

ESTTA Tracking number: **ESTTA373880**

Filing date: **10/19/2010**

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

Proceeding	77626768
Applicant	LaPolla Industries, Inc.
Correspondence Address	DANIEL S. POLLEY DANIEL S. POLLEY, P.A. 7251 WEST PALMETTO PARK ROAD, SUITE 202 BOCA RATON, FL 33433 UNITED STATES dan@danpolley.com, beatrizbemal@bellsouth.net
Submission	Applicant's Request to Extend
Attachments	7010THERMO-FLEX.TTABSecondEOT.pdf (3 pages)(23026 bytes)
Filer's Name	Daniel S. Polley
Filer's e-mail	dan@danpolley.com
Signature	/Daniel S Polley/
Date	10/19/2010

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

In re application of : LaPolla Industries, Inc.
Serial No. : 77/626,768
Filed : December 4, 2008
Mark : **THERMO-FLEX**
Trademark Attorney : John M. Kelly
Law Office : 117
Our File No. : 1127.7010

CERTIFICATE OF MAILING

I hereby certify that this correspondence, and any attachments thereto, is being electronically filed with the TTAB.

<u>Daniel S. Polley</u>	<u>/Daniel S. Polley/</u>	<u>October 19, 2010</u>
Name of Person Mailing Paper	Signature	Date

**REQUEST FOR EXTENSION OF TIME FOR FILING
APPLICANT'S APPEAL BRIEF**

Mail Stop TTAB
Commissioner for Trademarks

Dear Sir:

It is respectfully requested that the time now set for filing Applicant-Appellant's appeal brief, presently due October 20, 2010, be extended an additional four (4) months, thus extending the time for response up to and including February 20, 2011.

This request is not made for purposes of delay, but to allow counsel additional time to prepare its comprehensive brief on the issues of record.

Applicant's counsel, the undersigned counsel has had limited contact with Applicant and thus has been unable to sufficiently consult with Applicant regarding the issues in the appeal.

During the past four months the undersigned counsel has been involved in representing the Plaintiff as its sole counsel in a patent infringement lawsuit filed on March 12, 2010 (Trebor Industries, Inc. v. Regatta AS, et al – Case No. 0:10-cv-60371-Jordan –

Southern District of Florida), which has been quite active since its filing. The litigation matter has now settled after a two day settlement conference.

The undersigned counsel continues to be actively involved in the litigation case pending in the Southern District of Florida, namely, Trebor Industries, Inc. v. JL Gory, Inc. et al. Case No. 09-60214-CIV, with discovery and settlement conferences recently transpiring and upcoming mediation, additional discovery and dispositive motions required over the next couple months. Furthermore, the trial for this litigation is currently set for January 10, 2011, which will also require significant pretrial preparation and filings being required. Currently, the undersigned is the sole counsel representing the Plaintiff in this litigation.

The undersigned is also heavily involved in a federal trademark litigation matter in the District Court of Nevada in Las Vegas, Nevada (Glen J. Lerner et al. v. Richard Sackett et al, Case No. 2:08-cv-01123-KJD-RJJ). The Las Vegas litigation has also been quite active this past month and should continue at such pace for at least the next few months as the discovery was recently extended by the Court, which will result in significant additional discovery and third party discovery being conducted. Over the past few months, the undersigned has traveled twice to Las Vegas, Nevada and once to Flagstaff, Arizona for depositions and hearings involving this litigation.

The undersigned counsel also continues to be involved in several other pre-litigation matters.

In addition to the above, the undersigned counsel is involved with other unanticipated matters which have required that counsel's attention be diverted away from matters scheduled on counsel's docket.

Lastly, the undersigned counsel's daughter has been suffering with chronic pain issues in her foot and was enrolled in a recently completed three week pain management program at the Cleveland Clinic in Cleveland Ohio. The undersigned spent a large portion of the three weeks in Cleveland. Additional follow up visits to Cleveland are currently being scheduled and the undersigned counsel will be accompanying his daughter on such trips.

In re application of: LaPolla Industries, Inc.
Serial No. 77/626,768
Page 3

As this is an Ex Parte Appeal, not involving other parties, it is respectfully believed that this Request will not be prejudicial to any third party.

It is therefore respectfully requested that Applicant-Appellant be granted ample time, until February 28, 2011, in which to file its Appellant's Brief.

Respectfully submitted,

/Daniel S. Polley/

Daniel S. Polley, Reg. No. 34,902

DANIEL S. POLLEY, P.A.

7251 W. Palmetto Park Road, Suite 202

Boca Raton, Florida 33433

Phone (561) 347-5955

Fax (561) 807-5987

Email: dan@danpolley.com

7010THERMO-FLEX.TTABSecondEOT.doc