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

Proceeding	92062923
Party	Plaintiff Topclear, Inc.
Correspondence Address	DONALD L DENNISON LADAS & PARRY LLP 1700 Diagonal Road Suite 505 ALEXANDRIA, VA 22314 UNITED STATES ddennison@ladas.com
Submission	Opposition/Response to Motion
Filer's Name	Donald L. Dennison
Filer's e-mail	ddennison@ladas.com
Signature	/donald l. dennison/
Date	04/26/2017
Attachments	Resp. to Motionfor Extension of Discovery Tropic Clair.pdf(41748 bytes )

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

TOPICLEAR, INC.	]	
Petitioner,	]	
	]	
v.	]	Cancellation #92062923
	]	Reg. No. 4,818,656
K&N DISTRIBUTORS, INC.	]	
Registrant.	]	
	]	
	]	

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**OPPOSITION BY PETITIONER TO REGISTRANT’S**  
**MOTION FOR EXTENSION OF DISCOVERY**  
**PERIOD AND TRIAL SCHEDULE**

Counsel for the Registrant caused to be filed, on April 20, 2017, the last day of the Discovery Period as set by the Board, a Motion for extension of the discovery period and the trial periods. To this Motion, Petitioner submits its response and objection.

The discovery period in this case opened over one year ago on March 19, 2016. During that period, Registrant has engaged in extensive discovery. Registrant’s first set of Interrogatories exceeded the 75 permitted and resulted in a Supplemental submission of Interrogatories. Subsequently a second set of Interrogatories was submitted by Registrant on March 22, 2017, which Interrogatories were answered on April 18, 2017.

Three separate sets of document requests were submitted by Registrant. The first two sets were fully answered, however Petitioner refused to file answers to the third set dated March 22, 2017, but instead filed a written response advising Registrant that it had exceeded the number of Document Requests (75) permitted by the Rules.

Petitioner has completed its discovery in this case and is preparing for trial.

Registrant references in its Motion its second Document Request which was served on March 10, 2017. By phone stipulation of the parties it was agreed that a written response would be timely filed electronically, but that in view of the volume of materials, the actual documents would be sent to counsel by U.S. mail. The electronic portion of the response was filed on April 5, 2017 and the documents themselves were posted with first class postage on the same date. Registrant's counsel claims that she never received the mail materials and notified counsel for Petitioner of that fact on or about April 18<sup>th</sup>. Counsel for Petitioner immediately procured additional copies of the alleged missing materials and the same were sent electronically to counsel for Registrant.

It is submitted that there is no good cause shown for any extensions in this proceeding and that the Motion for such extension was made solely for purposes of delay. Accordingly the Motion should be denied.

Respectfully submitted,

April 26, 2017

/donald l. dennison/\_\_\_\_\_  
Donald L. Dennison,  
LADAS & PARRY LLP  
Attorneys for Petitioner  
1700 Diagonal Road  
Suite 505  
Alexandria, VA 22314  
(212)708-3401  
ddennison@ladas.com

### **CERTIFICATE OF SERVICE**

This is to certify that a copy of the aforesaid Petitioner's Opposition to Registrant's Motion to Compel was served by e-mail this twenty-sixth day of April, 2017 on counsel for the Registrant, Carrie A. Shufflebarger, addressed to [carrie.shufflebarger@thompsonhine.com](mailto:carrie.shufflebarger@thompsonhine.com).

/donald l.dennison/  
Donald L. Dennison

