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Filing date: **03/04/2009**

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

Applicant:	Harvey Ball Smile Limited
Application Serial Number:	77493755
Application Filing Date:	06/08/2008
Mark:	DESIGNED BY HARVEY R. BALL USA 1963
Date of Publication	11/04/2008

60 Day Request for Extension of Time to Oppose Upon Extraordinary Circumstances

Pursuant to 37 C.F.R. Section 2.102, Franklin Loufrani, 35-37 Grosvenor Gardens SW1W OBS, London, , UNITED KINGDOM respectfully requests that he/she/it be granted an additional 60-day extension of time to file a notice of opposition against the above-identified mark for extraordinary circumstances shown .

Potential opposer believes that extraordinary circumstances are established for this request by:

- Harvey Ball Smile Ltd. has engaged in the practice of filing numerous applications for variations of the happy face icon. The issue of whether the happy face icon is a ubiquitous icon incapable of functioning as a trademark is currently pending before the TTAB in Wal-Mart Stores v. Franklin Loufrani (consolidated opposition nos. 91/150,278; 91/154,632; and 91/152,145), which was argued before the TTAB on January 14, 2009. In addition, the ubiquitous icon argument was raised in four oppositions filed by Mr. Loufrani against Harvey Ball Smile Ltd. (consolidated opposition nos. 91/185,409 and 91/186,510) which have been suspended pending the outcome in the Wal-Mart matter. Because the Wal-Mart matter may ultimately resolve certain dispositive issues related to these oppositions, in order to preserve all rights, and in the interest of economy, Mr. Loufrani respectfully requests an additional extension of no less than 60 days to oppose the Harvey Ball application for registration.

The time within which to file a notice of opposition is set to expire on 03/04/2009. Franklin Loufrani respectfully requests that the time period within which to file an opposition be extended until 05/03/2009.

Respectfully submitted,

/Steven L. Baron/

03/04/2009

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