MOTION TO EXTEND TIME

Opposer Cyber X Designs, LLC, d/b/a Arteric (“Opposer”), through undersigned counsel, hereby responds to Applicant’s 15-day request for an extension of time to serve its Initial Disclosures and to respond to Opposer’s First Set of Interrogatories and Document Requests.

Opposer has no objection to Applicant’s request for a 15-day extension of time to serve its Initial Disclosures and to respond to Opposer’s First Set of Interrogatories and Documents Requests (“First Set of Discovery”) and would have stipulated to such an extension if the reasons for doing so were elaborated by Applicant’s counsel prior to wasting the Board’s time.

After reviewing Applicant’s Motion to Extend, however, Opposer feels compelled to point out certain inaccuracies contained in Applicant’s Motion to Extend.

The Board’s December 5, 2018 Scheduling Order states the parties are to serve Initial Disclosures by today, March 15, 2019. In addition, the Board set discovery in the instant proceedings to open February 13, 2019. Accordingly, Opposer served on

Applicant its Initial Disclosures its First Set of Interrogatories and Document Requests on April 13, 2019 (“First Discovery Requests”).

On March 7, 2019, one week and one day before Applicant’s Initial Disclosures and responses to the First Discovery Requests were due to be served, Applicant’s attorney left a telephone voicemail message for Opposer’s attorney to call him back. Opposer’s attorney was out of the office at an all-day conference and was busy on other client matters for the rest of the week. On March 13, 2019, Opposer’s attorney called Applicant’s attorney who advised that his client was “thinking” about certain things, the details of which are privileged under Fed. R. Civ. P. 408. Opposer’s attorney said that she would discuss the matter with her client and get back to Applicant’s attorney.¹ There was no discussion of requests for extension of time to serve Initial Disclosures or responses to the First Discovery Requests during the call.

On March 13, 2019, the same day the parties’ attorneys spoke over the phone, Applicant’s attorney sent an e-mail to Opposer’s attorney requesting a 15-day extension of time to serve its Initial Disclosures and responses to the First Discovery Requests while the parties were trying to work out a resolution of the dispute. Opposer’s attorney, out of professional courtesy, e-mailed back that she would grant Applicant a one-week extension of time. No other communication was made between the parties until today when Applicant’s attorney e-mailed the subject Motion to Opposer’s attorney immediately prior to filing it with the Board and over Opposer’s objections to do so via phone call with Applicant’s attorney.

¹ It was Opposer’s attorney who had to call back Applicant days later. If the matter was so urgent, Applicant’s attorney should have tried to call Opposer’s attorney back, but he did not.

