ESTTA Tracking number: **ESTTA34014**
Filing date: **05/25/2005**

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

Proceeding	91160978
Party	Plaintiff PERFECT FOODS, INC ,
Correspondence Address	DENNIS T. GRIGGS GRIGGS BERGEN, LLP 17950 PRESTON ROAD, SUITE 1000 DALLAS, TX 75252
Submission	Motion to permit Opperser's counsel to attend Applicant's testimony deposition by telephone.
Filer's Name	Dennis t. Griggs
Filer's e-mail	dennis@griggslaw.com
Signature	/Dennis T. Griggs/
Date	05/25/2005
Attachments	executed.motion.052505.pdf (5 pages) stipulation.telephone.deposition.052005.pdf (4 pages) gullahorn.052005.letter.pdf (1 page) email.gullahorn.052005.pdf (1 page) gullahorn.fax.052505.pdf (1 page)

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

In re App. Serial No. **78/247,326**
Mark: COOL CAT PRODUCTS and Design
Filed: May 8, 2003
Class: 18
Applicant: John D. Gullahorn
Published in the *Official Gazette* at TM 433 on May 11, 2004

PERFECT FOODS, INC. Opposer v. JOHN D. GULLAHORN Applicant	Opposition No. 91160978

Commissioner for Trademarks
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, VA 22202-3514

MOTION FOR OPPOSER TO ATTEND DEPOSITION BY TELEPHONE

Pursuant to Federal Rules of Civil Procedure 30(b)(7), the Opposer requests the Board for an order permitting Opposer's counsel, Dennis T. Griggs, to appear, participate and attend by telephone the Applicant's testimony deposition that is presently scheduled at Anchor Court Reporting, 127 West Intendencia Street, Pensacola, Florida 32502 at 9 a.m.

on May 26, 2005.

BRIEF IN SUPPORT OF MOTION

The Applicant is proceeding pro se. Opposer has already taken its testimony and the Applicant noticed Opposer on May 19 that he is taking his testimony before a court reporter, Anchor Court Reporting of Pensacola, Florida, on Thursday, May 26, and his wife will be asking the questions. Mrs. Gullahorn has also been designated as a witness. After conferring with the Opposer, I called Mr. Gullahorn on May 20 to ask consent for my attendance by telephone, but his secretary said that he was not available and would return my call. We have requested but have not been notified of Mr. Gullahorn's fax number. Accordingly I sent him an email and letter on May 20 asking for his consent for me to participate by telephone. Thereafter I called repeatedly to discuss our request, but his secretary said that he was not available and would return my call. Mr. Gullahorn has not returned my call as of this date. Today, in this afternoon's mail, I received a letter from Mr. Gullahorn saying that he would not consent. His testimony is set for tomorrow morning at 9 a.m.

On stipulation by the parties, or on motion granted by the board, a deposition may be attended by telephone. *See* Fed. R. Civ. P. 30(b)(7), and *Hewlett-Packard Co. v. Healthcare Personnel Inc.*, 21 USPQ2d 1552, 1552-53 (TTAB 1991) (Board granted request to attend deposition by telephone noting that trademark rules do not specifically

provide for or prohibit depositions by telephone and that federal court practice favors use of technological benefits).

Mr. Gullahorn's telephone number is 1-850-478-2287. The court reporter, Ms. Starr Wilkerson of Anchor Court Reporting, can be reached at 1-850-432-2511. Dennis Griggs, the undersigned attorney for Opposer, can be reached at 1-972-447-4569.

PERFECT FOODS, INC.

Date: May 25, 2005

By: Dennis T. Griggs
Dennis T. Griggs
Attorney for Opposer

Griggs Bergen LLP
17950 Preston Road, Suite 1000
Dallas, Texas 75252
(972) 447-4569

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing STIPULATION FOR OPPOSER TO ATTEND DEPOSITION BY TELEPHONE has been forwarded this 25th day of May 2005, by e-mail and first class mail, postage prepaid and addressed to:

by e-mail: Dan@DanGullahorn.com
by mail: John D. Gullahorn
4111 Calico Drive
Cantonment, Florida 32533

By: Dennis T. Griggs
Dennis T. Griggs
Attorney for Opposer

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this MOTION FOR OPPOSER TO ATTEND DEPOSITION BY TELEPHONE along with any paper referred to as being attached or enclosed) is being filed electronically on the date shown below to the Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513.

Dennis T. Griggs
(Typed name of person transmitting paper)

Date: May 25, 205

Dennis T Griggs
(Signature of person transmitting paper)

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

In re App. Serial No. **78/247,326**
Mark: COOL CAT PRODUCTS and Design
Filed: May 8, 2003
Class: 18
Applicant: John D. Gullahorn
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PERFECT FOODS, INC. Opposer v. JOHN D. GULLAHORN Applicant	Opposition No. 91160978

Commissioner for Trademarks
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, VA 22202-3514

STIPULATION FOR OPPOSER TO ATTEND DEPOSITION BY TELEPHONE

Pursuant to Federal Rules of Civil Procedure 30(b)(7), the Opposer and Applicant stipulate that Opposer's counsel, Dennis T. Griggs, may appear, participate and attend by telephone the Applicant's testimony deposition that is presently scheduled at Anchor Court

Reporting, 127 West Intendencia Street, Pensacola, Florida 32502 at 9 a.m. on May 26, 2005.

PERFECT FOODS, INC.

Date: May 20, 2005 By: Dennis T. Griggs

Dennis T. Griggs
Attorney for Opposer
Griggs Bergen LLP
17950 Preston Road, Suite 1000
Dallas, Texas 75252
(972) 447-4569

JOHN D. GULLAHORN

Date: _____ By: _____

John D. Gullahorn
Applicant
4111 Calico Drive
Cantonment, FL 32533

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing STIPULATION FOR OPPOSER TO ATTEND DEPOSITION BY TELEPHONE has been forwarded this 20th day of May 2005, by e-mail and first class mail, postage prepaid and addressed to:

by e-mail: Dan@DanGullahorn.com

by mail: John D. Gullahorn
4111 Calico Drive
Cantonment, Florida 32533

By: Dennis T. Griggs
Dennis T. Griggs
Attorney for Opposer

CERTIFICATE OF MAILING (37 C.F.R. §1.8a)

I hereby certify that this STIPULATION FOR OPPOSER TO ATTEND DEPOSITION BY TELEPHONE along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513.

S. Maria Tedesco
(Typed name of person mailing paper)

Date: _____

_____
(Signature of person mailing paper)

GRIGGS BERGEN LLP

ATTORNEYS AT LAW

PRESTON ROAD AT FRANKFORD
PRESTON PLAZA, SUITE 1000
17950 PRESTON ROAD
DALLAS, TEXAS 75252 USA

Writer's Direct Dial
972-447-4569

PATENT, TRADEMARK
and COPYRIGHT matters

Main 972-732-1001
Fax 972-732-9218

Writer's email
dennis@griggslaw.com

May 20, 2005

VIA E-MAIL - CONFIRMATION BY FIRST CLASS

Mr. John D. Gullahorn
Cool Cat Products
4111 Calico Drive
Cantonment, FL 32533

Re: Notice of Deposition
Perfect Foods, Inc. v. John D. Gullahorn
Opposition No.1 91160978
Our File: L1932.5324.4916

Dear Mr. Gullahorn:

I have made arrangements with Anchor Court Reporting to attend your testimony deposition by telephone. A stipulation to that effect is enclosed for your signature. Please sign and date the stipulation and return it to me by facsimile. We will take care of filing this paper with the Trademark Trial and Appeal Board.

Please let us know if you are currently represented by counsel, or if you will be represented by counsel at your testimony deposition.

Very truly yours,

Dennis Griggs

Dennis Griggs

DTG/smt
Enclosure
cc: Perfect Foods, Inc.

Dennis Griggs

From: Dennis Griggs [dennis@griggslaw.com]
Sent: Friday, May 20, 2005 2:49 PM
To: 'dan@dangullahorn.com'
Cc: MATSIL, IRA (matsil@slater-matsil.com)
Subject: Your Notice of Deposition
Importance: High

Dear Mr. Gullahorn:

I have made arrangements with Anchor Court Reporting to attend your testimony deposition by telephone. A stipulation to that effect is attached for your signature. Please sign and date the stipulation and return it to me by facsimile. We will take care of filing this paper with the Trademark Trial and Appeal Board.

If you are currently represented by counsel, or if you will be represented by counsel at your testimony deposition, please give us his/her contact.
information.

Also, please let us know your facsimile number.

Thank you.

Dennis Griggs
Griggs Bergen LLP
17950 Preston Road, Suite 1000
Dallas, Texas 75252 USA

+1 972-447-4569
+1 972-732-9218 Fax
dennis@griggslaw.com
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John D. Gullahorn
Cool Cat Products
4111 Calico Drive
Cantonment, FL 32533
850-478-CATS phone
850-478-8355 fax

Dennis Griggs
Griggs Bergen LLP
Preston Plaza, Suite 1000
17950 Preston Road
Dallas, TX 75252
p 972-732-1001
f 972-732-9218

May 25, 2005

Re: Notice of Deposition
Perfect Foods, Inc. vs. John D. Gullahorn

Dear Mr. Griggs:

I am in receipt of your letter dated May 20, 2005 requesting deposition by telephone. At this time I am not able to stipulate to such a condition.

As you were notified in my letter dated December 30, 2004, I along my wife, Dr. Jean R. Gullahorn, will be handling this opposition. Should this situation change you will be notified appropriately.

Very truly yours,

John D. Gullahorn

RECEIVED
MAY 25 2005
DENNIS GRIGGS