

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: February 22, 2008

Opposition No. 91181863

Buy Buy Baby, Inc.

v.

Nazima H. Razick and Syed
Masihuddin

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

Applicants' consented motion, filed February 21, 2008, to extend time to file their answer to the notice of opposition is granted. Trademark Rule 2.127(a).

Accordingly, answer and trial dates, including conferencing and disclosure dates, are reset as indicated below:

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|---|----------|
| Time to Answer | 3/23/08 |
| Deadline for Discovery Conference | 4/22/08 |
| Discovery Opens | 4/22/08 |
| Initial Disclosures Due | 5/22/08 |
| Expert Disclosures Due | 9/19/08 |
| Discovery Closes | 10/19/08 |
| Plaintiff's Pretrial Disclosures | 12/3/08 |
| Plaintiff's 30-day Trial Period Ends | 1/17/09 |
| Defendant's Pretrial Disclosures | 2/1/09 |
| Defendant's 30-day Trial Period Ends | 3/18/09 |
| Plaintiff's Rebuttal Disclosures | 4/2/09 |
| Plaintiff's 15-day Rebuttal Period Ends | 5/2/09 |

ANSWERING THE COMPLAINT (NOTICE OF OPPOSITION)

Fed. R. Civ. P. 8(b) provides, in part:

A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the remainder.

The notice of opposition filed by opposer herein consists of **eleven** numbered paragraphs setting forth the basis of opposer's claim of damage. In accordance with Fed. R. Civ. P. 8(b) it is incumbent on applicants to answer the notice of opposition **by admitting or denying** the allegations contained in each paragraph. Ordinarily, a defendant will use the same paragraph numbering format found in the complaint (i.e. eleven). If applicants are without sufficient knowledge or information on which to form a belief as to the truth of any one of the allegations, they should so state and this will have the effect of a denial.

NATURE OF BOARD PROCEEDINGS

Applicants are advised that an *inter partes* proceeding before the Board is similar to a civil action in a Federal district court. There are pleadings, a wide range of possible motions; discovery (a party's use of discovery depositions, interrogatories, requests for production of documents and things, and requests for admission to ascertain the facts underlying its

adversary's case), a trial, and briefs, followed by a decision on the case. The Board does not preside at the taking of testimony. Rather, all testimony is taken out of the presence of the Board during the assigned testimony, or trial, periods, and the written transcripts thereof, together with any exhibits thereto, are then filed with the Board. No paper, document, or exhibit will be considered as evidence in the case unless it has been introduced in evidence in accordance with the applicable rules.

REQUIREMENT FOR SERVICE OF PAPERS

Applicants' motion is not accompanied by proof of service on opposer. A copy of applicants' motion is attached for opposer. In future filings, applicants are expected to comply with the service requirements set forth in Trademark Rule 2.119. Trademark Rules 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board.

Consequently, copies of all papers which applicant may subsequently file in this proceeding, including its answer to the notice of opposition, must be accompanied by a signed statement indicating the date and manner in which such service was made. Strict compliance with Trademark Rule 2.119 is required in all further papers filed with the Board.

The Board will accept, as *prima facie* proof that a party filing a paper in a Board *inter partes* proceeding has served a copy of the paper upon every other party to the proceeding, a statement signed by the filing party, or by its attorney or other authorized representative, clearly stating the date and manner in which service was made. This written statement should take the form of a "certificate of service" which should read as follows:

The undersigned hereby certifies that a true and correct copy of the foregoing [insert title of document] was served upon opposer by forwarding said copy, via first class mail, postage prepaid to: [insert name and address].

The certificate of service must be signed and dated. *See also* TBMP §113 (2d ed. rev. 2004).

OPTION OF E-MAIL SERVICE

The parties may agree to the email service option now available under Trademark Rule 2.119(b)(6) ("Electronic transmission when mutually agreed upon by the parties.").¹ Should the parties decide to continue using traditional service options, the parties may consider agreeing at least to courtesy email notification when any paper is served.

THE BOARD'S STANDARDIZED PROTECTIVE ORDER IS IN PLACE

The Board's standard protective order is in place in this case governing the exchange of confidential and proprietary information and materials. The parties may substitute a

¹ The additional five days available under Trademark Rule 2.119(c) for traditional service modes (e.g., First Class Mail) is not available for email service.

stipulated protective agreement (signed by both parties).

However, the Board will not become involved in a dispute over any substitution in view of the existence of the Board's standardized protective order.

REPRESENTATION

The Board notes applicants are representing themselves. Applicant may do so. However, it should also be noted that while Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in an opposition proceeding to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney. In addition, as the impartial decision maker, the Board may not provide legal advice, though may provide information as to procedure.

ELECTRONIC RESOURCES

All parties may refer to the Trademark Trial and Appeal Board Manual of Procedure (TBMP) and the Trademark Rules of Practice, both available on the USPTO website, www.uspto.gov. The TTAB homepage provides electronic access to the Board's standardized protective order, a chart of the new rules and the text of the new rules (effective August 31, 2007 and November 1, 2007), and answers to frequently asked questions. Other useful databases include the

ESTTA filing system² for Board filings and TTABVUE for status and prosecution history.

Strict compliance with the Trademark Rules of Practice, and where applicable the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.



² Use of electronic filing with ESTTA, available through the USPTO website, is strongly encouraged. This electronic file system operates in real time. The filing party is also provided with a confirmation number that the filing has been received.

A party may also use first class mail. Correspondence required to be filed in the Office within a set period of time will be considered as being timely filed on the date of deposit in the mail if accompanied by a certificate of mailing.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to:

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

The certificate of mailing must be signed and dated. The actual date of receipt by the Office will be used for all other purposes, including electronically filed documents.
The certificate of mailing must be signed and dated.

Trademark Trial and Appeal Board Electronic Filing System: <http://estta.uspto.gov>

ESTTA Tracking number: ESTTA193959

Filing date: 02/21/2008

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

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|---------------------------|--|
| Proceeding | 91181863 |
| Party | Defendant Razick, Nazima H., Masihuddin, Syed |
| Correspondence Address | MASIHUDDIN, SYED 710 SPRING FARM RD LAKE VILLA, IL 60046-5762 nazhasham@yahoo.com |
| Submission | Motion to Extend |
| Filer's Name | Nazima H. Razick |
| Filer's e-mail | nazhasham@yahoo.com, syedmasihuddin@hotmail.com |
| Signature | /Nazima H. Razick/ |
| Date | 02/21/2008 |
| Attachments | Extension of Time to Answer.pdf (1 page)(6724 bytes) |

