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

Proceeding	92058094
Party	Defendant Lightwave Publishing Inc.
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Date	04/30/2015
Attachments	20150430 Registrant's Substitute Reply to Petitioner's Opp. to Resp. Motion to Extend Discovery Deadlines SMTT429CAN.pdf(109957 bytes)

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

<p style="text-align:center">THE ZONDERVAN CORPORATION L.L.C.</p> <p style="text-align:center">Petitioner,</p> <p style="text-align:center">v.</p> <p style="text-align:center">LIGHTWAVE PUBLISHING INC.</p> <p style="text-align:center">Registrant.</p>	<p>Cancellation No. 92058094</p> <p>Reg. No.: 4323349</p> <p>Filing Date: June 26, 2012</p> <p>Registration Date: April 23, 2013</p> <p>Mark: BOYS BIBLE</p>
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**REGISTRANT’S REPLY TO PETITIONER’S OPPOSITION TO REGISTRANT’S MOTION TO
EXTEND EXPERT DISCLOSURES, DISCOVERY, AND TESTIMONY PERIODS**

On January 5, 2015, Petitioner’s counsel filed a consented motion to extend discovery and expert disclosure dates, indicating that a discovery dispute between the parties, and that additional time was needed to resolve that dispute. Prior to that filing, the parties’ counsel discussed the schedule and worked together to present a new, consented schedule to the Board. That relationship continued until the parties filed their separate motions for extensions of discovery and pre-trial periods on March 6, 2016. The impasse was over whether there should be different discovery periods for each party. *Declaration of David P. Cooper*, §§ 8-9.

Now, rather than seeking to compel discovery, Petitioner is trying to use motion practice over the discovery and testimony-period schedule to block Registrant’s opportunity to take discovery. In written communications, Petitioner’s counsel discussed various discovery matters, including the idea of filing motion to compel discovery responses. However, Petitioner’s counsel has never raised the issue of a motion to compel in phone conversations with Registrant’s counsel. The parties’ counsel have had teleconferences about various discovery matters and about time extensions for discovery, expert disclosures and testimony periods, but not about a motion to compel. *Cooper Substitute Decl.*, § 10.

As verified in the attached Declaration of David P. Cooper, Registrant's attorney has been involved in three contested, Intellectual-Property-litigation matters that have required a substantial amount of his time since last November, 2014. Those matters are: *TMI Products, Inc. v. Rosen Entertainment Systems, L.P.*, United States Court of Appeals for the Federal Circuit, Appeal No. 2014-1553; *Universal Instruments Corporation v. Micro Systems Engineering, Inc. and Missouri Tooling & Automation*, United States District Court for the Northern District of New York, Case No. 3:13-cv-831 (GLS/DEP); and *MyKey Technology Inc. Patent Litigation v. Intelligent Computer Solutions, Inc. et al.*, United States District Court Central District of California, Case No. 2:13-mi-02461-AG (PLAx). *Cooper Decl.*, § 2.

Registrant's attorney is lead defense counsel for the defendants in the *TMI Products* and the *Universal Instruments* cases, and for one of the defendants in the *MyKey Technology* case. In connection with the *TMI Products* case, I argued an appeal before the U.S. Court of Appeals for the Federal Circuit on March 6, 2015, the day that I also filed Registrant's Motion. In connection with the *Universal Instruments* case, the parties have been involved with substantial document discovery since November, 2014, and that documents discovery has involved several hundred thousand pages of documents pertaining to claims of trade secret misappropriation and copyright infringement of computer programs. Depositions began in March will continue through July, 2015. The *MyKey Technology* case is a multi-district-litigation (MDL) patent matter involving eight defendants. In 2014, the parties completed the *Markman* process and have been proceeding with a bifurcated pre-trial procedure, conducting discovery first concerning the validity of plaintiff's patents. That discovery has included the exchange of expert reports, as well as depositions that began on Feb. 25, 2015, and will continue through March 24, 2015. *Cooper Decl.*, §§ 3-6.

Registrant's attorney now has additional staff to assist with this matter, and expects to resolve the ongoing discovery dispute with Petitioner's counsel in the next two weeks. He will communicate with Petitioner's counsel this week regarding those outstanding matters. *Cooper Decl.*, § 7. Registrant will also file a status report as to the discovery dispute by April 27, 2015.

Respectfully submitted,

Dated: April 30, 2015

/ David P. Cooper /
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