

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

PERFECT FOODS, INC.  
Opposer,

v.

JOHN D. GULLAHORN  
Applicant

In the matter of  
Trademark Application  
Serial No. 78/247326  
For the mark: COOL CAT PRODUCTS  
and design  
International Class 18

Opposition No.: 91,160,978

APPLICANT'S MOTION TO  
WITHDRAW OR AMEND AND  
MOTION TO STRIKE OPPOSER'S  
NOTICE OF RELIANCE IN REBUTTAL

CCP.0101

APPLICANT'S MOTION TO WITHDRAW OR AMEND AND MOTION TO STRIKE  
OPPOSER'S NOTICE OF RELIANCE IN REBUTTAL

Pursuant to Fed. R. Civ. P. 36(b) and TBMP § 525, Applicant John D. Gullahorn ("Applicant") respectfully moves this Honorable Board to withdraw any deemed admissions by Applicant and amend to and/or accept the admission responses served upon Opposer by Applicant, and to strike Opposer's Notice of Reliance in Rebuttal for the alleged Applicant's deemed admissions served on Applicant on November 12, 2004. As grounds therefore Applicant states as follows:

**Background**

Opposer served Applicant with Opposer's Interrogatories, Opposer's Request for Production of Documents and Things to Applicant, and Opposer's Request for Admissions No. 1-10 to Applicant ("Admission Requests") on November 12, 2004 via U.S. Mail (collectively "Discovery Requests"). Responses to such Admission Requests were due December 17, 2004. See TBMP § 407.03(a).



08-17-2005

U.S. Patent & TMO/c/TM Mail Rpt Dt. #77

After receipt of such Discovery Requests, Applicant's Counsel attempted to contact Opposer's Counsel via telephone on December 8, 2004; December 10, 2004; December 13, 2004 and December 14, 2004. [Exhibit A] [Cheryl Meide Affidavit] Applicant's Counsel left detailed voice messages for Opposer's Counsel on each of the four attempts requesting to discuss settlement and a resultant extension of time to respond to Opposer's discovery requests; and each message requested a return phone call from Opposer's Counsel. Opposer's Counsel never responded to any of Applicant's voice messages and requests for a return phone call. [Cheryl Meide Affidavit] On December 16, 2004 and without Opposer's knowledge, given the effects of Hurricane Ivan and Applicant's new business venture (as detailed below), Applicant necessarily made the business decision to eliminate the cost of legal representation in this matter. Upon Applicant's inability to receive any communications from Opposer, Applicant, without the aid of Applicant's Counsel, responded to Opposer's Discovery Requests, including the Admission Requests, on December 30, 2004. [Exhibit B] Only after Applicant had provided responses to Opposer's Discovery Requests on December 30, 2004, Opposer submitted correspondence to Applicant's now Former Counsel, deeming that all objections were waived, deeming the admissions now admitted, and requesting that the parties discuss when responses to the Discovery Requests would be received. [Exhibit C] Applicant had already mailed, via USPS Express Mail, to Opposer's Counsel complete responses to the Discovery Requests earlier that day. [Exhibit D]

**Applicant's Conduct Constitutes Excusable Neglect**

Applicant's delay of 13 days in providing complete responses to the Discovery Responses on December 30, 2004 was a result of numerous uncontrollable factors. First and foremost, on September 16, 2004, Hurricane Ivan hit the county in which Applicant's business and home are located. The county: received widespread devastation; was declared a Federal Disaster Area; during the first 5 days after the hurricane was under a 24-hour curfew; and during the first week after the hurricane, was under Marshall Law. Applicant had no water for 9 days, no power for 13 days, and no phones for nearly 6 weeks. Applicant's car was severely damaged

with \$1,900.00 damage. Applicant's home was severely damaged. Applicant is in a heavily wooded area and had an estimated 60-80 downed trees at Applicant's home and office locations. The storage shed containing Cool Cat Products and other work related documents was totally destroyed by a fallen oak tree. The destruction of the shed alone severely hampered Applicant's ability to access the required documentation to respond to the Discovery Requests. Currently, Applicant is still trying to recover from Hurricane Ivan (along with recent damage sustained from Hurricane Dennis).

Second, while still recovering from Hurricane Ivan and only 11 days before Opposer served its Discovery Requests, Applicant was and continued to be overwhelmed with opening the Amerisouth Real Estate Company on November 1, 2004. Third, Applicant and Applicant's wife were primarily responsible for holding the annual CFA Cat Show on November 13<sup>th</sup> and 14<sup>th</sup>, 2004 as the show manager, club president, club secretary/treasurer, and show secretary/treasurer. The CFA Cat Show is a non-profit event that raises money for different animal related organizations with nationwide judges and exhibitors as well as approximately 225 cat contestants and approximately 2,000-3,000 spectators.

Fourth, Applicant's ability to respond to the Discovery Requests was hampered by national holidays and family events. The responses to the Discovery Requests were due during the Thanksgiving and Christmas holidays, including Applicant's son's Christmas vacation; Applicant's son's 7<sup>th</sup> birthday (November 24, 2004); and Applicant's daughter's adoption anniversary (December 11, 2004). The timing of such events could not be changed and simply added to the already uncontrollable events that already significantly hindered Applicant's ability to timely respond to the Discovery Requests. Such events were compounded by the fact that Applicant's adopted 7-year old son is a "special need's" child and Applicant also has a 4-year old adopted daughter. Moreover, Applicant's co-owner of Cool Cat Products and wife works full time as a veterinarian and could not operate as a "relief valve."

Finally, on December 16, 2004 and without Opposer's knowledge, given the effects of Hurricane Ivan and Applicant's new business venture, Applicant necessarily made the economic and business decision to proceed without legal representation in this matter. Applicant necessarily had to respond to Opposer's Discovery Requests without the assistance of Applicant's (former) Counsel. [Exhibit E].

Applicant's responses to the Admissions' Requests should stand in lieu of deemed admissions as Applicant's complete response to Opposer's Discovery Requests within 13 days of the original due date constitutes excusable neglect. Applicant's responses were provided without any follow up communications from Opposer or any requests to "meet and confer" from Opposer. Indeed Applicant's Counsel tried to contact Opposer's Counsel via telephone four times within a one-week period just days prior to the Discovery Requests deadline to speak with Opposer's Counsel on the matter. Yet Opposer's Counsel completely ignored Applicant's Counsel and did not provide the courtesy of a return phone call. Opposer waited until the deadline had passed. Only then did Opposer respond via correspondence to unilaterally cloak himself with the authority of the Board and impose the sanction of waiving Applicant's right to provide objections to the Discovery Requests as well as to deem all admissions admitted. [Exhibit C]

Given: (1) Opposer's Counsel's improper conduct; (2) the ongoing devastating effects of Hurricane Ivan on Applicant and Applicant's ability to respond to the Discovery Requests; (3) Applicant's opening of a substantial business venture days prior to being served with the Discovery Requests; (4) the fact that the Discovery Requests were required to be dealt with over the Thanksgiving and Christmas Holidays as well during important family events; (5) substantial family burdens that Applicant deals with on a daily basis; and (6) Applicant's inability to seek the assistance of legal representation, Applicant showed impressive resilience and was relatively diligent and responsive to provide responses to the Discovery Requests by December 30, 2004. Applicant's conduct constitutes excusable neglect.

**No Prejudice to Opposer Exists**

Applicant's responses to the Admission Requests should be as set forth in Applicant's formal response as, presentation of the merits of the action will be subserved thereby and Opposer has failed to show any prejudice to Opposer by receiving Applicant's responses to the Admission Requests less than two weeks after the original deadline. Opposer was fully aware as of December 30, 2004 that Applicant intended to rely upon its responses to Opposer's Admission Requests.

Furthermore, Opposer's failure to initiate any follow up communications on the Discovery Requests or to "meet and confer" until after Applicant had already responded to the Admission Requests, Opposer's Counsel's ignoring Applicant's Counsel's four attempts to speak with Opposer's Counsel prior to the Discovery Requests deadline, and Opposer's Counsel's failure to return Applicant's Counsel's phone calls constitute inappropriate conduct and are clear indications that Opposer has not been prejudiced in any manner. See TBMP§ 525 and Fed R. Civ. P. 36(b). Opposer's Counsel should not be rewarded for its manipulative and inappropriate conduct.

**Conclusion**

Because Applicant's response to Opposer's Admission Requests 13 days after the original due date constitutes excusable neglect and Opposer has not been prejudiced by such 13 day delay in Applicant's response, Applicant respectfully requests this Honorable Board to withdraw any deemed admissions by Applicant and amend to and/or accept the admission responses served upon Opposer by Applicant, and to strike Opposer's Notice of Reliance in Rebuttal for the alleged Applicant's deemed admissions served on Applicant on November 12, 2004.

Respectfully submitted,

Applicant's Motion to Withdraw or Amend  
And Motion to Strike Opposer's Notice of  
Reliance in Rebuttal  
August 1, 2005  
Page 6 of 4

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August 2, 2005

John D. Gullahorn, dba Cool Cat Products  
Applicant

Cool Cat Products  
4111 Calico Drive  
Cantonment, FL 32533  
(850) 478-CATS

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Applicant's Motion to Withdraw or Amend and Motion to Strike Opposer's Notice of Reliance in Rebuttal was deposited with the United States Postal Service as priority mail, postage prepaid, in an envelope addressed to Dennis Griggs, Griggs Bergen LLP, 17950 Preston Road, Suite 1000, Dallas, Texas 75252, on the date set forth below.



August 2, 2005

John D. Gullahorn, dba Cool Cat Products  
Applicant

Cool Cat Products  
4111 Calico Drive  
Cantonment, FL 32533  
(850) 478-CATS

Applicant's Motion to Withdraw or Amend  
And Motion to Strike Opposer's Notice of  
Reliance in Rebuttal  
August 1, 2005  
Page 7 of 4

**CERTIFICATE OF MAILING**

I hereby certify that this Motion to Withdraw or Amend and Motion to Strike Opposer's Notice of Reliance in Rebuttal is being deposited with the United States Postal Service as priority mail, postage prepaid, in an envelope addressed to: Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513 on the date set forth below.



August 2, 2005

John D. Gullahorn, dba Cool Cat Products  
Applicant

Cool Cat Products  
4111 Calico Drive  
Cantonment, FL 32533  
(850) 478-CATS

Applicant's Motion to Withdraw or Amend  
And Motion to Strike Opposer's Notice of  
Reliance in Rebuttal  
August 1, 2005  
Page 8 of 4

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EXHIBIT A

**Cheryl Meide**

**From:** Cheryl Meide [cmeide@meidelaw.com]  
**Sent:** Thursday, December 16, 2004 2:55 PM  
**To:** 'dang@erec.net'  
**Subject:** FW: Cool Cat Products Trademark Dispute

Dear Dan:

I still have not heard from opposing counsel regarding my attempts to negotiate with them. If opposing counsel contacts me I will forward them to your attention.

I totally understand your decision and I sincerely hope things fare well for you in this case. Thank you for your kind words. They are appreciated. I have definitely enjoyed working with you. I hope that the case goes well as you and your wife seem to be very good people that love animals. To me that is always a sign of good character.

As I am no longer your legal representative I do ask that you submit a change of legal representation to remove me from the case. This can be easily done online at [www.uspto.gov](http://www.uspto.gov) under the FILE section under trademarks. If you would like I can assist in doing so however you will need to sign the document to acknowledge consent.

I would be definitely interested in knowing the outcome of your proceeding. Thanks for letting me know.

Should you have any questions, please do not hesitate to contact me. Thanks again.

Cheryl Meide, Esquire  
Meide Law Firm, P.A.  
6622 Southpoint Drive South, Suite 150  
Jacksonville, Florida 32216

Phone : 904-470-4110  
Facsimile: 904-470-4102  
Email: CMeide@MeideLaw.com

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-----Original Message-----

**From:** Dan Gullahorn [mailto:dgullahorn@yahoo.com]  
**Sent:** Thursday, December 16, 2004 12:36 PM  
**To:** cmeide@meidelaw.com  
**Subject:** Cool Cat Products Trademark Dispute

Cheryl,  
Let me begin by thanking you for your exceptional service regarding our Trademark problem. Your insight and advice has been excellent and I appreciate your efforts.  
As we discussed earlier this week, we are at a point where we have to make a business decision about

1/6/2005

Applicant's Motion to Withdraw or Amend  
And Motion to Strike Opposer's Notice of  
Reliance in Rebuttal

August 1, 2005

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EXHIBIT B



**COOL CAT PRODUCTS**

**John D. Gullahorn  
4111 Calico Drive  
Cantonment, FL 32533  
850-478-CATS  
Email: DanG@erec.net**

December 30<sup>th</sup>, 2004

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

Re: Perfect Foods, Inc. v. John D. Gullahorn  
TTAB Opposition No. 91160978

Dear Mr. Griggs,

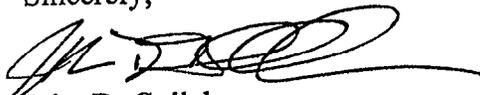
Please be advised that Ms. Meide has been dismissed and all future contact regarding this matter will be handled by myself & my wife personally.

Enclosed for your attention are the following:

1. Applicants Answers to Opposer's Interrogatories
2. Applicants Answers to Opposer's Admission Requests
3. Applicants Answers to Opposer's Requests & Exhibits

Please let us know if you have any questions regarding this information.

Sincerely,



John D. Gullahorn

Enclosures

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

PERFECT FOODS, INC.

Opposer

v.

JOHN D. GULLAHORN

Applicant

Opposition No. 91160978

In re App. Serial N. 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

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

Sir:

**APPLICANT'S ANSWERS TO OPPOSER'S ADMISSION REQUESTS**

Pursuant to Federal Rules of Civil Procedure the Applicant hereby submits answers to the Opposer's requests dated November 12<sup>th</sup>, 2004.

**Admission Request No. 1**

The available requested documents are provided and are authentic.

**Admission Request No. 2**

All documents provided can be relied upon to provide proof of the Applicants claim.

**Admission Request No. 3**

Denied. The Applicant has in fact used the mark since 2000 and has sold to consumers in the state of Florida since December 20, 2001.

**Admission Request No. 4**

Denied. The Applicant has in fact used the mark since 2000 and has sold to numerous addresses outside of the state of Florida and Internationally.

**Admission Request No. 5**

Denied. The Applicant has the documentation to prove it has used the mark in the state of Florida prior to May 8, 2003.

**Admission Request No. 6**

Denied. The Applicant has the documentation to prove it has used the mark outside the State of Florida prior to May 8, 2003.

**Admission Request No. 7**

Denied. The Applicant can prove it has used the mark in the state of Florida prior to January 1, 2002.

**Admission Request No. 8**

Denied. The Applicant has the documentation to prove it has used the mark outside the state of Florida since September 2000.

**Admission Request No. 9**

Denied. The Applicant had no knowledge of such a "wheatgrass" product as it was not registered at that time.

**Admission Request No. 10**

Denied. The Applicant had no knowledge such a Company existed and has been unable to find any evidence that this company has sold "wheatgrass" for cats nationally, internationally or on the internet.

Respectfully submitted,



JOHN D. GULLAHORN  
4111 Calico Drive  
Cantonment, Florida 32533  
850-478-CATS

Date: December 30<sup>th</sup>, 2004

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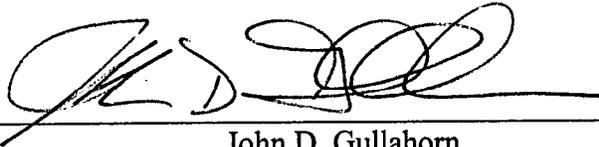
**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing

**APPLICANT'S ANSWERS TO OPPOSER'S ADMISSION REQUESTS**

Were served on the attorney for the Opposer by First Class Mail on December 30<sup>th</sup>, 2004

Addressed to: Dennis T. Griggs  
Griggs Bergen LLP  
17950 Preston Road, Suite 1000  
Dallas, Texas 75252

A handwritten signature in black ink, appearing to read "John D. Gullahorn", is written over a horizontal line.

John D. Gullahorn  
Applicant

GONZALEZ MAIN PO  
 GONZALEZ, Florida  
 325609998  
 1143840966-0097  
 (850) 968-9338  
 12/30/2004 02:29:08 PM

Product Description	Sale Qty	Unit Price	Final Price
DALLAS TX 75252 Express Mail PO-ADD			\$17.85
Serial Number ED296007184US			
Next Day Noon / Normal Delivery			

=====  
 Issue PVI: \$17.85  
 ARLINGTON VA 22202  
 Express Mail PO-ADD \$21.05  
 Serial Number ED296007175US  
 Next Day Noon / Normal Delivery

=====  
 Issue PVI: \$21.05  
 Total: \$38.90  
 Paid by: MasterCard \$38.90  
 Account # XXXXXXXXXX5695  
 Exp. 07/07  
 Approval #: 030376  
 Transaction #: 73  
 23 903301562

Bill #: 100J00053948  
 Clerk: 01  
 — All sales final on stamps and postage. —  
 Refunds for guaranteed services only.  
 Thank you for your business.  
 Customer Copy

**ED 296007184 US**

**ORIGIN (POSTAL SERVICE USE ONLY)**

PO ZIP Code: 32560  
 Day of Delivery:  Next  2nd  2nd Del. Day  
 Postage: \$  
 Return Receipt Fee: \$  
 Date Accepted: 12/30/04  
 Month: 12 Day: 30 Year: 04  
 Scheduled Date of Delivery:  AM  Noon  3 PM  
 Time Accepted: 2:50  
 Flat Rate  or Weight: 1.40 lbs.  
 Int'l Alpha Country Code: CA

**FROM: (PLEASE PRINT)** PHONE: 850 478-CATS  
 Dr Sean R. Bullahorn  
 Cool Cat Produce  
 2322 W. Nine Mile Rd  
 Pensacola, FL 32534

**EXPRESS MAIL**  
 UNITED STATES POSTAL SERVICE®  
 Customer Copy Label 11-B, March 2004  
 Post Office To Addressee

**DELIVERY (POSTAL USE ONLY)**

Delivery Attempt	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day			
Delivery Attempt	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day			
Delivery Date	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day			

**CUSTOMER USE ONLY**

**PAYMENT BY ACCOUNT**  
 Express Mail Corporate Acct. No.  **WAVER OF SIGNATURE (Domestic Mail Only)**  
 Additional merchandise insurance is void if customer requests waiver of signature.  
 I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

Federal Agency Acct. No. or Postal Service Acct. No. \_\_\_\_\_

**NO DELIVERY**  
 Weekend  Holiday  Mailer Signature

**TO: (PLEASE PRINT)** PHONE ( ) \_\_\_\_\_  
 GRIGGS BERBEN LLP  
 17950 Preston Rd, Suite 1000  
 DALLAS, TX

ZIP + 4 (U.S. ADDRESSES ONLY. DO NOT USE FOR FOREIGN POSTAL CODES.)  
 7 5 2 5 2 + [ ] [ ] [ ] [ ]

FOR INTERNATIONAL DESTINATIONS, WRITE COUNTRY NAME BELOW.  
 \_\_\_\_\_

**PICKUP OR TRACKING**  
 www.usps.com  
 1-800-222-1811

Applicant's Motion to Withdraw or Amend  
And Motion to Strike Opposer's Notice of  
Reliance in Rebuttal

August 1, 2005

Page 10 of 4

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EXHIBIT C

**GRIGGS BERGEN LLP**

ATTORNEYS AT LAW

PRESTON ROAD AT FRANKFORD  
PRESTON PLAZA, SUITE 1000  
17950 PRESTON ROAD  
DALLAS, TEXAS 75252 USAWriter's Direct Dial  
972-447-4569PATENT, TRADEMARK  
and COPYRIGHT mattersMain 972-732-1001  
Fax 972-732-9218Writer's email  
dennis@griggslaw.com

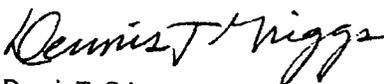
December 30, 2004

VIA FACSIMILE (904) 470-4102  
CONFIRMATION BY FIRST CLASS MAILCheryl Meide, Esq.  
Meide Law Firm, P.A.  
6622 Southpoint Drive South, Suite 150  
Jacksonville, Florida 32216Re: Perfect Foods, Inc. v. John D. Gullahorn  
TTAB Opposition No. 91160978  
Our File: L1937.5324.4916

Dear Ms. Meide:

We have received no response to our discovery requests that were served on November 12, 2004. We would like to know whether Mr. Gullahorn has any plans to defend the opposition. Objections to discovery are waived and the Requests for Admission are now deemed admitted. We need to discuss with you your client's plans to respond to our discovery requests in order to fulfill the "meet and confer" requirements before obtaining instructions from our client on whether to file a motion to compel. If we do not hear from you by Friday, January 7, 2005, we will assume that our efforts to "meet and confer" have failed.

Very truly yours,

Dennis T. Griggs  
Attorney for Opposer

DTG/smt

cc: Perfect Foods, Inc.  
Ira S. Matsil, Esq.

Applicant's Motion to Withdraw or Amend  
And Motion to Strike Opposer's Notice of  
Reliance in Rebuttal  
August 1, 2005  
Page 11 of 4

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EXHIBIT D

**Cheryl Meide**

**From:** Cheryl Meide [cmeide@meidelaw.com]  
**Sent:** Thursday, December 30, 2004 11:44 PM  
**To:** 'dang@erec.net'  
**Subject:** RE: Perfect Foods, Inc. v. John D. Gullahorn

Dear Jean:

Thanks for you quick response. I am very happy to hear that you were able to complete a response and you have shown convincing documents. Since you have written the letter to Mr. Griggs regarding representation it does not seem that I will need to contact him. Thanks for the update and of course I am always here should you decide you want me to provide assistance. Best of luck!

Cheryl Meide, Esquire  
Meide Law Firm, P.A.  
6622 Southpoint Drive South, Suite 150  
Jacksonville, Florida 32216

Phone : 904-470-4110  
Facsimile: 904-470-4102  
Email: CMeide@MeideLaw.com

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-----Original Message-----

**From:** Dan & Jean Gullahorn [mailto:dang@erec.net]  
**Sent:** Thursday, December 30, 2004 7:11 PM  
**To:** 'Cheryl Meide'  
**Subject:** RE: Perfect Foods, Inc. v. John D. Gullahorn

Dear Ms. Meide:

Thank you very much for your email and for all of the assistance that you have provided us with this case. We hope that we can consult with you later should it become necessary. Dan is out of town but I just called him and alerted him to your message.

We did (finally....what a job) complete to the best of our ability the package that Mr. Griggs assaulted us with. I think that we were able to provide very convincing documentation as to when we started our collar business, etc. It took over a week for us to get everything done and unfortunately, we did lose some of our documentation in the loss of our storage building during Hurricane Ivan, but we finished the package today and I sent it out "Next Day Mail". Included in the package was a note to Mr. Griggs and to the Trademark people that we were now representing ourselves.

Thank you again for all of your valuable assistance and support with this.  
Have a very Happy New Year!

Best regards,

8/1/2005

Applicant's Motion to Withdraw or Amend  
And Motion to Strike Opposer's Notice of  
Reliance in Rebuttal  
August 1, 2005  
Page 12 of 4

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EXHIBIT E

**Cheryl Meide**

**From:** Cheryl Meide [cmeide@meidelaw.com]  
**Sent:** Thursday, December 16, 2004 2:55 PM  
**To:** 'dang@erec.net'  
**Subject:** FW: Cool Cat Products Trademark Dispute

Dear Dan:

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I totally understand your decision and I sincerely hope things fare well for you in this case. Thank you for your kind words. They are appreciated. I have definitely enjoyed working with you. I hope that the case goes well as you and your wife seem to be very good people that love animals. To me that is always a sign of good character.

As I am no longer your legal representative I do ask that you submit a change of legal representation to remove me from the case. This can be easily done online at [www.uspto.gov](http://www.uspto.gov) under the FILE section under trademarks. If you would like I can assist in doing so however you will need to sign the document to acknowledge consent.

I would be definitely interested in knowing the outcome of your proceeding. Thanks for letting me know.

Should you have any questions, please do not hesitate to contact me. Thanks again.

Cheryl Meide, Esquire  
Meide Law Firm, P.A.  
6622 Southpoint Drive South, Suite 150  
Jacksonville, Florida 32216

Phone : 904-470-4110  
Facsimile: 904-470-4102  
Email: CMeide@MeideLaw.com

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-----Original Message-----

**From:** Dan Gullahorn [mailto:dgullahorn@yahoo.com]  
**Sent:** Thursday, December 16, 2004 12:36 PM  
**To:** cmeide@meidelaw.com  
**Subject:** Cool Cat Products Trademark Dispute

Cheryl,

Let me begin by thanking you for your exceptional service regarding our Trademark problem. Your insight and advice has been excellent and I appreciate your efforts.

As we discussed earlier this week, we are at a point where we have to make a business decision about

1/6/2005

Applicant's Motion to Withdraw or Amend  
And Motion to Strike Opposer's Notice of  
Reliance in Rebuttal  
August 1, 2005  
Page 13 of 4

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CHERYL MEIDE AFFIDAVIT

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

PERFECT FOODS, INC.

Opposer

v.

JOHN D. GULLAHORN

Applicant

Opposition No. 91160978

AFFIDAVIT

In re App. Serial N. 78/247,326  
Mark: Cool Cat Products and Design  
Class: 18  
Applicant John D. Gullahorn  
Published in the OFFICAL GAZETTE at TM 433 on May 11, 2004

-----X

STATE OF FLORIDA    )  
                                  ) SS:  
COUNTY OF DUVAL    )

CHERYL DAWN MEIDE, ESQUIRE, being duly sworn, deposes and says:

I represented Applicant in Opposition Proceeding 91,160,978 as Applicant's Counsel in the matter of Trademark Application Serial No. 78/247326 for the mark COOL CAT PRODUCTS (and design) from July 2004 through December 16, 2004;

On behalf of Applicant, I received Opposer's Interrogatories, Opposer's Request for Production of Documents and Things to Applicant, and Opposer's Request for Admissions No. 1-10 to Applicant on November 16, 2004 via U.S. Mail ("Discovery Requests");

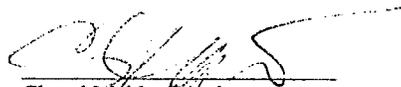
After receiving such Discovery Requests, I conferred with Applicant and subsequently attempted to contact Opposer's Counsel via telephone on December 8, 2004; December 10, 2004; December 13, 2004; and December 14, 2004;

I left detailed voice messages for Opposer's Counsel on each of the four attempts to contact Opposer's Counsel via telephone requesting to discuss settlement and a resultant extension of time to respond to Opposer's discovery requests;

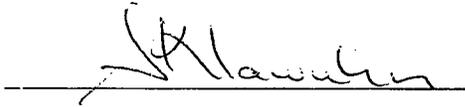
During each of the voice messages left for Opposer's Counsel, I requested that Opposer's Counsel provide a return phone call;

To date, Opposer's Counsel never responded to any of my voice messages and requests for a return phone call left with Opposer's Counsel;

On December 16, 2004, Applicant, via email, complimented me on my legal services on behalf of Applicant in Opposition Proceeding 91,160,978 and notified me that Applicant made a business decision to handle the Opposition Proceeding 91,160,978 without legal representation.

  
Cheryl Meide, Esquire  
Florida Bar No. 0064173

Sworn to before me this 1<sup>st</sup> day of August, 2005





S. KLAWUHN  
Notary Public, State of Florida  
My comm. expires Jan. 17, 2009  
Comm. No DD 386563