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Filing date: **08/20/2020**

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

Proceeding	91247072
Party	Plaintiff The Round Table Franchise Corporation
Correspondence Address	JOHN C CAIN FLECKMAN & MCGLYNN PLLC 8945 LONG POINT ROAD, SUITE 120 HOUSTON, TX 77055 UNITED STATES Primary Email: trademarks@fleckman.com Secondary Email(s): cain@fleckman.com, jblair@fleckman.com 713-722-0120
Submission	Motion to Extend
Filer's Name	John C. Cain
Filer's email	trademarks@fleckman.com, cain@fleckman.com
Signature	/John C. Cain/
Date	08/20/2020
Attachments	2020.08.20 Motion to Extend and Accept Late Filing.pdf(113259 bytes)

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

THE ROUND TABLE FRANCHISE	§	OPPOSITION
	§	
CORPORATION	§	Opposition No.: 91247072
	§	
Opposer,	§	Application Serial No.: 87/702,069
	§	
v.	§	Filed: March 20, 2019
	§	
ROUND PIE 01 LLC	§	
	§	
Applicant.	§	

**MOTION TO EXTEND DEADLINE AND ACCEPT LATE-FILED
AMENDED NOTICE OF RELIANCE DUE TO EXCUSABLE NEGLECT**

Pursuant to the Board’s order of July 30, 2020 and 37 C.F.R. § 2.122, Opposer, The Round Table Franchise Corporation (“Round Table” or “Opposer”), had until 11:59 PM Eastern Daylight Time on August 19th, 2020 to file an amended Notice of Reliance. In part because of the current disrupt to normal work routines, Opposer inadvertently failed to file the amended Notice of Reliance prior to yesterday’s deadline.

Opposer hereby requests that the Board grant this Motion and extend the time for Opposer to file an amended Notice of Reliance by a single day, to today, August 20th, 2020. Opposer is filing its Amended Notice of Reliance concurrently with this Motion to Extend. Opposer’s attorney had intended to file the Amended Notice of Reliance before the deadline and became distracted with other work priorities and simply failed to make the timely filing.

According to FRCP 6(b)(1)(B), the Board has the authority to “extend the time... after the time has expired if the party failed to act because of excusable neglect.” The Supreme Court has stated that “‘excusable neglect’ under Rule 6(b) is a somewhat ‘elastic concept’ and is not

limited strictly to omissions caused by circumstances beyond the control of the movant.” *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. Partnership*, 507 U.S. 380, 392 (1993). Further, the determination of whether the neglect is “excusable” is ultimately “an equitable one, taking account of all relevant circumstances surrounding the party’s omission, which include evaluating the “danger of prejudice to [the non-moving party], the length of delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith.” *Id.* at 395.

Under the principles of equity, Applicant will not be prejudiced by the single-day extension, as Applicant would likely not be reading Opposer’s Amended Notice of Reliance until today had Opposer timely filed the Amended Notice of Reliance late yesterday. However, if Opposer’s Amended Notice of Reliance is not allowed, Opposer would be placed at a significant disadvantage by removing important evidence from the record.

2020 has been a difficult year of adjustment for us all. Opposer apologizes for its neglect to file the Amended Notice of Reliance yesterday, and prays that the Board grant this Motion to Extend Due to Excusable Neglect for a time period less than a single day, and that the Amended Notice of Reliance be allowed under the equitable principles set forth in FRCP Rule 6(b)(1)(B).

Respectfully submitted,

Date: August 20, 2020

By:



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ATTORNEY FOR OPPOSER,
THE ROUND TABLE FRANCHISE
CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amended Notice of Reliance was served on Applicant via email on August 20, 2020, to the attorneys for Applicant at:

JMR@br-tmlaw.com; K.Hnasko@br-tmlaw.com; S.Baker@br-tmlaw.com


Mandy Morgan