

ESTTA Tracking number: **ESTTA370224**

Filing date: **09/25/2010**

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

Proceeding	91190169
Party	Defendant Susino USA, LLC
Correspondence Address	Todd Nadrich Susino USA, Ltd. PO BOX 1013 LOXAHATCHEE, FL 33470-1013 UNITED STATES tnadrich@stsource.com
Submission	Other Motions/Papers
Filer's Name	Todd Nadrich
Filer's e-mail	tnadrich@stsource.com
Signature	/Todd Nadrich/
Date	09/25/2010
Attachments	09-2010 Response to relief of judgement.pdf ( 54 pages )(3015886 bytes )

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

In The Matter of App. Ser. No. 77/355,544	)	
	)	
	)	
SUSINO UMBRELLA CO., LTD.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91190169
	)	
SUSINO USA, LLC	)	
	)	
Applicant,	)	

**APPLICANTS RESPONSE TO OPPOSERS MOTION FOR RELIEF OF JUDGEMENT**

Applicant Susino USA responds in opposition to Opposers motion for relief of judgment. This response is made within the agreed extension of time pursuant to the filed Agreed Notice of Extension of Time between the parties.

**I. Facts**

- 1) On January 19, 2009 Opposer filed for a 30 day extension of time to oppose, this was granted.
- 2) On March 5, 2009 Opposer filed for a 60 day extension of time to oppose, this was granted.
- 3) On May 12, 2009, one day before the last day to file a pleading, Opposer filed another extension of time to oppose citing “extraordinary circumstances” §2, this extension was denied. (Exhibit 1)
- 4) On May 13, 2009, Opposer filed an opposition pleading through attorney Scott Vidas with the law firm Vidas Arrett & Steinkraus PA. The law firm specializes in trademark, patent, and copyright matters and Mr. Vidas has been practicing before the U.S. Patent and Trademark Office since 1982.
- 5) On June 5, 2009 Susino USA filed an answer to the opposition with affirmative defenses.

6) On October 27, 2009, Opposers attorneys filed a request to withdraw from representing the Opposer citing various reasons including non-payment of services. Opposer's attorney attached an exhibit, which represents a retainer agreement signed by Mr. Anbang Wang.

7) On October 30, 2009 the TTAB issued a notice suspending the proceedings granting petitioners attorney to withdraw. (Exhibit 2).

8) On November 29, 2009 Opposer filed a statement of self-representation, (Exhibit 3). The certificate of service does indicate the statement was mailed by the Opposer, rather Applicant received the statement by e-mail on November 30, 2009. (Exhibit 4). It was Opposer request the parties correspond by e-mail citing the geographical differences of the parties.<sup>1</sup>

9) On December 2, 2009 Opposer filed a notice of change of correspondence address listing Anbang Wang as notifying party with address in China and the e-mail address [meihuaumbrella@yahoo.com.cn](mailto:meihuaumbrella@yahoo.com.cn).

10) On December 10, 2009 the TTAB resumed the proceedings after ruling on Applicants motion to dismiss.<sup>2</sup> (Exhibit 5) A copy was mailed to both parties.

11) On December 12 and 15, 2009, Applicant and Opposer exchanged emails about the discovery schedule and the dates established in the December 10 order. Opposers' December 15 email had attached the TTAB December 10 order and a list of dates prepared by Opposer. (Exhibit 6)

12) On December 28, 2009 Applicant filed and served its Request for Admissions and Request for Interrogatories<sup>3</sup>.

13) On December 31, 2009, the Interlocutory Attorney issued a notice noting receipt of the discovery requests via the ESTTA system.<sup>4</sup> (Exhibit 7) A copy was mailed to both parties.

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<sup>1</sup> Applicant footnoted this agreement of e-mail exchange in Applicants summary judgment.

<sup>2</sup> Opposer fails to mention this TTAB Order where dates are set. The Board advises Opposer to obtain counsel (Page 6, §2) The TTAB mailed a copy to Opposers' correct address.

<sup>3</sup> With an abundance of caution the Applicant filed these discovery requests with the ESTTA (ESTTA324145, ESTTA324146), applicant was not required to do so, as noted in the TTAB's December 31, 2009 notice.

<sup>4</sup> Opposer admits the TTAB sent this notice to the correct address, (Wang decl. §33) also the TTAB has not made any notation in the ESTTA as to any correspondence having been undeliverable to either party.

14) On January 11, 2010 Applicant served request for admissions on Opposer.(Exhibit 8) Applicant sent the notice to Opposer via email using an email tracking service showing the dates and times the recipient opened the email, no less than nine (9) times was the email opened. (Exhibit 9)<sup>5</sup>

15) Applicant filed its motion for summary judgment on the pleadings dated March 12, 2010, prior to the close of discovery<sup>6</sup>.

16) On March 26, 2010 the TTAB mailed a notice of suspension on Applicants motion for summary judgment. (Exhibit 10) A copy was mailed to both parties.

17) On June 8, 2010, Applicants motion for summary judgment was ruled by the TTAB and issued an order dismissing the opposition with prejudice, (Exhibit 11).

18) Opposer presents only one declaration in support of the motion for relief from judgment and attached exhibits should not be considered as evidence since Opposer failed to identify and enter these exhibits during the testimony period<sup>7</sup>.

## **II. ARGUMNET**

### **A. Introduction**

The facts set forth by Opposer fail to meet the standards for either excusable neglect or extraordinary circumstances, upon which it has moved. Opposer only offers one declaration in support of its argument. Opposer is now claiming surprise and neglect during an eighteen (18) month opposition proceeding whereby there is only one declaration stating they not once attempted to inquiry as to the status of these proceedings. Wang claims he is the only authorized representative for the Opposer, ¶25. However this is contradicted in ¶16, “I authorized Jorzon (Wang) to sign the agreement on behalf of Susino Umbrella”. This is meaningful because several times in the declaration he states having no knowledge and gave no authorization to initiate this proceeding through his

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<sup>5</sup> This contradicts Wang’s declaration stating the email address provided to the TTAB, § 32 “is an obsolete account...has not been used for at least 4 years”.

<sup>6</sup> Applicant gave Opposer ample time prior to the close of discovery (May 11, 2010) to file a response, request for an extension, retain new counsel, and/or submit discovery, but failed to do none.

<sup>7</sup> See 7 CFR § 2.122(c), and TBMP § 317 (Exhibits to Pleadings)

designated trademark agents and attorneys “Jinxiang”, “Vidas”, “Tony Tue”, “Jorzon Wang” and/or “Voson”. Yet Opposer offers no other declarations to collaborate any of these statements.

Opposers representative states, (decl. Wang ¶29), “on May 13, 2009 a notice of opposition was filed” noting an opposition action was instituted on behalf of Opposer. However Wang contradicts this in ¶27 “I did not authorize Vidas to represent Susino Umbrella”. Wang states having knowledge of the filed Opposition on behalf of Susino Umbrella, however he did not inquiry about the status or sought to ask any one of his assigned agents, attorneys, or employees for a status of the proceedings. It is obvious any neglect of Opposer is culpable rather than excusable.

Opposer is now asking for a “mulligan” or a do over, while the Board would never afford Applicant the same latitude for lack of poor judgment or ignorance of the rules.

**B. Opposer Claims Never Receiving Requests And Motion For Summary Judgment.**

Applicant admits there was a typo as to the postal code in its discovery requests and motion for summary judgment, however this does not rise to excusable neglect or surprise. Opposer casts the blame on the Applicant for the neglect of the Opposers and authorized representative actions and inactions. Opposer had knowledge and authorized this opposition proceeding eighteen (18) months ago but Opposer is claiming Applicant should have fully explained the proceedings and translated filings and ensured all TTAB Orders were understood for the benefit of the Opposers representative, and cites nothing to support this rationale. Applicant presumed Opposer lost interest in the proceedings initiated by them by not responding to Applicants requests and the TTAB’s various orders and notices.

It is likely even though the postal code was a typo in its filing, Applicant may, but cannot state precisely, had used the correct postal code on the actual envelope mailing. Applicant is positive the proper postage amount was used, because the mailing was never returned as undeliverable and therefore presumed it was delivered to the Opposers address.<sup>8</sup> Opposer also claims they have filed

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<sup>8</sup> The TTAB also sent several notices to the correct address and Opposer does not refer to these nor has any been reported as undeliverable.

other trademark applications with the WIPO and USPTO, but not once has Opposer ever used a postal code in their correspondence address in these filings, (Opposers Exh. 11).

Even if Opposer never received the pleadings by mail, Applicant believed upon receipt of the notice of self-representation via email and in an unsolicited email requesting an agreement from Opposer to exchange all matters by email, where Applicant accepted. The parties were in agreement with the Opposers representative under TBMP Rule 2.119; parties may agree to serve papers by email/fax. Opposers' representative states [Wang declaration ¶32] they had knowledge of the use of this email account and acknowledges the authenticity of the email account for the Opposer.

In support of the motion for relief of judgment, declarant only states he used "diligent efforts" [Wang Declaration. ¶31] but never provides any examples of any efforts nor offers any other declarations from any other individuals to substantiate those efforts.<sup>9</sup>

Opposers' conclusions imply it is ultimately up to the Applicant to insure Opposers' representative not only receive and but also they respond to all requests for discovery, TTAB orders, TTAB notices, and the motion for summary judgment. Where it is the inactions and lack of diligent efforts of the Opposer, who initiated this opposition over eighteen (18) months ago who is ultimately responsible for complying with the dates set and procedure.

### **C. First *Pioneer* Factor – Prejudice to Non-Moving Party**

Applicant proceeded without the benefit of a multi-lawyer firm and extensive support staff. Based on the finality of the Board's order, Applicant wishes to move on. Reopening the case would substantially prejudice Applicant by extensive delay already over eighteen (18) months.

Reopening the case would substantially prejudice Applicant's business interests and further delay and diminish its success by exposing it to a prolonged strategy of lengthy litigation initiated by Opposer. Applicant was responsive to these proceedings, the TTAB notices, dates, and orders, where Opposer was not. This prejudicial hardship is far greater on Applicants rights to use the mark rather than Opposers continued baseless acquisitions and legal maneuvers.

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<sup>9</sup> Wang declaration §32, "I continued to believe that Jinxiang was sill competent to handle the case"

If suggested, Opposer was really the victim of gross neglect or fraud by all the parties who represented them, then Applicant is also a victim of the same fraud by the inactions of its' representative, authorized agents. The time and delay is a result of Opposers inactions and neglect and Applicant is severely prejudiced by the Opposers inactions and neglect in this proceeding.

**D. Second *Pioneer* Factor – Length of Delay**

Opposer provided no excusable neglect reason for failing to respond to the requests for discovery and motion for summary judgment or follow the Board orders. Opposers' responses for the initial discovery requests were due in January. The TTAB set the date for close of discovery on May 11, 2010 (Exhibit 5). Opposer offers no collaborating statements causing the length of delay of eight months. Now the Opposer is seeking a lengthy added delay in reopening the case and essentially starting all over from the beginning, creating an extraordinary delay.

**E. Third *Pioneer* Factor – Reasons for Failure to Respond**

“Relief of Judgment under Fed. R. Civ. P. 60(b) is an extraordinary remedy to be granted in the court’s discretion only in exceptional circumstances.” *Djeredijan v. Kashi Co.*, 21U.S.P.Q.2d 1613 (TTAB) 1991): TBMP §544. Opposer contends that its failure to respond to discovery requests was beyond its control. Opposer was not abandoned by former counsel, rather Opposer simply refused to make payment for their services as agreed too. Such circumstances do not constitute neglect, excusable or not. “Because of the language and structure of Rule 60(b), a party’s failure to file on time for reasons beyond his or her control is not considered to constitute neglect.” *Pioneer Inv. Serv., Co. v. Brunswick Assocs. Ltd Partnerships*, 507 U.S. 380, 394 (1993): followed by, *Pumpkin Ltd. V. The Seed Corps*, 43 USPQ2d 1582 (TTAB 1997), *Old Nutfield Brewing Co., v. Hudson Valley Brewing Co.*, 65 USPQ2d 1701 (TTAB. 2002) (citing *Pumpkin*, 43 USPQ2d at 1586 n. 7). As the Board noted in *Old Nutfield Brewing Co.*, “had Opposer had any doubt as to the official status of the case at any time, it had only to call the Board, view the proceeding information on the Internet, or inspect (or have an agent inspect) the public file in person at the Board.”

1. Opposer choose a path of self representation and the TTAB in its December 10, 2009 order advised Opposer to seek counsel and setting dates and again on December 31, 2009, acknowledging Applicants request for discovery, both mailed to the correct address using the correct postal code to Opposers duly appointed representative. Opposer makes no mention or reference to these mailings.

2. Opposer is culpable for ignorance of procedural law. Culpable or willful conduct fails to satisfy the criteria for either “excusable neglect” or “extraordinary circumstances.” Rule 60(b) simply does not provide for a “mulligan”.

“There must be an end to litigation someday, and free, calculate, deliberate choices are not relieved from,” *Ackerman v. United States*, 340 U.S. 193, 197 (1950), See also, *United States v. Kinsey* 631 F. Supp. 165, 167 (S.D.N.Y., 1986): quoting, *Bell Telephone Labs. V. Hughes Aircraft Co.*, 73 F.R.D. 16,21 (D. Del. 1976) *aff’d*, 564 F.2d 654 (3<sup>rd</sup> Cir. 1997 (“If the decision not to defend or not to introduce certain evidence, was made consciously, on the basis of free knowledge of the issues involved, the party cannot claim mistake, inadvertence, surprise, or excusable neglect”): *Blinder, Robinson & Co. v. SEC*, 748, F.2d 1415, 1420 (quote Cir. 1984) (“We agree with the district court that Blinder, Robinson was represented in the Enforcement Action by competent and experienced lawyers who made a tactical decision which binds their clients. The Rule 60(b) motion was properly overruled”): *United States v. Erdoss*, 440 F.2d 1221, 1223 (2d Cir. 1971) (when a conscious decision has been made by counsel, ignorance of the law is not excusable neglect contemplated by Rule 60(b)).

Opposer further seeks relief on the grounds that a principal’s ignorance of an agent’s conduct severs liability. Opposer essentially attempts to escape responsibility for the decisions and conduct of its chosen representative. If that were the standard, in order to evade finality of an adverse judgment “a client would actually have an incentive to stay uninformed of her attorney’s actions in the case.” 50 Vand. L. Rev. at 645, *supra*. “The Supreme Court, however has established, and the Board has subsequently followed, a method for analyzing excusable neglect which holds a party accountable for the acts or omissions of its counsel and renders irrelevant any distinction between neglect of counsel

and neglect of the party.” *CTRL Systems Inc. v. Ultraphonics of North America Inc.* 52 USPQ2d 1300, 1302 (TTAB 1999), “[T]he proper focus is upon whether the *neglect of respondents* and their counsel was excusable.” *Pioneer*, 507 U.S. at 397.

Opposer’s liability for decisions and conduct of its attorney/agent flows the status as principal / agent relationship: “The relationship between client and attorney regardless of the variations in particular compensation agreements or the amount of skill and effort the attorney / agent contributes, is quintessential principal relationship.” Comment (1957): *Aba Model Rules of Professional Conduct* Rule 1.3, comments 1, 1.7 1 (2002). “A lawyer’s act is considered to be that of the client in proceedings before a tribunal or in dealings with a third person if the tribunal or third person reasonably assumes that the lawyer is authorized to do the act on the basis of the client’s (and not the lawyer’s) manifestations of authorization.” *Makins v. District of Columbia*, 277 F.3d 544 (D.C. Cir. 2002): quoting *Restatement (3d) of the Law Governing Lawyers*, §27 (1998).

In this case, Opposers’ single declaration shows it affirmatively refrained from communicating directly with former counsel or directly with the TTAB, and instead relied upon a third party to exercise the requisite diligence. There can be no doubt of authorization. Since Opposer representative did not directly communicate with former counsel, the declaration that its’ appointed agent never informed Opposer of pending matters, Board orders, and notices is immaterial. Also Trademark Rule 2.132(a) provides that when the party in the position of plaintiff fails to take testimony during the time allowed, judgment may be entered against it in the absence of a showing of good and sufficient cause. The “good and sufficient cause” standard set out in Trademark Rule 2.132(a) is equivalent to the “excusable neglect” standard in Fed. R. Civ. P. 6(b). *See HKG Industries Inc. v. Perma-Pipe Inc.*, 49 USPQ2d 1156, 1167 (TTAB 1998); *Grobet File Co. of America Inc. v. Associated Distributors Inc.*, 12 USPQ2d 1649, 1951 (TTAB 1989). *See also*, TBMP §535.02.

If Opposer is so prominent with the Applicants mark, worldwide as suggested, then Opposers’ representative should have made substantially more efforts in inquiring as to the status of the proceedings he authorized.

#### **F. Fourth Pioneer Factor – Whether The Moving Party Acted In Good Faith**

Opposer makes no statements as to why they never followed up on any of matters before the Board. Simply put the Opposer willfully neglected its obligations to pursue the opposition in which they initiated. Opposer failed to follow the procedures, Board orders, and answer Applicants requests is due to its' own neglect, ignorance, and inaction. Thus requesting relief from judgment is not an act of good faith as Opposer is the one who initiated this Board proceeding.

#### **G. Extraordinary Circumstances, Fed.R.Civ. P. 60(b)(6)**

“To be extraordinary circumstances’ for purposes of Rule 60(b)(6), a lawyers failure must be so egregious and profound that they amount to the abandonment of the client’s case altogether, either through physical disappearance”, see *Vindigni v. Meyer*, 441F.2d 376 (2d Cir. 1971), or constructive disappearance, see *United States v Cirami*, 563 F.2d 26, 34035 (2d Cir. 1977)” *Harris v. United States*. 367 F.3d 74, 81 (2<sup>nd</sup>. Cir. 2004).

Opposer attempts to point fingers at the Applicant for not inquiring why Opposer never responded to any of the discovery requests and motion for summary judgment, however Opposer admits to receiving some notices and orders from the Board. Applicant used diligent efforts and on December 11, 2009 emailed Opposer requesting to contact them and discuss the discovery schedule. Opposer responded showing they confirmed receipt of the email but fails to take action. (Exhibit 6)

When a party fails to pay its prior attorney for services rendered, does nothing to procure subsequent counsel, fails to respond to requests, and ignores Board orders, Applicant is only left with the presumption the Opposer has decided not to pursue or has lost interest in the opposition and the proceedings. Opposer has the ultimate responsibility to pursue all its claims as set forth in the rules and procedures. It must follow up on the proceedings; take notice of Board orders and notices. Claiming inaction and ignorance does not rise to extraordinary circumstances as Opposer is proffering to support its argument for relief from judgment.

### **III. Conclusion**

For the foregoing reasons Opposers motion for relief from judgment should be denied with prejudice.

Respectfully Submitted:

By: /s/ /Todd Nadrich/

Todd Nadrich  
Susino USA, Ltd  
PO Box 1013  
Loxahatchee, Fl. 33470  
Telephone: 954-252-3911  
Fax: 954-252-3911

#### **Certificate of Service**

I hereby certified that the above and forgoing this Notice of Consent for Extension of Time by depositing a copy of same in the United States Mail and by e-mal to [davidsilverman@dwt.com](mailto:davidsilverman@dwt.com), first class postage prepaid, on this 24 day of September, 2010, addressed to:

David Silverman  
Davis Wright Tremaine LLP  
1919 Pennsylvania Avenue NW, Suite 800  
Washington, DC 20006-3401  
Attorney for Opposers

/s/ /Todd Nadrich/

Todd Nadrich

# **EXHIBIT 1**

ESTTA Tracking number: **ESTTA283216**

Filing date: **05/12/2009**

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

Applicant:	<b>Susino USA, LLC</b>
Application Serial Number:	<b>77355544</b>
Application Filing Date:	<b>12/19/2007</b>
Mark:	<b>SUSINO</b>
Date of Publication	<b>01/13/2009</b>

## **60 Day Request for Extension of Time to Oppose Upon Extraordinary Circumstances**

Pursuant to 37 C.F.R. Section 2.102, SUSINO UMBRELLA CO., LTD., Jin'ou Industrial ParkDongshi Town, Jinjiang, FJ 362271, CHINA respectfully requests that he/she/it be granted an additional 60-day extension of time to file a notice of opposition against the above-identified mark for extraordinary circumstances shown .

Potential opposer believes that extraordinary circumstances are established for this request by:

- we need more time to collect information,because the case is so complicated.please grant the request.

The time within which to file a notice of opposition is set to expire on 05/13/2009. SUSINO UMBRELLA CO., LTD. respectfully requests that the time period within which to file an opposition be extended until 07/12/2009.

Respectfully submitted,

/Tony Tune/

05/12/2009

**Tony Tune**

**5715 Will Clayton # 6254**

**Humble, TX 77338**

**UNITED STATES**

**tonytune2009@gmail.com**

# **EXHIBIT 2**

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

Baxley

Mailed: October 30, 2009

Opposition No. **91190169**

Susino Umbrella Co., Ltd.

v.

Susino USA, LLC

**Andrew P. Baxley, Interlocutory Attorney:**

On October 27, 2009, opposer's attorneys filed a request to withdraw as opposer's counsel of record in this case. The request to withdraw as counsel is in compliance with the requirements of Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40, and is accordingly granted. Scott Q Vidas and the attorneys of the law firm of Vidas, Arrett & Steinkraus, P.A. no longer represent opposer in this proceeding.<sup>1</sup>

In view of the withdrawal of opposer's counsel, and in accordance with standard Board practice, proceedings herein are suspended, and opposer is allowed until **thirty days** from the mailing date set forth in this order to file a submission with the Board in which it appoints new counsel or states that

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<sup>1</sup> The request to withdraw does not include proof of service upon applicant as required by Trademark Rule 2.119(a). If applicant did not receive a copy of that request, it may obtain one online at <http://ttabvueint.uspto.gov/ttabvue/>.

Opposition No. **91190169**

opposer chooses to represent itself. If opposer files no response, the Board may issue an order to show cause why default judgment should not be entered against opposer based on opposer's apparent loss of interest in the case.

Determination of all pending motions is deferred pending resolution of the foregoing. The parties will be notified if and when proceedings are resumed.

A copy of this order has been sent to all persons listed below.

cc:

Scott Q Vidas  
Vidas, Arrett & Steinkraus, P.A.  
6640 Shady Oak Rd., Suite 400  
Eden Prairie, MN 55344-7834

Todd Nadrich  
Susino USA, Ltd.  
PO BOX 1013  
Loxahatchee, FL 33470-1013

Susino Umbrella Co., Ltd.  
RM-9-2-501, Ocean Prospect  
15 Deshengmenxi Street  
Beijing, CHINA 100082

# **EXHIBIT 3**

ESTTA Tracking number: **ESTTA319224**

Filing date: **11/29/2009**

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

Proceeding	91190169
Party	Plaintiff SUSINO UMBRELLA CO., LTD.
Correspondence Address	Scott Q Vidas Vidas, Arrett & Steinkraus, P.A. 6640 Shady Oak Rd., Suite 400 Eden Prairie, MN 55344-7834 UNITED STATES svidas@vaslaw.com
Submission	Other Motions/Papers
Filer's Name	Wang Anbang
Filer's e-mail	meihuaumbrella@yahoo.com.cn
Signature	/Wang Anbang/
Date	11/29/2009
Attachments	SUSINO prentative-1.TIF ( 1 page )(1578844 bytes ) SUSINO prentative-2.TIF ( 1 page )(1284806 bytes )

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

In the Matter of App. Ser. No. 77/355,544 )  
 )  
SUSINO UMBRELLA CO., LTD. )  
 )  
Opposer, )  
 )  
v. ) Opposition No.91190169  
 )  
SUSINO USA LLC, )  
 )  
Applicant. )

**STATEMENT OF OPPOSER CHOOSES TO REPRESENT ITSELF**

We,opposer,state that choose to present itself on the proceeding of this case,because we are still looking for the proper new counsel.

WHEREFORE,SUSINO UMBRELLA CO., LTD.,Opposer requests this board to grant our request.

Respectfully Submitted:

By: / Wang Anbang/

Wang Anbang

SUSINO UMBRELLA CO., LTD.

Jin' ou Industrial Park Dongshi Town, Jinjiang, FJ 362271 CHINA

Email: Meihuaumbrella@yahoo.com.cn

## **CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing STATEMENT OF OPPOSER CHOOSES TO REPRESENT ITSELF to be served upon:

SUSINO USA, LLC

Todd Nadrich

P.O. Box 1013

Loxahatchee, Florida 33470-1013

Scott Q. Vidas

VIDAS, ARRETT & STEINKRAUS, P.A.

6640 Shady Oak Drive

Suite 400

Eden Prairie, Minnesota 55344-7834

Tel. No. 952-563-3000

Facsimile No. 952-563-3001

svidas@vaslaw.com

by E-mailing the same on this 30th day of Nov, 2009(China Time).

/ Wang Anbang/

Wang Anbang

# **EXHIBIT 4**

**Todd Nadrich**

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**From:** "李德福" <meihuaumbrella@yahoo.com.cn>  
**Date:** Monday, November 30, 2009 11:32 AM  
**To:** <tnadrich@stsource.com>  
**Attach:** SUSINO prentative.pdf  
**Subject:** RE:STATEMENT OF OPPOSER CHOOSES TO REPRESENT ITSELF

Dear Mr.Nadrich:

Enclosed please check the statement of opposer chooses to represent itself as filed with Board.

Could you please tell me that whether you would agree to communicate via Email in the future?  
I think Email is very convenient for us,because we are in the different parts of the world.We  
are thankful for yoru understanding.

Sincerely

Anbang Wang / Tom Lee

SUSINO UMBRELLA CO.,LTD.

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[好玩贺卡等你发，邮箱贺卡全新上线！](#)

# **EXHIBIT 5**

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

Baxley

Mailed: December 10, 2009

Opposition No. **91190169**

Susino Umbrella Co., Ltd.

v.

Susino USA, LLC

Before Hairston, Kuhlke, and Wellington,  
Administrative Trademark Judges

By the Board:

This case now comes up for consideration of: (1) applicant's motion (filed August 27, 2009) to dismiss under Fed. R. Civ. P. 12(b)(6) for failure to state a claim; and (2) applicant's motion (filed September 19, 2009) to strike opposer's corrected brief in response to the motion to dismiss or, in the alternative, the exhibits to the corrected brief.<sup>1</sup>

The Board notes initially that applicant's motion to dismiss is untimely because the motion was filed after applicant filed its answer. See Fed. R. Civ. P. 12(b)(6); TBMP Section 503.01 (2d ed. rev. 2004). However, because opposer did not object to such motion as untimely and

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<sup>1</sup> Because opposer filed a corrected brief in response on September 15, 2009, the original brief that opposer filed one day earlier will receive no consideration.

responded fully to the merits thereof, the untimeliness of the motion is waived. See *Wellcome Foundation Ltd. v. Merck & Co.*, 46 USPQ2d 1478 (TTAB 1998).

In connection with the motion to dismiss, both parties have relied upon matters outside of the pleading in support of their positions. We elect to exclude those matters and decline to convert applicant's motion to one for summary judgment. See *Wellcome Foundation Ltd. v. Merck & Co.*, *supra*; TBMP Section 503.03 (2d ed. rev. 2004). Neither party's exhibits have received consideration in this decision, and applicant's motion to strike opposer's exhibits in support of its corrected brief in response is moot.

To the extent that applicant otherwise seeks to strike opposer's corrected brief in response, such motion is essentially based on an objection to the content of that brief. The Board will not strike a brief upon motion or a portion thereof based on an adversary's objection to the content thereof. Rather, the Board will consider the brief, as well as the adversary's objections thereto, and disregard any portions that are found to be improper. See TBMP Section 517. Based on the foregoing, the motion to strike opposer's corrected brief in response is denied.

Turning to the motion to dismiss under Fed. R. Civ. P. 12(b)(6), such a motion is a test solely of the legal

sufficiency of a complaint. See, e.g., *Advanced Cardiovascular Systems Inc. v. SciMed Life Systems Inc.*, 988 F.2d 1157, 26 USPQ2d 1038, 1041 (Fed. Cir. 1993). To withstand a motion to dismiss under Rule 12(b)(6), a pleading need only allege such facts as would, if proved, establish that the plaintiff is entitled to the relief sought, that is, that (1) the plaintiff has standing to maintain the proceeding, and (2) a valid ground exists for denying the registration sought. See, e.g., *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982). In determining a motion to dismiss for failure to state a claim upon which relief can be granted, all of opposer's well-pleaded allegations must be accepted as true, and the complaint must be construed in the light most favorable to the plaintiff. See *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d 1023, 1027 (Fed. Cir. 1999).

Applicant contends that opposer failed to properly plead a claim under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because "the facts plead[ed] in its [n]otice of [o]pposition and incorporated by reference by virtue of [applicant's involved application] support the conclusion that [applicant] and not [opposer] has priority of rights in the [involved] SUSINO mark." Applicant further contends that application Serial No. 79001855 for the SUSINO

mark ("the SUSINO application"), upon which opposer relies upon in support of its claim of standing, was filed by another entity, Jinjiang Hengshum Gingham Company ("Jinjiang"),<sup>2</sup> and was abandoned four years ago. Applicant further contends that opposer, by filing the notice of opposition, is improperly seeking to revive rights in its long-abandoned application through this proceeding. Based on the foregoing, applicant asks that the Board grant its motion to dismiss this opposition.

In response, opposer contends that its notice of opposition "fulfills the requirements set out for [o]pposition [p]leading."

Inasmuch as opposer cannot rely upon an abandoned application in support of its claims herein, the Board considers any reference to the SUSINO application to be merely informational. However, applicant's apparent belief that abandonment of the SUSINO application equals an abandonment of all rights in that mark is incorrect. Even if the SUSINO application was abandoned in 2005, such abandonment does not preclude opposer from relying upon any common law rights that it has in that mark. See *Oland's Breweries [1971] Ltd. v. Miller Brewing Co.*, 189 USPQ 481 (TTAB 1975).

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<sup>2</sup> Opposer contends in paragraph 3 of the notice of opposition that Jinjiang was its previous name.

In reviewing the notice of opposition, opposer has adequately pleaded that it has a real interest in this proceeding and therefore standing to oppose by alleging in paragraph 3 of the notice of opposition that it has common law rights in the involved SUSINO mark; that applicant's claim of use of the mark is based on sales of umbrellas manufactured and marked SUSINO by opposer; and that applicant was merely a middleman that received opposer's product. See *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842 (Fed. Cir. 2000); *Lipton Industries, Inc. v. Ralston Purina Co.*, *supra*. Opposer's standing is further pleaded in paragraph 9 of the notice of opposition wherein opposer alleges that, if the involved application is allowed to register, opposer, despite its prior use, would likely be prevented from obtaining a registration for the SUSINO mark on umbrellas. See *American Vitamin Products Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313, 1314 (TTAB 1992); TBMP Section 309.03(b).

In addition, opposer has adequately pleaded its priority of use in paragraph 4 of the notice of opposition by alleging its use of the SUSINO mark, which it contends began prior to both the filing date of applicant's involved application and the use dates alleged therein. Opposer has adequately pleaded likelihood of confusion through the allegations set forth in paragraphs 5-8 and 10 of the notice

of opposition.<sup>3</sup> See Trademark Act Section 2(d), 15 U.S.C. Section 1052(d); *King Candy Co. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 182 USPQ 108 (CCPA 1974). Based on the foregoing, applicant's motion to dismiss is denied.

Notwithstanding the foregoing, we note that opposer alleges in paragraph 5 of the notice of opposition that "the designation SUSINO for the goods identified in the [a]pplication so resembles [opposer's] nationwide common law rights in the trademark and pending application to register SUSINO as to be likely to cause confusion, mistake, or deception...." However, because opposer has identified no currently pending application that it has filed to register the SUSINO mark, we *sua sponte* strike the wording "and pending application to register" from that paragraph. See Fed. R. Civ. P. 12(f); TBMP Section 506.01.

After the withdrawal of its attorney on October 27, 2009, opposer stated in a November 29, 2009 submission that it intends to represent itself in this proceeding. 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 inter partes proceedings before the Board to secure the services of an attorney who

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<sup>3</sup> Whether or not opposer can prevail herein is a matter for resolution on the merits. See *Flatley v. Trump*, 11 USPQ2d 1284 (TTAB 1989).

Opposition No. 91190169

is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

In addition, opposer should note that 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 opposer may subsequently file in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made, e.g., by first class mail. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

Further, opposer is based in China and may not use certificate of mailing procedure on submissions mailed to the Board from China. See Trademark Rule 2.197; TBMP Section 110. Any documents that opposer files by mail from China will be considered filed on the date such documents are received at the USPTO. See Trademark Rule 2.195. Accordingly, opposer is urged to file submissions in this case electronically through the Board's Electronic System for Trademark Trials and Appeals (ESSTA) at <http://estta.uspto.gov/>.

In prosecuting this opposition, opposer should review the Trademark Rules of Practice, online at <http://www.uspto.gov/web/offices/tac/tmlaw2.pdf>, and the Trademark Board Manual of Procedure, online at <http://www.uspto.gov/web/offices/dcom/ttab/tbmp/index.html>. The Board expects all parties appearing before it to comply with the Trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure.

Proceedings herein are resumed.<sup>4</sup> Remaining dates are reset as follows.

Expert Disclosures Due	<b>4/11/10</b>
Discovery Closes	<b>5/11/10</b>
Plaintiff's Pretrial Disclosures	<b>6/25/10</b>
Plaintiff's 30-day Trial Period Ends	<b>8/9/10</b>
Defendant's Pretrial Disclosures	<b>8/24/10</b>
Defendant's 30-day Trial Period Ends	<b>10/8/10</b>
Plaintiff's Rebuttal Disclosures	<b>10/23/10</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>11/22/10</b>

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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<sup>4</sup> Applicant filed its motion to dismiss six days after the due date for its initial disclosures. Accordingly, the Board presumes that the parties have served their disclosures. If the parties have not so served, they should do so as soon as possible.

Opposition No. 91190169

If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.

# **EXHIBIT 6**

## **Todd Nadrich**

---

**From:** "李德富" <meihuaumbrella@yahoo.com.cn>  
**Date:** Tuesday, December 15, 2009 9:47 PM  
**To:** "Todd Nadrich" <tnadrich@stsource.com>  
**Attach:** ttabvue-91190169-OPP-17.pdf; SCHEDULE OF DATES FOR THIS CASE.pdf  
**Subject:** RE: Discovery and Depositions

Dear Mr. Nadrich:

Thanks for your email, and I am sorry for my late response. I think the date of Expert Disclosures Due is Apr 11, 2010, not Dec 19, 2009. The TTAB changed the Schedule for this case, please see the attachments.

Regards

Wang Anbang

SUSINO UMBRELLA CO., LTD.

--- 09年2月11日, 周五, Todd Nadrich <tnadrich@stsource.com> 写道:

发件人: Todd Nadrich <tnadrich@stsource.com>  
主题: Discovery and Depositions  
收件人: "Anbang Wang" <meihuaumbrella@yahoo.com.cn>  
日期: 2009年2月11日, 周五, 下午9:12

Dear Mr. Wang - Pursuant to the Court's schedule and order, please contact me and discuss the dates for discovery and when depositions can be taken.

First we ask as part of our first discovery request, all sales by Susino Umbrella to the USA by customer and item, all being designated as OEM or Susino brand since Jan. 2002.

Sincerely,  
Todd Nadrich

---

[好玩贺卡等你发, 邮箱贺卡全新上线!](#)

Time to Answer	6/22/2009
Deadline for Discovery Conference	7/22/2009
Discovery Opens	7/22/2009
Initial Disclosures Due	8/21/2009
Expert Disclosures Due	12/19/2009
Discovery Closes	1/18/2010
Plaintiff's Pretrial Disclosures	3/4/2010
Plaintiff's 30-day Trial Period Ends	4/18/2010
Defendant's Pretrial Disclosures	5/3/2010
Defendant's 30-day Trial Period Ends	6/17/2010
Plaintiff's Rebuttal Disclosures	7/2/2010
Plaintiff's 15-day Rebuttal Period Ends	8/1/2010

# **EXHIBIT 7**

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

Baxley

Mailed: December 31, 2009

Opposition No. **91190169**

Susino Umbrella Co., Ltd.

v.

Susino USA, LLC

**Andrew P. Baxley, Interlocutory Attorney:**

The interrogatories and document requests that applicant filed on December 28, 2009 are noted. However, "[w]ritten disclosures or disclosed documents, requests for discovery, responses thereto, and materials or depositions obtained through the disclosure or discovery process should not be filed with the Board, except when submitted with a motion relating to disclosure or discovery, or in support of or in response to a motion for summary judgment, or under a notice of reliance, when permitted, during a party's testimony period." Trademark Rule 2.120(j)(8). See also TBMP Section 409 (2d ed. rev. 2004).

Dates remain as last reset in the Board's December 10, 2009 order.

# **EXHIBIT 8**

**Todd Nadrich**

---

**From:** "Todd Nadrich" <tcn@stsource.com>  
**Date:** Monday, January 11, 2010 5:12 AM  
**To:** <meihuaumbrella@yahoo.com.cn.didtheyreadit.com>  
**Attach:** Request for admissions.pdf  
**Subject:** Request For Admissions

Dear Mr. Wang,  
Attached is applicants request for admissions regarding the opposition of the Susino trademark.

Regards,  
Todd Nadrich

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

In The Matter of App. Ser. No. 77/355,544	)	
	)	
	)	
SUSINO UMBRELLA CO., LTD.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91190169
	)	
SUSINO USA, LLC	)	
	)	
Applicant,	)	

**APPLICANTS REQUEST FOR ADMISSIONS**

Pursuant to Trademark Rule of Practice 2.120 (37 U.S.C. § 2.120). Trademark Trial and Appeal Board Manual of Procedure § 410, and Federal Rule of Civil Procedure 36, Applicant SUSINO USA requests that Opposer SUSINO UMBRELLA admit the truth of the Request for Admissions set forth below within thirty (30) days produce after service of this request.

**DEFINITIONS**

1. The terms “SUSINO UMBRELLA,” “you,” and “your” refer to Opposer and include any persons controlled by or acting on behalf of that entity, including but not limited to all officers, directors, owners, employees, agents, representatives, and attorneys, and any predecessors, subsidiaries, parent companies, affiliated companies, or joint ventures.

2. The term “SUSINO USA” refers to Applicant and includes any persons controlled by or acting on behalf of that entity, including but not limited to all officers, directors, employees, agents, representatives, and attorneys, and any predecessors, subsidiaries, parent companies, affiliated companies, or joint ventures.

3. The term “SUSINO” means trademark application 77/355,544 for the mark SUSINO with an effective filing date of December 19, 2007 and date of first use of June 1, 2007.

The terms “all” and “each” shall each be construed to include the other.

## **INSTRUCTIONS**

1. Your written response to this request must comply with Rule 36 of the Federal Rule of Civil Procedure, in that if you do not admit each matter, you must separately respond under oath to each request within thirty (30) days of the service of this request by:

- (a) Admitting so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by you;
- (b) By denying so much of the matter involved in the request as is untrue; and
- (c) Specifying so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge.

2. If your response to a particular request is that you lack information or knowledge as a reason for failure to admit all or part of a request for admission, then you shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable you to admit that matter.

3. If your response is that only part of a request for admission is objectionable, the remainder of the request shall be answered.

4. If an objection is made to a request or to a part of a request, the specific ground for the objection shall be set forth clearly in the response.

5. These requests for admission are continuing and require further answer and supplementation, as provided by Federal Rule of Civil Procedure 26(e).

For the purpose of this Request, the following definitions and instructions shall apply.

## **REQUESTS FOR ADMISSIONS**

**REQUEST FOR ADMISSION NO. 1:**

Admit that you had constructive knowledge of 77/355,544 application since its effective date of filing with the U.S. Patent and Trademark Office (“USPTO”) of SUSINO.

**REQUEST FOR ADMISSION NO. 2:**

Admit that SUSINO USA served the Initial Disclosures to your prior attorneys on August 20, 2009.

**REQUEST FOR ADMISSION NO. 3:**

Admit that on December 23, 2009 you had been served by e-mail and by mail with Applicant’s Interrogatories and Applicant’s Request for Documents to Opposer.

**REQUEST FOR ADMISSION NO. 4:**

Admit that Susino USA, it’s affiliated companies, directors, officers, or employees never acted as an agent or middleman for your company in the sales of umbrellas or has offered the same prior to its’ SUSINO application.

**REQUEST FOR ADMISSION NO. 5:**

Admit that Jinjiang Hengshun Gingham Company is not the same company as Susino Umbrella, LTD.

**REQUEST FOR ADMISSION NO. 6:**

Admit that the USPTO issued a notice of abandonment for application 79/001855 to Jinjiang Hengshun Gingham Company as in attached Exhibit “A”.

**REQUEST FOR ADMISSION NO. 7:**

Admit that there was never a response filed by you to the notice of abandonment for application 79/001855.

**REQUEST FOR ADMISSION NO. 8:**

Admit that prior to Applicant's application 77/355,544 you never sold or offered to sell any goods in the United States with the SUSINO mark.

**REQUEST FOR ADMISSION NO. 9:**

Admit that application 79/001855 filed by Jianjiang Hengshun Gingham Company has been declared abandoned and dead by the USPTO.

**REQUEST FOR ADMISSION NO. 10:**

Admit that prior to Applicant's application in 77/355,544 declaring a date of first use of December 10, 2007, you never have used the mark SUSINO for any goods or services for sale in the United States.

**REQUEST FOR ADMISSION NO. 11:**

Admit that application 79/001855 consists of the Chinese characters forming the Chinese word "Meihau" which translated into English is "plum blossom".

**REQUEST FOR ADMISSION NO. 12:**

Admit that you have never filed a United States trademark application for the mark SUSINO.

**REQUEST FOR ADMISSION NO. 13:**

Admit that Applicant shared with you and you having knowledge that Applicant had been evaluating, researching, and marketing to it's customers the use of the SUSINO mark for umbrellas as far back as July 2004.

**REQUEST FOR ADMISSION NO. 14:**

Admit that prior to the date of Applicant's application of 77/355,544 you never filed an application for the mark SUSINO.

**REQUEST FOR ADMISSION NO. 16:**

Admit that Applicant, Susino USA, has priority rights to the sole mark SUSINO in application 77/355,544.

**REQUEST FOR ADMISSION NO. 17:**

Admit that you never filed a company name change with the PTO for application 77/001855.

**REQUEST FOR ADMISSION NO. 18:**

Admit you have no pending or registered application with the PTO using the mark SUSINO.

**REQUEST FOR ADMISSION NO. 19:**

Admit that your company at the time filing it's opposition did not have any registered companies, employees, officers, directors, offices, or warehouses located within the United States.

**REQUEST FOR ADMISSION NO. 20:**

Admit that Susino USA, its' directors, officers, or any of it's affiliated companies (Susino USA et. al) have never received any monies from you in the form of commissions under any agreement, whether verbal or written, as an acting agent or middleman for any goods produced by your company.

**REQUEST FOR ADMISSION NO. 21:**

Admit that since January, 2008 Susino USA has ceased all business relations with your company due to defective products produced exclusively for Susino USA et. al. by your company.

**REQUEST FOR ADMISSION NO. 22:**

Admit that Susino USA et. al. has suffered monetary damages, customer goodwill, and loss of business due to defective products and breach of contract by your company.

**REQUEST FOR ADMISSION NO. 23:**

Admit that your company's legal name, as registered in the People's Republic of China, is translated from Chinese to English as Plum Blossom Umbrella, Company.

Respectfully Submitted:

By: /s/ /Todd Nadrich/

Todd Nadrich  
Susino USA, Ltd  
PO Box 1013  
Loxahatchee, Fl. 33470  
Telephone: 954-252-3911  
Fax: 954-252-3911

**Certificate of Service**

I hereby certified that the above and forgoing REQUEST FOR ADMISSIONS served upon Opposers by depositing a copy of same in the United States Mail and first class postage prepaid and copy of the same was sent by e-mail, on this 11 day of January, 2010, addressed to:

Anbang Wang  
Jinou Industrial Park  
Dongshi Town  
Jinjiang, FJ 352771  
China,  
[meihuaumbrella@yahoo.com.cn](mailto:meihuaumbrella@yahoo.com.cn)

/s/ /Todd Nadrich/

Todd Nadrich

# **EXHIBIT 9**

INBOX: 16 of 22

Move | Copy this message to:

Delete | Reply | Reply to all | Forward | Bounce | Resume | Save as Back to ◀ ▶

Date Mon, 30 Aug 2010 08:20:05 GMT

From DidTheyReadIt Notice <notice@DidTheyReadIt.com>

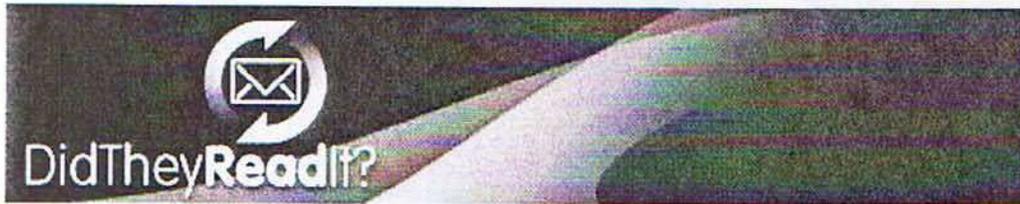
To tcn@stsource.com

Reply-To DidTheyReadIt Customer Support <support@DidTheyReadIt.com>

Subject Your message to meihuaumbrella@yahoo.com.cn was read

Parts Message Source

You are using a free version of DidTheyReadIt which will only work for 10 e-mails over one month. Starting at just \$24.99 you can tell the INSTANT somebody reads your e-mail. To upgrade to the full ve



To :

Mail Read Information

To: meihuaumbrella@yahoo.com.cn

Subject: Request for Admissions

Sent On: 01/12/10 (05:11AM)

1<sup>st</sup> Opened: 01/13/10 (04:15AM)

Tracking Summary

Total: Opened 9 times by 5 readers

Tracking Details (latest first)

Opened: 08/30/10 (03:16AM)

Read

Duration 00:00:02 (approx.):

Location: (CN) China, BEIJING, BEIJING (Data by NetAcuity) Show Map

Organization (ISP): - / CNCGROUP IP NETWORK CHINA169 BEIJING PROVINCE NETWORK (broadb

Opened On: 123.122.98.118 (123.122.98.118)

Language: ZH-CN

Browser: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; QQPinyinSetup 620; Mozill  
Referrer:

Opened: 02/05/10 (08:01AM)

Read  
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(approx.):

Location: (CN) China, BEIJING, BEIJING (Data by NetAcuity) [Show Map](#)

Organization - / CHINA NETWORKS INTER-EXCHANGE (broadband)  
(ISP):

Opened On: 124.14.254.152 (124.14.254.152)

Language: ZH-CN

Browser: Mozilla/4.0 (compatible; MSIE 8.0; Windows NT 6.0; Trident/4.0; SLCC1; .NET CLR 2

Referrer: http://cn.mc152.mail.yahoo.com/mc/welcome?action=&YY=176...

Opened: 01/24/10 (11:00PM)

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Duration n/a  
(approx.):

Location: (CN) China, TIANJIN, TIANJIN (Data by NetAcuity) [Show Map](#)

Organization - / CNCGROUP CHINA169 BACKBONE (broadband)  
(ISP):

Opened On: 125.39.132.218 (125.39.132.218)

Language: ZH-CN

Browser: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; QQDownload 1.7; .NET CL

Referrer:

Opened: 01/13/10 (10:28PM)

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Duration n/a  
(approx.):

Location: (CN) China, BEIJING, BEIJING (Data by NetAcuity) [Show Map](#)

Organization - / CNCGROUP IP NETWORK CHINA169 BEIJING PROVINCE NETWORK (broadb  
(ISP):

Opened On: 123.116.142.207 (123.116.142.207)

Language: ZH-CN

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Referrer:

Opened: 01/13/10 (08:39AM)

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Duration 00:00:05  
(approx.):

Location: (CN) China, FUJIAN, FUZHOU (Data by NetAcuity) [Show Map](#)

Organization (ISP): - / CHINA NETWORKS INTER-EXCHANGE (broadband)

Opened On: 113.18.93.242 (113.18.93.242)

Language: ZH-CN

Browser: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; QQPinyinSetup 620; .NET C  
Referrer: <http://g1a55.vip.163.com/a/j/js3/index.jsp?sid=EAxIMlCCfPjbQ...>

Opened: 01/13/10 (04:29AM)

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Duration n/a  
(approx.):

Location: (CN) China, BEIJING, BEIJING (Data by NetAcuity) [Show Map](#)

Organization (ISP): - / CNCGROUP IP NETWORK CHINA169 BEIJING PROVINCE NETWORK (broadb

Opened On: 123.116.142.207 (123.116.142.207)

Language: ZH-CN

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Opened: 01/13/10 (04:25AM)

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Duration 00:00:22  
(approx.):

Location: (CN) China, BEIJING, BEIJING (Data by NetAcuity) [Show Map](#)

Organization (ISP): - / CNCGROUP IP NETWORK CHINA169 BEIJING PROVINCE NETWORK (broadb

Opened On: 123.116.142.207 (123.116.142.207)

Language: ZH-CN

Browser: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; QQPinyinSetup 620; Mozill

Referrer:

Opened: 01/13/10 (04:18AM)

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Duration n/a  
(approx.):

Location: (CN) China, BEIJING, BEIJING (Data by NetAcuity) [Show Map](#)

Organization (ISP): - / CNCGROUP IP NETWORK CHINA169 BEIJING PROVINCE NETWORK (broadb

Opened On: 123.116.142.207 (123.116.142.207)

Language: ZH-CN

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Referrer:

Opened: 01/13/10 (04:15AM)

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Duration 00:00:29  
(approx.):

Location: (CN) China, BEIJING, BEIJING (Data by NetAcuity) [Show Map](#)

Organization (ISP): - / CNCGROUP IP NETWORK CHINA169 BEIJING PROVINCE NETWORK (broadb

Opened On: 123.116.142.207 (123.116.142.207)

Language: ZH-CN

Browser: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; GTB6.3;  
staticlogin:product=cboxf09&act=login&info=ZmlsZW5hbWU9UG93ZXJ3b3JkMjAwC

Referrer: http://cn.mc152.mail.yahoo.com/mc/welcome?action=&YY=169...

Delete | Reply | Reply to all | Forward | Bounce | Resume | Save as Back to   
Move | Copy this message to:

# **EXHIBIT 10**

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

MT

Mailed: March 26, 2010

Opposition No. 91190169

Susino Umbrella Co., Ltd.

v.

Susino USA, LLC

**Andrew P. Baxley, Interlocutory Attorney:**

Proceedings herein are suspended pending disposition of the motion for summary judgment. Any paper filed during the pendency of this motion which is not relevant thereto will be given no consideration. See Trademark Rule 2.127(d).

# **EXHIBIT 11**

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

Baxley

Mailed: June 8, 2010

Opposition No. **91190169**

Susino Umbrella Co., Ltd.

v.

Susino USA, LLC

**By the Trademark Trial and Appeal Board:**

Applicant's motion for summary judgment (filed March 12, 2010) is hereby granted as conceded. See Trademark Rule 2.127(a) and Fed. R. Civ. P. 56.

Accordingly, the opposition is dismissed with prejudice.