

ESTTA Tracking number: **ESTTA62252**

Filing date: **01/17/2006**

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

Proceeding	91167893
Party	Defendant Dan-Dee International, Ltd. Dan-Dee International, Ltd. 106 Harbor Drive Jersey City, NJ 07065
Correspondence Address	NEIL M. ZIPKIN AMSTER ROTHSTEIN & EBENSTEIN LLP 90 PARK AVE NEW YORK, NY 10016-1301
Submission	Answer
Filer's Name	Neil M. Zipkin
Filer's e-mail	ptodocket@arelaw.com
Signature	/Neil M. Zipkin/
Date	01/17/2006
Attachments	Answer.pdf (5 pages)

5. Dan-Dee denies the allegations of paragraph 5 of the Notice of Opposition.
6. Dan-Dee admits that Eckerd's sales of the HUMFREY bear have been substantial, but lacks knowledge or information as to the truth of the remaining allegations of paragraph 6 of the Notice of Opposition.
7. Dan-Dee denies the allegations of paragraph 7 of the Notice of Opposition.
8. Dan-Dee denies the allegations of paragraph 8 of the Notice of Opposition.
9. Dan-Dee admits that it was and is the manufacturer of the HUMFREY bear, but denies the remaining allegations of paragraph 9 of the Notice of Opposition.
10. Dan-Dee admits that for a number of years it has manufactured the HUMFREY bear exclusively for Eckerd and that all sales of the product to consumers have been made by Eckerd, through its Eckerd Drugstores and website; however, Dan-Dee asserts that such use inures to the benefit of Dan-Dee and therefore denies the remaining allegations of paragraph 10 of the Notice of Opposition.
11. Dan-Dee admits that it is seeking to register the mark HUMFREY for stuffed toys, but denies the remaining allegations of paragraph 11 of the Notice of Opposition.
12. Dan-Dee denies the allegations of paragraph 12 of the Notice of Opposition.
13. Dan-Dee denies the allegations of paragraph 13 of the Notice of Opposition.
14. Dan-Dee denies the allegations of paragraph 14 of the Notice of Opposition.

15. Dan-Dee denies the allegations of paragraph 15 of the Notice of Opposition.

16. Dan-Dee denies that registration of the HUMFREY mark to Dan-Dee would damage and injure Eckerd, but admits the remaining allegation of paragraph 16 of the Notice of Opposition.

17. Dan-Dee denies the allegations of paragraph 17 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

18. The mark HUMFREY was selected by Dan-Dee for use on the holiday bear it subsequently sold to Eckerd.

19. The design for the holiday bear sold to Eckerd under the HUMFREY trademark was entirely conceived and created by Dan-Dee.

20. Dan-Dee exercises exclusive control over the nature and quality of the HUMFREY products sold by it to Eckerd.

21. Initially, holiday bears under the mark HUMFREY were not sold by Dan-Dee exclusively to Eckerd.

22. At the time Dan-Dee first sold holiday bears to Eckerd under the HUMFREY trademark, it was understood between the parties that Dan-Dee would own the trademark.

23. Dan-Dee is the owner of the HUMFREY mark.

24. Upon information and belief, at least those in the trade knew and understood that Dan-Dee was the owner of the HUMFREY trademark as applied to holiday bears.

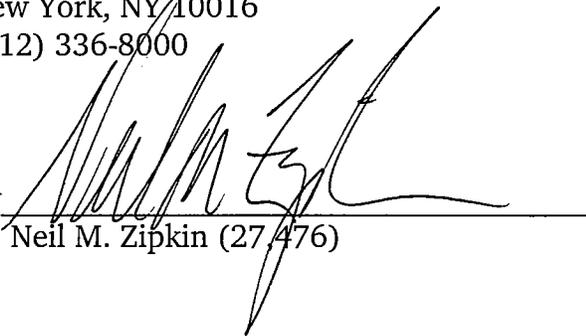
25. Eckerd knew and understood that Dan-Dee was the owner of the HUMFREY trademark as applied to holiday bears and is estopped from claiming ownership of such mark.

NOW, THEREFORE, Dan-Dee respectfully requests that the present Opposition be denied and that registration of the HUMFREY trademark be granted to Dan-Dee.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Applicant
90 Park Avenue
New York, NY 10016
(212) 336-8000

By


Neil M. Zipkin (27,476)

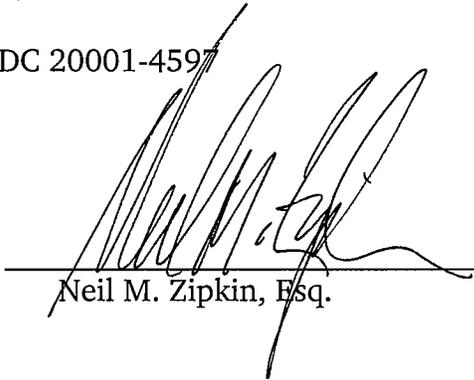
Dated: January 17, 2006

CERTIFICATE OF SERVICE

It is hereby certified that the undersigned has this day served a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION. by first class mail to the following:

Helen Hill Minsker, Esq.
Holly M. Ford, Esq.
BANNER & WITCOFF, LTD.
1001 G. Street, NW
Suite 1100
Washington, DC 20001-4597

Dated this 17th day of January, 2006



Neil M. Zipkin, Esq.