

this opposition proceeding.

This application is made on the grounds that Applicant was properly served with the Notice of Opposition in this matter, and thereafter failed to plead or otherwise defend against this action before or on June 20, 2001.

This motion is brought pursuant to Rule 55 of the Federal Rules of Civil Procedure, 37 C.F.R. sections 2.106(a) and 2.114(a), Trademark Trial and Appeal Board Manual of Procedure ("TBMP") sections 508 and 317, the Memorandum of Points and Authorities filed concurrently herewith, Declarations and Exhibits attached hereto, together with the pleadings already contained in the Trademark Trial and Appeal Board's file, and such other evidence as may be presented if a hearing on this motion is held.

Respectfully submitted,

DATED: July 2, 2001

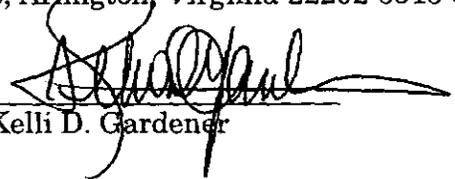


JODI S. COHEN, CASB No. 151534
SARAH T. SANGMEISTER, CASB No. 176068
JENNIFER J. OHRENBERGER, CASB No. 211529
KEESAL, YOUNG & LOGAN
A Professional Corporation
400 Oceangate
P.O. Box 1730
Long Beach, California 90801-1730
Telephone: (562) 436-2000
Facsimile: (562) 436-7416

Attorneys for Opposer
KEYCOM ENTERPRISES, INC.

CERTIFICATE OF MAILING

I certify that the foregoing NOTICE OF MOTION AND MOTION OF OPPOSER KEYCOM ENTERPRISES, INC. FOR ENTRY OF JUDGMENT AFTER DEFAULT AGAINST APPLICANT D & B INTERNATIONAL COMPUTER, INC. in the application of D&B International Computer Inc., Serial No. 76-057,093, filed on May 25, 2000, is being deposited with Federal Express in an envelope addressed to: Box TTAB, NO FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on this 2nd day of July, 2001.



Kelli D. Gardener

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 18 and not a part to the within action; my business address is Keesal, Young & Logan,
5 400 Oceangate, P. O. Box 1730, Long Beach, California 90801-1730.

6 On July 2, 2001 I served the foregoing document described as **NOTICE OF MOTION**
7 **AND MOTION OF OPPOSER KEYCOM ENTERPRISES, INC. FOR ENTRY OF**
8 **JUDGMENT AFTER DEFAULT AGAINST APPLICANT D&B INTERNATIONAL**
9 **COMPUTER, INC.** on the interested parties in this action by placing a true and correct
10 copy thereof in a sealed envelope, addressed as follows:

11 Thomas J. Moore, Esq.
12 Bacon & Thomas PLLC
13 625 Slaters Lane, 4th Floor
14 Alexandria, VA 22314-1176

15 **BY MAIL:** I deposited such envelope(s) in the mail at Long Beach, California. I am
16 readily familiar with the firm's practice of collection and processing correspondence for
17 mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course
18 of business. I am aware that on motion of party served, service is presumed invalid if postal
19 cancellation date or postage meter date is more than one day after deposit for mailing in this
20 declaration.

21 ___ **BY DHL:** I caused such envelope(s), fully prepaid on account, to be placed within
22 the custody of DHL Worldwide Express at Long Beach, California.

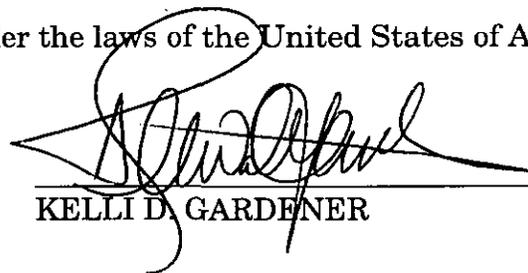
23 ___ **BY FACSIMILE:** I caused the above-referenced document(s) to be transmitted to
24 the above-named person(s) at the facsimile telephone number exhibited therewith.

25 ___ **BY PERSONAL SERVICE:** I delivered such envelope(s) by hand to the offices of
26 the addressee(s).

27 Pursuant to California Rules of Court, Rule 201, and the Local Rules of the
28 United States District Court, I certify that all originals and service copies (including
exhibits) of the papers referred to herein were produced and reproduced on paper purchased
as recycled, as defined by Section 42202 of the Public Resources Code.

Executed on July 2, 2001 at Long Beach, California.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.


KELLI D. GARDENER

more fully below, Opposer is clearly entitled to a judgment of default against Applicant for failure to plead or respond to the Notice of Opposition filed by Opposer on May 3, 2001.

A. STATEMENT OF FACTS

Applicant filed a trademark application with the Patent and Trademark Office ("PTO") for the mark "ASOUND" on May 25, 2000. This application contained one classification for goods, in International Class 009, and described the goods as "interface cards." It was also based on a foreign registration of the mark obtained in Taiwan on December 1, 1997. Applicant's application was published for opposition in the *Official Gazette* on March 6, 2001.

Opposer, after receiving a 30-day extension of time to file a Notice of Opposition from the Trademark Trial and Appeal Board ("TTAB"), filed a Notice of Opposition on or about May 3, 2001. The Notice of Opposition was based on Opposer's common law rights to the "ASOUND" mark, stemming from Opposer's use of the mark since November 1, 1996, as well as its pending trademark application for "ASOUND" for "computer hardware and consumer electronics, namely circuit boards and computer accessories," also submitted under International Class 009.

Shortly after filing its Notice of Opposition, Opposer received a copy of the notice of the Notice of Opposition sent by the PTO to Applicant's attorney of record on May 11, 2000. According to this notice, Applicant's Answer to the Notice of Opposition was due forty (40) days after the mailing date of May 11, 2000, or June 20, 2001.

To date, Opposer has not been served with Applicant's Answer or other responsive pleading.

B. THE TRADEMARK TRIAL AND APPEAL BOARD MAY ENTER A DEFAULT JUDGMENT UPON REQUEST OF THE OPPOSER IF THE APPLICANT HAS FAILED TO APPEAR.

Pursuant to Trademark Trial and Appeal Board Manual of Procedure ("TBMP") sections 508 and 317, 37 C.F.R. sections 2.106(a) and 2.114(a), and Federal Rules of Civil Procedure, Rule 55(b) and (c), Opposer may file a motion for default judgment for the failure of Applicant to file a timely Answer to the Notice of Opposition. Default judgment may be entered against the Applicant if it fails to file a brief in opposition to Opposer's Motion for Default Judgment. *See* TBMP § 508.

To date, Opposer has not received Applicant's Answer or other responsive pleading to the Notice of Opposition filed on May 3, 2001. Applicant's Answer or other responsive pleading was due on or before June 20, 2001. As such, the time for Applicant to respond to Opposer's Notice of Opposition has expired, and default judgment should be entered against Applicant and in favor of Opposer.

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C. CONCLUSION

For the foregoing reasons, Opposer respectfully submits that default judgment should be entered against Applicant and in favor of Opposer.

Respectfully submitted,

DATED: July 2, 2001

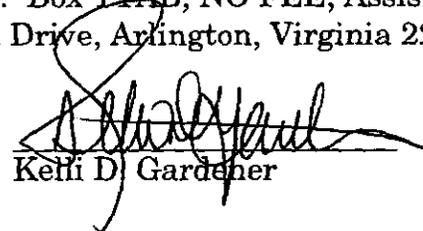


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Attorneys for Opposer
KEYCOM ENTERPRISES, INC.

CERTIFICATE OF MAILING

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Kelli D. Gardner

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2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 18 and not a part to the within action; my business address is Keesal, Young & Logan,
5 400 Oceangate, P. O. Box 1730, Long Beach, California 90801-1730.

6 On July 2, 2001 I served the foregoing document described as **MEMORANDUM OF**
7 **POINTS AND AUTHORITIES IN SUPPORT OF MOTION OF OPPOSER KEYCOM**
8 **ENTERPRISES, INC. FOR ENTRY OF JUDGMENT AFTER DEFAULT AGAINST**
9 **APPLICANT D&B INTERNATIONAL COMPUTER, INC.** on the interested parties in
10 this action by placing a true and correct copy thereof in a sealed envelope, addressed as
11 follows:

12 Thomas J. Moore, Esq.
13 Bacon & Thomas PLLC
14 625 Slaters Lane, 4th Floor
15 Alexandria, VA 22314-1176

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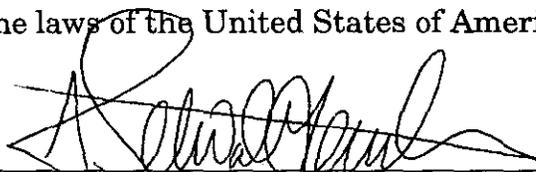
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Executed on July 2, 2001 at Long Beach, California.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.


KELLI D. GARDENER



07-03-2001

U.S. Patent & TMOtc/TM Mail Rcpt Dz #11

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

In re Application of D & B INTERNATIONAL COMPUTER, INC.

Serial No. 76/057,093

ASOUND

International Class: 009

Published in the *Official Gazette* of March 6, 2001

KEYCOM ENTERPRISES, INC.,

Opposer,

Vs.

D & B INTERNATIONAL COMPUTER,
INC.,

Applicant.

Opposition No.: 122,510

BOX TTAB

NO FEE

Commissioner for Trademarks

2900 Crystal Drive

Arlington, Virginia 22202-3513

DECLARATION OF JENNIFER J. OHRENBERGER

IN SUPPORT OF OPPOSER KEYCOM ENTERPRISES, INC.'S

MOTION FOR DEFAULT JUDGMENT AGAINST APPLICANT

D & B INTERNATIONAL COMPUTER, INC.

I, Jennifer J. Ohrenberger, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and am an associate of the law firm Keesal, Young & Logan, attorneys of

record for opposer KEYCOM ENTERPRISES, INC. ("KEYCOM"). If called as a witness in this matter, I could and would competently testify to the facts contained herein.

2. According to the Patent and Trademark Office ("PTO") website, Applicant D & B International Computer ("Applicant") filed a trademark application with the PTO for the mark "ASOUND" on or about May 25, 2000. The PTO website further provides that this application contained one classification for goods, in International Class 009, for "interface cards."

3. According to the PTO website, Applicant's application for trademark registration was published for opposition in the *Official Gazette* on or about March 6, 2001.

4. On or about April 3, 2001, KEYCOM filed a request for extension of time to oppose Applicant's application. This request was subsequently granted by the PTO Trademark Trial and Appeal Board ("TTAB") shortly thereafter.

5. On or about May 3, 2001, KEYCOM filed a Notice of Opposition against Applicant.

6. Shortly thereafter, on or about May 11, 2001, KEYCOM received the notice of the Notice of Opposition sent to Applicant, along with a schedule for discovery and testimony periods, including a filing deadline for Applicant's Answer. According to this notice, Applicant's Answer was due on or before June 20, 2001. A true and correct copy of the Patent and Trademark Office's notice is attached hereto as Exhibit "A."

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7. To date, KEYCOM has not received Applicant's Answer or other responsive pleading to KEYCOM's Notice of Opposition.

Executed at Long Beach, California this 2nd day of June, 2001.

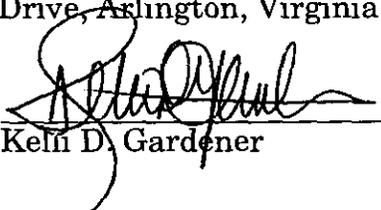
I declare under penalty of perjury under the laws of the United States, that the foregoing is true and correct.



JENNIFER J. OHRENBERGER

CERTIFICATE OF MAILING

I certify that the foregoing DECLARATION OF JENNIFER J. OHRENBERGER IN SUPPORT OF OPPOSER KEYCOM ENTERPRISES, INC.'S MOTION FOR DEFAULT JUDGMENT AGAINST APPLICANT D & B INTERNATIONAL COMPUTER, INC. in the application of D&B International Computer Inc., Serial No. 76-057,093, filed on May 25, 2000, is being deposited with Federal Express in an envelope addressed to: Box TTAB, FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on this 2nd day of July, 2001.



Kelli D. Gardener

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Thomas J. Moore
Bacon & Thomas, PLLC
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314-1176

Paper No. ^

Opposition No. 122,510

Serial No. 76/057,093

Keycom Enterprises, Inc.

v.

D&B International Computer,
Inc.

MAILED
MAY 11 2001
PAT. & T.M. OFFICE

A notice of opposition to the registration sought in the above-identified application has been filed. A copy of the notice is attached.

ANSWER IS DUE FORTY DAYS after the mailing date hereof. (See Patent and Trademark Rule 1.7 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that became effective October 9, 1998. See Notice of Final Rulemaking published in the *Official Gazette* on September 29, 1998 at 1214 TMOG 145. Slight corrections to the rules, resulting in a correction notice, were published in the *Official Gazette* on October 20, 1998 at 1215 TMOG 64. A copy of the recent amendments to the Trademark Rules, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), is available at <http://www.uspto.gov>.

Discovery and testimony periods are set as follows:

Discovery period to open: May 31, 2001

Discovery period to close: November 27, 2001

EX. A

30-day testimony period for party
in position of plaintiff to close: February 25, 2002

30-day testimony period for party
in position of defendant to close: April 26, 2002

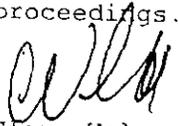
15-day rebuttal testimony period
for plaintiff to close: June, 10, 2002

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). A hard copy of the *Official Gazette* containing this notice is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Telephone (202) 512-1800). The notice is also available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.


Clara Vela
Legal Assistant,
Trademark Trial and
Appeal Board
(703) 308-9300, ext.150

Sarah Tong Sangmeister
Keesal, Young & Logan
A Professional Corporation
400 Oceangate
P.O. Box 1730
Long Beach, CA 90801-1730

THE TRADEMARK TRIAL AND APPEAL BOARD WOULD LIKE YOU TO KNOW:

The TTAB Customer Service Center is available to

- *answer telephone inquiries
- *explain pertinent legal provisions and related administrative practices as they apply to specific cases
- *provide status information on pending cases
- *provide access to the files of pending cases
- *resolve problems

The telephone number for the TTAB Customer Service Center is (703) 308-9300, extension 0 [zero].

The Patent and Trademark Office has two special boxes for expedited processing and distribution of documents filed with the TTAB. Envelopes and transmittal letters for TTAB should be addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202, followed by one of the following designations

"Box TTAB Fee": for papers filed with the TTAB that include filing fees, such as notices of opposition, petitions to cancel, and notices of ex parte appeal

and

"Box TTAB": for all non-fee papers filed with the TTAB, such as requests for extensions of time to file notices of opposition and motions.

The TTAB Customer Service Center makes every effort to provide public access to application files, opposition files, cancellation files and concurrent use files immediately upon request for access. Files located will be made available in a central storage area accessible to the public.

Any questions, comments, or suggestions concerning TTAB service should be directed to Jean Brown, TTAB Technical Program Manager, at (703) 308-9300, extension 123; Katrina Peterson, Supervisory Legal Assistant at (703) 308-9300, extension 250 or Ralph Williams, Supervisory Legal Assistant at (703) 308-9300, extension 205.

TTAB NOTICE CONCERNING CORRESPONDENCE ADDRESS
(TRADEMARK RULE 2.18) .

The Trademark Trial and Appeal Board will mail correspondence to only one address for each party.

If a party is located in the U.S., correspondence will be sent to the party's own address, unless (1) papers filed with the Board are filed by a party's attorney, (2) a written power of attorney is filed, (3) a written authorization of some other person entitled to be recognized is filed, or (4) the party requests in writing that correspondence be sent to another address. In these situations, correspondence will be sent, respectively, to (1) the attorney filing papers, (2) the attorney named in the power of attorney, (3) the other person designated in the written authorization, or (4) the other address specified by the party.

When one attorney or other authorized representative makes an appearance on behalf of a party, his address is noted on the proceeding file as the correspondence address. If a second attorney or other authorized representative makes an appearance on behalf of the party, and requests that correspondence be directed to him, the correspondence address on the proceeding file will be changed, and future correspondence will be sent to the second attorney or other authorized representative, rather than to the first one. If the second attorney or other authorized representative does not request that correspondence be sent to him, the Board will continue to send correspondence to the first attorney or authorized representative.

If a power of attorney from a party to one attorney has been filed, and thereafter another attorney or authorized representative makes an appearance on behalf of the party and asks that correspondence be sent to him, the second attorney or authorized representative will be required to submit authorization, from the party or from the first attorney, for the requested change in correspondence address.

If a power of attorney from a party to one attorney has been filed, and thereafter a power of attorney from the party to another attorney is filed, the second power of attorney will be construed as a written request to change the correspondence address from the first attorney to the second one, even if there is no revocation of the first power, unless the party or the first attorney directs otherwise. Likewise, if an attorney makes an appearance on behalf of a party, and thereafter the party files a written power of attorney to another attorney, the Board will send subsequent correspondence to the appointed attorney.

If a power of attorney from a party to one attorney has been filed, and thereafter that attorney files an "associated power of attorney" to another attorney, the correspondence address will remain unchanged, and the Board will continue to send correspondence to the first attorney, unless the first attorney or the party directs otherwise.

In the case of a party whose application is the subject of a Board proceeding, any appearance or power of attorney (or designation of other authorized representative) of record in the application file at the time of the commencement of the Board proceeding is considered to be effective for purposes of the proceeding, and correspondence will be sent initially to that address. Thereafter, the correspondence address may be changed as described in Trademark Rule 2.18.

In the case of a party whose registration is the subject of a Board proceeding, any representative which may be of record in the registration file at the time of the commencement of the Board proceeding is not considered to be effective for purposes of the Board proceeding. Rather, correspondence is sent to the registrant itself unless and until another correspondence address is established in the manner described in Trademark Rule 2.18.

NOTICE CONCERNING ALTERNATIVE DISPUTE RESOLUTION (ADR)

The Trademark Trial and Appeal Board encourages you to consider alternative dispute resolution as a means of settling the issues raised in this opposition or cancellation proceeding. Although more than 95% of Board proceedings are decided prior to trial (by settlement or by entry of pre-trial judgment), alternative dispute resolution techniques might produce an earlier, mutually agreeable resolution of your dispute or might, at least, narrow the scope of discovery or the issues for trial. In either case, alternative dispute resolution might save you time and money.

Many non-profit organizations, both inside and outside the intellectual property field, offer alternative dispute resolution services. Listed below are the names and addresses of organizations that have indicated that they can make arrangements for alternative dispute resolution. The listings are given for your convenience; the Board does not sponsor nor endorse any particular organization's alternative dispute resolution services.

CPR Institute for Dispute Resolution—INTA 366 Madison Avenue New York, New York 10017 Telephone: (212) 949-6490 Fax: (212) 949-8859
American Intellectual Property Law Association (AIPLA) 2001 Jefferson Davis Highway Suite 203 Arlington, Virginia 22202 Telephone: (703) 415-0780 Fax: (703) 415-0786
American Arbitration Association (AAA) Headquarters 140 West 51 st Street New York, New York 10020-1203 Telephone: (212) 484-3266 Fax: (212) 307-4387

Finally, if the parties consider using alternative dispute resolution in this proceeding, the Board would like to know; and if the parties actually engage in alternative dispute resolution, the Board would be interested to learn what mechanism (e.g., arbitration, mediation, etc.) was used and with what general result. Such a statement from the parties is not required but would be helpful to the Board in assessing the value of alternative dispute resolution in Trademark Trial and Appeal Board proceedings.

PROCEEDING SYNOPSIS

United States Patent and Trademark Office - Trademark Trial and Appeal Board
 Trademark Opposition and Cancellation Proceedings Under 15 USC 1065, 1064, 37 CFR 2.101 et seq.

FILING OPPOSITION/CANCELLATION

- ❖ Any person (Opposer) may file a Notice of Opposition within 30 days against any mark published under 15 USC 1062(a) in Official Gazette; may oppose in whole or part.¹
- ❖ Time for filing Notice may be extended by written request to TTAB. A first extension for not more than 30 days will be granted upon request. Further extensions may be granted for good cause. Extensions aggregating more than 120 days from pub. date not granted unless consented to by applicant or extraordinary circumstances. 37 CFR 2.102(c). Request should be in triplicate. 37 CFR 2.102(d).

- ❖ Any person (Petitioner) may file a Petition to cancel a registration in whole or in part, but only under conditions set forth in 15 USC 1064.² Geographic limitation will be considered by TTAB only in concurrent use proceeding. 37 CFR 2.99(h), 2.133(c).
- ❖ Opposer/Petitioner is in position of Plaintiff and Applicant/Respondent is Defendant. 37 CFR 2.116(b).
- ❖ Notice/Petition corresponds to complaint in civil action. 37 CFR 2.116(c).

MAILING PROCEDURES

- ❖ Certificate of Mailing or Transmission and Express Mail procedures effective for all papers. 37 CFR 1.8, 1.10.

INSTITUTION OF PROCEEDING; WITHDRAWAL

- ❖ TTAB examines Notice/Petition for formal requirements and sends notification to Defendant, generally within few weeks of filing date. Duplicate copy of Notice/Petition and Exhibits sent to Defendant. 37 CFR 2.105, 2.113.
- ❖ Notice/Petition may be withdrawn without prejudice before Defendant files Answer. 37 CFR 2.106(c), 2.114(c). With written consent of Defendant, later withdrawal may be without prejudice.
- ❖ Defendant may not abandon application or surrender registration without prejudice except with written consent of Plaintiff. 37 CFR 2.135, 2.134.

ANSWER; MOTIONS

- ❖ Time for Answer set by TTAB for 40 days from Notification mailing date.³ Counterclaim should be filed with answer or promptly upon discovery of information supporting Counterclaim. 37 CFR 2.106(b), 2.114(b).
- ❖ Time for reply to Counterclaim set by TTAB for not less than 30 days from TTAB action mailing date. 37 CFR 2.106(b), 2.114(b).

❖ Motions may be brought before TTAB in writing and with Brief in support. Brief in opposition thereto, 15 days (30 days for summary judgment motion). Briefs limited to 25 pages. Reply Brief, if filed, 15 days, limited to 10 pages. Reconsideration 30 days after decision; Opposition Brief, 15 days. 37 CFR 2.127. Most motions used in Federal practice are applicable.

❖ Motions for Summary Judgment, to Compel, and to Test Sufficiency of Responses to Requests for Admissions, if filed, due before Plaintiff testimony period opens. 37 CFR 2.127(e), 2.120(e), 2.120(h).

TRIAL DATES

❖ TTAB issues Order setting opening and close of Discovery and Trial dates. Discovery set for period of 180 days; 30-day Pl. Testimony period closes 90 days after close of Discovery period; 30-day Def. Test. period closes 60 days after Pl. Test. period; 15-day Pl. Rebuttal Test. period closes 45 days after Def. Test. period. 37 CFR 2.120(a), 2.121.

❖ In cases where Counterclaim filed, TTAB sets additional time periods for testimony and briefing.

DISCOVERY PERIOD

❖ Interrogatories, Reqs. for Prod. Of Docs. & Things, and Reqs. for Adm., if served, must be served by last day of Discovery period. Written Responses within 30 days from date of service of Disc. Reqs. FRCP apply except as otherwise provided. 37 CFR 2.116, 2.120(a). Extension of Time to respond to discovery granted upon cause or by stipulation.⁴

❖ Interrogatories limited to proceeding total of 75, counting subparts; additional interrogatories allowed upon motion for good cause or by stipulation. 37 CFR 2.120(d)(1).

❖ Discovery Depositions (noticed and taken within Disc. Period) in District where deponent resides or is employed. 37 CFR 2.120(a), 2.120(b). Either party may request designation of witnesses under FRCP 30(b)(6), 31(a).

PLAINTIFF'S TRIAL PERIOD

❖ Plaintiff's Testimony-In-Chief. Opens 60 days after Discovery Period closes, and runs for 30 days (refer to Order).

❖ Testimony taken by deposition upon oral examination or upon written questions. 37 CFR 2.123, 2.124.

❖ Plaintiff serves Transcript of testimony and copies of documentary exhibits on adverse party within 30 days after completion of taking testimony. Certified transcript and exhibits filed with TTAB. 37 CFR 2.125.

❖ Notice of Reliance as appropriate on Discovery Deps., Adms. and Int. Answers, with copies of same, due before close of Test. 37 CFR 2.120.⁵

❖ Involved app. or reg. files are in evidence for

relevant and competent purposes. Publications in gen. Circ. or in libraries, and official records, may be received if appropriate Notice of Reliance is filed and copies submitted within Test. period. 37 CFR 2.122.

❖ Motion under 37 CFR 2.132, if filed, due after close of Pl.'s Test. period & before opening of Def.'s.

DEFENDANT'S TRIAL PERIOD

❖ Opens 30 days after close of Pl.'s Test. period. Runs for 30 days.

❖ Test. taken by deposition upon oral examination or upon written questions. 37 CFR 2.123, 2.124.

❖ Notice of Reliance on Discovery responses also due within Test. period, if filed. 37 CFR 2.120.

❖ Notice of Reliance on gen. circ. publ. and official records due within Test. period, if filed. 37 CFR 2.122.

❖ Def. serves Test. transcript on Pl. within 30 days and files certified transcript and exhibits with TTAB. 37 CFR 2.125.

PLAINTIFF'S REBUTTAL PERIOD

❖ Rebuttal Test. period for Pl. opens 30 days after close of Def.'s Test. period and runs for 15 days.

❖ Pl. may file Notice of Reliance under 37 CFR 2.120, 2.122, with matter relied on, and take Test. to rebut Def. Test. and other evidence.

❖ Pl. serves and files Transcript of Rebuttal Test. and exhibits in accordance with 37 CFR 2.125.

BRIEFS; ORAL HEARING

❖ Pl. Brief due 60 days after Rebuttal period closing.⁶

❖ Def. Brief, if filed, due 30 days after Pl. Brief due.

❖ Pl. Reply Brief, if filed, due 15 days after Def. Brief due. 37 CFR 2.128.

❖ Separate Request for Oral Hearing, if filed, due not later than 10 days after Reply Brief due. 37 CFR 2.129.

❖ TTAB Notice of Oral Hearing sent to all parties.

❖ Oral Hearing before panel of at least three TTAB judges. 30 minutes for each party. 37 CFR 2.129.

DECISION; RECONSIDERATION; APPEAL

❖ TTAB Deliberation. Writing of Opinion and Decision in due course.

❖ Request for rehearing, reconsideration or modification, if filed, due within one month. Brief in opposition due within 15 days. 37 CFR 2.129(c).

❖ Any Appeal from TTAB Decision due within two months of Decision or two months after denial of req. for recon. See especially 37 CFR 2.129(d).

NOTE: Footnotes and TTAB addresses and telephone number appear on the back of this sheet.

FOOTNOTES

- (1) Opposer may be any legal entity including a corporation. Opposer must believe that opposer would be damaged by registration of the mark and state the reasons. 15 USC 1063 and 37 CFR 2.101. Notice of Opposition need not be verified. \$200 required fee for each class for each person opposing. 37 CFR 2.6, 2.101(b). May be signed by attorney. 37 CFR 2.101(b). Duplicate copy including exhibits required. Order status and title copies of pleaded registrations in advance and attach to Notice/Petition or introduce as evidence during Testimony-In-Chief period. 37 CFR 2.122.
- (2) Action, grounds and requirements (Footnote 1) for initiation of Cancellation proceeding are similar to those for an Opposition proceeding and are covered in 15 USC 1064, 1092 and 37 CFR 2.111, 2.112. \$200 required fee per class, per person. Duplicate copy required.
- (3) Except Notice/Petition, each paper must be served on opponent. Statement of service (date and manner) is required. Period to respond to Motions and Discovery Requests is extended 5 days when service is by first-class mail, "Express Mail," or overnight courier. 37 CFR 2.119. Action due on weekend or D.C. holiday can be taken on next business day. 37 CFR 1.7.
- (4) Resetting of time to respond to Discovery Request does not result in extension of Discovery period and subsequent testimony periods unless requested. 37 CFR 2.120(a). All consented extensions of time should be filed in triplicate and list specific dates for all subsequent periods affected.
- (5) Except for 37 CFR 2.122(e) documents, documents produced in response to Requests for Production cannot be made of record by Notice of Reliance alone. 37 CFR 2.120(j)(ii).
- (6) Briefs should be typewritten or printed, double-spaced, in at least pica or eleven-point type, on letter paper (8½ x 11). Three copies of briefs required. Alphabetical index of cases required. Length limit of 55 pages, including table of contents, index of cases, description of record, statement of issues, recitation of facts, argument, and summary. Reply brief 25 pages total. 37 CFR 2.128(b).

ADDRESSES AND TELEPHONE

All papers not requiring a fee should be mailed to:

Box TTAB No Fee
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

NOTE: For papers with fee, use "Box TTAB Fee"

TTAB Office Location and Telephone Number

2900 Crystal Drive
South Tower, Suite 9B40
Arlington, Virginia 22202-3513

Telephone: (703) 308-9300

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 18 and not a part to the within action; my business address is Keesal, Young & Logan,
5 400 Oceangate, P. O. Box 1730, Long Beach, California 90801-1730.

6 On July 2, 2001 I served the foregoing document described as **DECLARATION OF**
7 **JENNIFER J. OHRENBERGER IN SUPPORT OF MOTION OF OPPOSER KEYCOM**
8 **ENTERPRISES, INC. FOR ENTRY OF JUDGMENT AFTER DEFAULT AGAINST**
9 **APPLICANT D&B INTERNATIONAL COMPUTER, INC.** on the interested parties in
10 this action by placing a true and correct copy thereof in a sealed envelope, addressed as
11 follows:

12 Thomas J. Moore, Esq.
13 Bacon & Thomas PLLC
14 625 Slaters Lane, 4th Floor
15 Alexandria, VA 22314-1176

16 **BY MAIL:** I deposited such envelope(s) in the mail at Long Beach, California. I am
17 readily familiar with the firm's practice of collection and processing correspondence for
18 mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course
19 of business. I am aware that on motion of party served, service is presumed invalid if postal
20 cancellation date or postage meter date is more than one day after deposit for mailing in this
21 declaration.

22 ___ **BY DHL:** I caused such envelope(s), fully prepaid on account, to be placed within
23 the custody of DHL Worldwide Express at Long Beach, California.

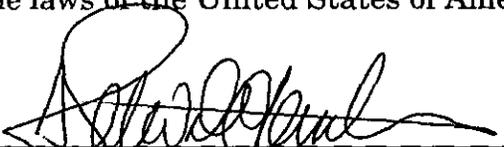
24 ___ **BY FACSIMILE:** I caused the above-referenced document(s) to be transmitted to
25 the above-named person(s) at the facsimile telephone number exhibited therewith.

26 ___ **BY PERSONAL SERVICE:** I delivered such envelope(s) by hand to the offices of
27 the addressee(s).

28 Pursuant to California Rules of Court, Rule 201, and the Local Rules of the
United States District Court, I certify that all originals and service copies (including
exhibits) of the papers referred to herein were produced and reproduced on paper purchased
as recycled, as defined by Section 42202 of the Public Resources Code.

Executed on July 2, 2001 at Long Beach, California.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.


KELLI D. GARDEMER