



Commissioner for Trademarks
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RE: Petition to the Director
Application Serial No. 87675611

Mark:¹ The logo for SCOTT Electronics Inc. features the word "SCOTT" in a serif font, with a stylized swirl of four arrows forming the letter "O". Below "SCOTT" is the text "Electronics Inc." in a smaller font.

On December 17, 2018, Schott AG (Petitioner) petitioned the Director of the United States Patent and Trademark Office ("Director") to accept a notice of opposition filed on paper on December 3, 2018 because ESTTA would not accept the filing electronically.

Petitioner, on October 31, 2018, filed a timely 30-day extension of time to oppose the application until Saturday, December 1, 2018. On Monday, December 3, 2018, Petitioner was unable to file its notice of opposition through ESTTA and, instead, filed the notice of opposition in paper form. Mr. Kelly, Petitioner's attorney, submitted a declaration wherein he states the granted extension of time to oppose is not reflected in the Trademark Trial and Appeal Board's (TTAB or Board) computerized system, preventing Petitioner from filing the notice of opposition. Petitioner submitted an ESTTA receipt of its granted extension of time to oppose and a copy of its timely filed notice of opposition.

Pursuant to Trademark Rule 2.101(b)(1), 37 C.F.R. § 2.101(b)(1), notices of opposition must be filed through ESTTA, except that "[i]n the event that ESTTA is unavailable due to technical problems, or when extraordinary circumstances are present, an opposition against an application based on Section 1 or 44 of the Act may be filed in paper form. A paper opposition to an application based on Section 1 or 44 of the Act must be filed by the due date set forth in paragraph (c)

¹ The mark consists of the literal element "SCOTT ELECTRONICS, INC." with the letter "O" in the word "SCOTT" represented by a swirl of four arrows and the word "SCOTT" bounded on the left and underlined by a curved line ending with a plug.

of this section and be accompanied by a Petition to the Director under § 2.146, with the fees therefor and the showing required under this paragraph.”
Trademark Rule 2.101(b)(2), 37 C.F.R. § 2.101(b)(2).

Petitioner’s submissions confirm that it was prevented from filing its notice of opposition through ESTTA. Petitioner’s timely filed 30-day request to extend time to oppose, granted by the system, exists in the system but did not execute the electronic protocol. As a result, a notice of allowance issued for the application. The timely extension request was granted by the Board on January 10, 2019 and the notice of allowance has been cancelled. Petitioner’s notice of opposition, accompanied by the requisite fee, is timely filed. See also Trademark Rule 2.196, 37 C.F.R. § 2.196, which provides that if a due date falls on a Saturday, Sunday or Federal holiday, a filing received on the next business day will be considered timely.

In view of the unavailability of ESTTA, the petition to the Director is GRANTED. The notice of opposition, and the required fee are accepted. *See* Trademark Rule 2.6(a)(17)(i), 37 C.F.R. § 2.6(a)(17)(i). The petition fee is waived and will be refunded in due course.

/Cheryl Butler/

Cheryl Butler
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CC:

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