

ESTTA Tracking number: **ESTTA234408**

Filing date: **09/03/2008**

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

Proceeding	91185498
Party	Defendant Barr, Denise Marie
Correspondence Address	DENISE MARIE BARR 242 CORRAL DR DAYTON, NV 89403-7340 deebarr@charter.net
Submission	Answer
Filer's Name	Denise Marie Barr
Filer's e-mail	denise@deebarr.com
Signature	/Denise Marie Barr/
Date	09/03/2008
Attachments	Opposition Answer.txt (2 pages)(3695 bytes) ExhibitA.pdf (1 page)(105939 bytes) ExhibitB.pdf (1 page)(189248 bytes) ExhibitC.pdf (1 page)(179225 bytes)

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

In the Matter of:
The TJX Companies, Inc.
v.
Denise Marie Barr

OPPOSITION NO. 91185498
ANSWER

Applicant, Denise Marie Barr ("I/me"), as an individual now living at 11540 Velicata Court, Las Vegas, Nevada, 89138, and having previously submitted to the U.S. Patent and Trademark Office my change of address from 242 Corral Drive, Dayton, Nevada 89403 (Ref. exhibit "A" enclosed), believes that no such damages claimed by TJX Companies, Inc. ("Opposer") will occur as a result of registering my trademark shown in the Application Serial No. 77301887 ("It Bag"), and hereby gives an answer to the Notice of Opposition.

1. Admission.

I have no argument that the above-named Opposer, TJX Companies, Inc., have been in the retail store business offering for sale a wide array of goods since long before October 11, 2007.

2. General Denial.

The Opposer cannot make any assumptions on the part of consumers and potential customers regarding the meaning conveyed by the term "It Bag", whether or not it is used in the context of "travel bags, multi-purpose purses; and purses." This is a matter of personal judgment on the part of said consumers and potential consumers, and the result of marketing messages conveyed on the part of the organization in relation to its trademark and the products produced under such trademark.

3. General Denial.

My trademark, "It Bag", does not require a secondary meaning as a source-identifier for the goods produced under the said trademark name.

4. General Denial.

All of the terms in my trademark, "It Bag", do not require a disclaimer. The U.S. Patent and Trademark Office required the term "Bag", but not the term "It" to be disclaimed in my trademark, "It Bag." To disclaim both terms would serve no purpose but to render my trademark unprotected.

5. General Denial.

Judgments about the stylistic component of my trademark are a matter of personal opinion.

6. General Denial.

7. General Denial.

The trademark registration application for "It Bag" has already been

legally accepted. This acceptance should not be revoked based on Opposer's opinions about whether a term is "merely descriptive" or needs a "disclaimer", nor whether the mark is "elevated" or "distinctive".

8. General Denial.

I assert that Opposer, TJX, cannot assume that it will be damaged by the issuance of registration of Trademark, Serial No. 77301887.

End of Numbered Answers to Opposer's submission of Opposition. I assert the following:

A-1. I assert that The Opposer has filed an Opposition to my application for registration only because their application for a similar trademark, "The New It Bag", was suspended due to the fact that they applied 27 days after I applied to register my trademark, "It Bag". Ref. exhibit "B" and "C" enclosed.

A-2. I assert a real interest in the term "It Bag" as it represents my significant investment of time and money in the development and marketing of the product and its name. And, I have followed all the steps legally and with good faith, to insure the validity and protection of my trademark.

A-3. As a result of the Opposer filing its Opposition, I have been generally damaged in an amount exceeding \$10,000.00. At the time of the hearing/trial in this matter, I will specify the items of damage incurred by myself as a result of the Opposer's actions, including but not limited to having to respond herein and lost profits.

The undersigned hereby certifies that a copy of this paper has been served upon Alston & Bird LLP, the Attorneys for TJX Companies, at their address record by Registered First Class Mail on this date.

EXHIBIT "A"

IN THE MATTER OF THE TJX COMPANIES, INC V. DENISE MARIE BARR
OPPOSITION NO. 91185498

Receipt

**Your submission has been received by the USPTO.
The content of your submission is listed below.
You may print a copy of this receipt for your records.**

ESTTA Tracking number: **ESTTA230849**
Filing date: **08/15/2008**

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

Change of Correspondence Address

Proceeding,	77301887
Defendant	Defendant Barr, Denise Marie

Please change the correspondence address for the above party here as follows:

Old Correspondence Address	DENISE MARIE BARR 242 CORRAL DR DAYTON, NV 89403-7340
New Correspondence Address	DENISE MARIE BARR 11540 VELICATA COURT LAS VEGAS, NV 89138 UNITED STATES DENISE@DEEBARR.COM Phone: 702-656-1552

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,
/Denise M. Barr/
Denise M. Barr
DENISE@DEEBARR.COM
08/15/2008

EXHIBIT "B"

IN THE MATTER OF THE TJX COMPANIES, INC V. DENISE MARIE BARR
OPPOSITION NO. 91185498

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Record 1 out of 1

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the new


Word Mark THE NEW IT BAG
Goods and Services IC 018 US 001 002 003 022 041. G & S: Reusable non-woven polypropylene shopping bags
Mark Drawing Code (S) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number 77323233
Filing Date November 7, 2007
Current Filing Basis 1B
Original Filing Basis 1B
Owner (APPLICANT) The TJX Companies, Inc. CORPORATION DELAWARE 770 Cochituate Road Framingham MASSACHUSETTS 01701
Attorney of Record Martha Gayle Barber
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE NEW AND BAG APART FROM THE MARK AS SHOWN
Description of Mark Color is not claimed as a feature of the mark. The mark consists of the words THE NEW IT BAG in a stylized form.
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

EXHIBIT "C"

IN THE MATTER OF THE TJX COMPANIES, INC V. DENISE MARIE BARR
OPPOSITION NO. 91185498

Document Description: Suspension Letter
Mail / Create Date: 27-Jun-2008

Success You are currently on page 1 of 1

To: The TJX Companies, Inc. (martha.barber@tjx.com)
Subject: TRADEMARK APPLICATION NO. 77323233 THE NEW IT BAG AC788033033
Sent: 6/27/2008 9:38:30 AM
Sent As: EXHIBIT080808PTCL003V
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO	77323233	*77323233*
MARK	THE NEW IT BAG	
CORRESPONDENT ADDRESS:		
MARIEA STAYLIS BARBER ALSTON & BIRD LLP 101 N BOSTON ST SUITE 4000 CHARLOTTE, NC 28202-4000		
APPLICANT:	The TJX Companies, Inc.	GENERAL TRADEMARK INFORMATION: http://www.uspto.gov/main/trademarks.htm
CORRESPONDENT'S REFERENCE/DOCKET NO.		
48788134033		
CORRESPONDENT E-MAIL ADDRESS:		
martha.barber@alston.com		

NOTICE OF SUSPENSION

ISSUE/MAILING DATE: 6/27/2008

SUSPENSION PROCEDURE: This suspension notice serves to suspend action on the application for the reason(s) specified below. No response is needed. However, if you wish to respond to this notice, you should use the "Response to Letter of Suspension" form found at <http://www.uspto.gov/ma/ma/tr/>. The Office will conduct periodic status checks to determine if suspension remains appropriate.

Action on this application is suspended pending the disposition of:

- Application Serial No(s): 77301887

Since applicant's effective filing date is subsequent to the effective filing date of the above-identified application(s), the issue, if and when it registers, may be cited against this application in a refusal to register under Section 2(a)(1) of the Trademark Act, 15 U.S.C. §302(a)(1). See 37 C.F.R. §2.63, 38CFR §(1.208 et seq). A copy of information relevant to this pending application(s) was sent previously.

Applicant may submit a request to remove the application from suspension to present arguments related to the potential conflict between the relevant application(s) or other arguments related to the ground for suspension. TMFP §756.03. Applicant's election not to present arguments during suspension will not affect the applicant's right to present arguments later should a refusal in fact issue. If a refusal does issue, applicant will be afforded 6 months from the mailing or e-mailing date of the Office action to submit a response. 15 U.S.C. §1062(b); 37 C.F.R. §7.62.

Suzi Klouni
Examining Attorney
Law Office 130
571-273-6984 Phone
571-273-9110 Fax

STATUS CHECKS: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.