

ESTTA Tracking number: **ESTTA471548**

Filing date: **05/09/2012**

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

Proceeding	91201218
Party	Plaintiff Redbox Automated Retail, LLC
Correspondence Address	JAMES P MURAFF NEAL GERBER & EISENBERG LLP TWO NORTH LASALLE STREET, SUITE 1700 CHICAGO, IL 60602 UNITED STATES jmuraff@ngelaw.com, mhall@ngelaw.com, khinner@ngelaw.com
Submission	Motion for Default Judgment
Filer's Name	James P. Muraff
Filer's e-mail	jmuraff@ngelaw.com, kblouin@ngelaw.com, mbenson@ngelaw.com
Signature	/James P. Muraff/
Date	05/09/2012
Attachments	Motion_For_Default_Judgment.pdf (63 pages)(2610614 bytes)

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

REDBOX AUTOMATED RETAIL, LLC)	
)	
Opposer,)	Opposition No. 91201218
)	
v.)	
)	
STANLEY LEE BARNES)	Serial No. 85/135,579
d/b/a RED BOX TICKETS USA, LLC)	
)	
Applicant.)	Mark: RED BOX TICKETS USA, LLC

OPPOSER'S MOTION FOR DEFAULT JUDGMENT

Pursuant to Federal Rule of Procedure 55(b) and 37 CFR §2.106(a), Opposer, Redbox Automated Retail, LLC, by its attorneys, hereby requests that the Board enter an order of default and default judgment against Applicant, Stanley Lee Barnes d/b/a Red Box Tickets USA, LLC, for failure to file an answer to the amended notice of opposition.

In support of its motion, Opposer states:

1. On August 17, 2011, Opposer filed its Notice of Opposition of Applicant's Application No. 85/135,579 for registration of RED BOX TICKETS USA, LLC for use of the mark in connection with "providing kiosks at retailers for the payment of traffic citations" in International Class 36, based on a likelihood of confusion under 15 U.S.C. §1052(d) and dilution under 15 U.S.C. §1125(c).
2. On August 17, 2011, the Board issued its order requiring Applicant to answer the notice on or before September 26, 2011.
3. Applicant failed to file or serve an answer by September 26, 2011.

4. On October 12, 2011, the parties filed a consent motion to amend the scheduling order to allow for settlement discussions, requesting Applicant be allowed to file an answer on or before November 26, 2011.

5. On October 19, 2011, the Board issued a notice of default, ordering Applicant to show cause why judgment should not be entered against it within 30 days.

6. On November 10, 2011, the Board granted, in part, the parties' consented motion, allowing Applicant until November 26, 2011 to respond to the notice of default. Applicant filed its Answer on November 23, 2011.

7. On December 8, 2011, the Board issued an order setting aside the notice of default, and re-setting the dates for this proceeding, including a deadline for a discovery conference by December 21, 2011.

8. On December 21, 2011, Applicant moved to dismiss the proceeding for failure to hold a discovery conference, which Opposer contested on the basis that the parties had previously initiated, but not yet completed, the required conference.

9. On January 11, 2012, the parties reconvened the discovery conference with Board participation. On January 13, 2012, the Board issued an order (the "January Order," attached hereto as Exhibit A) memorializing the substance of the conference, suspending the matter until February 11, 2012, and setting new dates for the proceedings.

10. In the January Order, the Board struck Opposer's dilution claim as insufficient but granted leave to amend the pleading within 20 days from resumption after suspension. In accordance with the order, Opposer timely filed and served its amended notice of opposition on February 13, 2012. (*See Exhibit B*).

11. As set forth in the January Order, Applicant's answer to the amended notice of opposition was due twenty (20) days from the date of service by Opposer, or by March 4, 2012.

12. Applicant failed to file or serve an answer to the amended notice of opposition by the deadline.

13. On April 26, 2012, Opposer sent a letter to Applicant, notifying Applicant that Opposer still had not received the required answer, and requested that Applicant file and serve such answer by May 3, 2012. (See Exhibit C). The same day, Applicant responded to Opposer's letter with several e-mails, none of which contained or attached an answer to the amended notice of opposition. (See Exhibit D).

14. To date, Applicant has not filed or served its answer to the amended notice, nor has it sought an extension of time in which to answer the notice from either Opposer's counsel or the Board.

15. It is well-settled that "[i]f no answer is filed within the time set, the opposition may be decided as in case of default." 37 CFR §2.106(a); see also TBMP §508 (an opposer may file a motion for default judgment where applicant fails to file an answer to a notice of opposition during the time allowed by the Board). Because Applicant has failed to timely answer the amended notice, default judgment should be entered against it.

WHEREFORE, for the foregoing reasons, Opposer respectfully requests that pursuant to Federal Rule of Procedure 55(b) and 37 CFR §2.106(a), the Board enter an order of default and default judgment against Applicant, and grant such other relief as the Board deems appropriate.

Dated: May 9, 2012

By: /James P. Muraff/
One of the Attorneys for Opposer,
Redbox Automated Retail, LLC

James P. Muraff
Kathleen E. Blouin
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street
Chicago, IL 60602-3801
(312) 269-8000

CERTIFICATE OF SERVICE

I, James P. Muraff, state that I served a copy of the foregoing *Opposer's Motion for Default Judgment* upon the following party:

Stanley Lee Barnes
d/b/a Red Box Tickets USA, LLC
3127 St. Vincent
St. Louis, Missouri 63104

via First Class U.S. Mail, postage pre-paid, and email to redboxticketsusa@gmail.com and reachyou2007@yahoo.com on May 9, 2012.

/James P. Muraff/
James P. Muraff, Esq.

NGEDOCs: 1898074.1

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

REDBOX AUTOMATED RETAIL, LLC)

Opposer,)

v.)

STANLEY LEE BARNES)

d/b/a RED BOX TICKETS USA, LLC)

Applicant.)

Opposition No. 91201218

Serial No. 85/135,579

Mark: RED BOX TICKETS USA, LLC

OPPOSER'S MOTION FOR DEFAULT JUDGMENT

EXHIBIT A

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

Mailed: January 13, 2012

Opposition No. 91201218

Redbox Automated Retail, LLC

v.

Stanley Lee Barnes dba Red Box
Tickets USA, LLC

Cheryl S. Goodman, Interlocutory Attorney:

Pursuant to Fed. R. Civ. P. 26(f) and Trademark Rules 2.120(a)(1) and (2), the parties to this proceeding conducted a reconvened discovery conference at 11:00 am (EST)/10:00 am (CST) on Wednesday, January 11, 2012 with Board participation.¹

Participating in the conference were James Muraff and Kathleen Blouin, counsel for opposer, and Stanley Lee Barnes, applicant. Present for the Board was the above-identified interlocutory attorney. This order memorializes generally what transpired at the conference.

The Board first considered pending contested motions.

Motion to Dismiss

Applicant sought to dismiss the opposition because

¹ Board participation was requested via telephone by opposer on January 3, 2012.

opposer attempted "to cause default and set aside and delay application" [sic] in bad faith due to opposer's counsel's failure to confirm the deadline for discovery conference when applicant called opposer's counsel on December 20, 2011. Opposer opposed the motion, pointing out that opposer did contact applicant and that the parties conducted a discovery conference on December 29, 2011, although the conference was not completed.

At the teleconference, the Board deemed the motion to dismiss moot, in view of the parties' holding of the discovery conference (although not completed) on December 29, 2011.

Motion to Extend

Opposer sought to extend the discovery conference deadline and all other dates because opposer failed to hold the discovery conference by the scheduled December 21, 2011 date due to the parties' attempt to settle the matter, due to the "holiday season", and due to the fact that counsel was on vacation between December 19, 2011 through December 23, 2011.

Applicant orally responded to the motion at the teleconference, indicating his objection to an extension.

The Board found the motion to extend lacked good cause, and denied the motion inasmuch as settlement is one purpose of the discovery conference and counsel had ample time

Opposition No. 91201218

between November 21, 2011 through December 21, 2011 to schedule the conference. Moreover, the fact that the parties held the conference out of time is not a basis for extending the dates.

Motion to Amend Protective Order

Opposer orally requested amendment to the standard protective order to allow access by opposer's in-house counsel to applicant's trade secret and commercially sensitive information. The Board declined to rule on the oral motion, advising opposer to file a motion, specifically addressing the issue of in-house counsel's role in competitive decision-making. See TBMP Section 412.02(b) (3d ed. 2011).

Suspension

The parties agreed to a thirty day suspension of these proceedings in a further attempt to settle the matter.

General Information

Service of Papers

Trademark Rule 2.119 requires a party filing any paper with the Board during the course of a proceeding to serve a copy on its adversary, unless the adversary is represented by counsel, in which case, the copy must be served on the adversary's counsel. "Proof of such service must be made before the paper will be considered by the Office."

Trademark Rule 2.119(a). Service is the responsibility of

the party filing the paper, and any paper filed should include "proof of service" with its filing. "Proof of service" usually consists of a signed, dated statement attesting to the following matters: (1) the nature of the paper being served; (2) the method of service (e.g., first class mail); (3) the person being served and the address used to effect service; and (4) the date of service.²

Applicant has not served many of its filings in this case on opposer's counsel as required by Trademark Rule 2.119 (see e.g., "answer" filed November 23, 2011 and "motion to dismiss" filed December 21, 2011). Applicant is directed to comply with Trademark Rule 2.119 in all future filings with the Board.

Electronic filing recommended

It is recommended that the Board's electronic filing system ESTTA be used for all papers filed with the Board. The parties should note that the consent motions to extend and suspend form in ESTTA should not be used until after the initial disclosure deadline has passed as the forms will not calculate the discovery, disclosure and trial schedule

² Suggested format for certificate of service:

I hereby certify that a true and complete copy of the foregoing (insert title of submission) has been served on (insert name of opposing counsel or party) by mailing said copy on (insert date of mailing), via First Class Mail, postage prepaid (or insert other appropriate method of delivery) to: (set out name and address of opposing counsel or party).

Signature

properly. The parties should use the general form motion option, and file a disclosure, discovery and trial schedule generated by the parties.³

E-mail service, stipulation

The parties did stipulate to e-mail service in the discovery conference. It was noted that no additional response time is provided for papers served electronically. The parties are directed to adjust their spam filters to accept e-mail from their adversary and the Board and to inform the Board and the adverse party of any changes in e-mail or correspondence (mailing) addresses.

Standard protective order

The Board advised the parties of the imposition of the Board's standard protective order at the commencement of these proceedings and that pro se parties are limited in their access to information designated as trade secret and commercially sensitive under the Board's standard protective order. See TBMP Section 412 (3d ed. 2011) for more information regarding the Board's protective order.⁴ Should the parties desire to modify the protective order, they should file such modified protective order (signed)

³ Please read the alerts on ESTTA for further information. If the automated motion does not provide the parties with the desired dates, a general motion option should be used with the desired trial schedule set forth in an attachment.

⁴ The standard protective order is viewable at <http://www.uspto.gov/trademarks/process/appeal/guidelines/stndagmnt.jsp>.

Opposition No. 91201218

with the Board. Should applicant desire access to information designated by opposer as trade secret and commercially sensitive with respect to opposer's discovery responses, he may hire outside counsel for this limited purpose. TBMP Section 412.

Notice of Opposition

The Board found opposer's dilution claim insufficient as opposer failed to allege fame of its mark prior to applicant's use of the mark. The claim is stricken; however opposer is granted leave to amend the pleading to replead this claim.

Answer

Applicant's answer is insufficient under Fed. R. Civ. P. 8(b).

To comply with Fed. R. Civ. P. 8(b), applicant should not argue the merits of the allegations in the complaint (notice of opposition) but rather should state, as to each of the allegations contained in the complaint in the numbered paragraphs, that the allegation is either admitted or denied. If applicant lacks knowledge or information sufficient to form a belief about the truth of an allegation, he may so state, and this statement will have the effect of a denial as to that allegation. The notice of opposition consists of 6 numbered paragraphs setting forth the basis of opposer's claim of damage, and the defendant's

admissions or denials should be made in numbered paragraphs corresponding to the 6 numbered paragraphs in the complaint. A complaint should also be signed, and can be signed electronically. See TBMP Section 311.01(b) and 311.02(a).

The time for filing an amended notice of opposition and answer thereto will be set forth below.

Disclosures

The Board reviewed the required disclosures in this case i.e., initial, expert and pretrial disclosures and advised the parties that formal discovery (e.g., depositions, request for production, requests for interrogatories, and requests for admissions) cannot occur until after service of initial disclosures.⁵ Additionally, a motion for summary judgment cannot be filed prior to service of initial disclosures unless it is based on preclusion or lack of jurisdiction of the Board. Initial disclosures need not be filed with the Board unless they are filed in connection with a discovery motion, motion for summary judgment or notice of reliance (if documents are provided as initial disclosures).⁶

⁵ Information regarding disclosures can be located in the Board Manual of Procedure (TBMP) at Chapters 401.02, 401.03 and Chapter 702. If the parties are interested in making more extensive disclosures, the parties are referred to the Miscellaneous Changes to TTAB Rules, January 17, 2006, located at <http://www.uspto.gov/trademarks/process/appeal/index.jsp>.

⁶ Similarly expert disclosures and pretrial disclosures need not be filed with the Board unless the subject of a motion. The Board, however, should be notified if a party has made an expert

Other Options for Settlement/ACR

The Board advised the parties of other options available to settle this dispute including mediation and arbitration, discussing, in particular, the availability of Accelerated Case Resolution. Accelerated Case resolution materials and suggested "tracks" are available at <http://www.uspto.gov/trademarks/process/appeal/index.jsp>.

The parties are also referred to the TBMP Sections 528 and 702.04 regarding Accelerated Case Resolution.

Telephone Conferences with the Board

The Board advised the parties of the availability of conducting telephone conferences (with the interlocutory attorney) to expedite the resolution of disputes in the case.

Pro Se Information

Applicant is reminded that he will be expected to comply with all applicable Rules and Board practices during the remainder of this case. The Trademark Rules of Practice, other federal regulations governing practice before the Patent and Trademark Office, and many of the Federal Rules of Civil Procedure and Federal Rules of Evidence govern the conduct of this opposition proceeding.

disclosure so that the Board can consider whether suspension is necessary for expert discovery. TBMP Section 401.03.

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Applicant should note that Patent and Trademark Rule 11.14 permits any person or legal entity to represent him/herself in a Board proceeding, though it is generally advisable for those unfamiliar with the applicable rules to secure the services of an attorney familiar with such matters.

If applicant does not retain counsel, then applicant will have to familiarize himself with the rules governing this proceeding. On the World Wide Web, applicant may access most of these materials by logging onto <http://www.uspto.gov/> and making the connection to trademark materials.

The Trademark Rules are codified in part two of Title 37 of the Code of Federal Regulations (also referred to as the CFR). The CFR and the Federal Rules of Civil Procedure, are likely to be found at most law libraries, and may be available at some public libraries or online. The Trademark Rules are also located at <http://www.uspto.gov/trademarks/process/index.jsp>. Finally, the Board's manual of procedure (TBMP) will be helpful. The third edition (2011) of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) has been posted on the USPTO web site at http://www.uspto.gov/trademarks/process/appeal/Preface_TBMP.jsp.

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Files of TTAB proceedings can now be examined using TTABVue, accessible at <http://ttabvue.uspto.gov/ttabvue/>. After entering the 8-digit proceeding number, click on any entry in the prosecution history to view that paper in PDF format.

Proceedings herein are suspended for THIRTY DAYS from the January 11, 2012 discovery conference date for settlement. Opposer's amended notice of opposition will be due (filed and served) twenty days from resumption. Applicant's answer thereto will be due twenty days from the date of service by opposer of the amended notice of opposition.

Proceedings will automatically resume, without further notice from the Board on February 11, 2012 the schedule set forth below:

Initial Disclosures Due	3/12/12
Expert Disclosures Due	7/10/12
Discovery Closes	8/9/12
Plaintiff's Pretrial Disclosures	9/23/12
Plaintiff's 30-day Trial Period Ends	11/7/12
Defendant's Pretrial Disclosures	11/22/12
Defendant's 30-day Trial Period Ends	1/6/13
Plaintiff's Rebuttal Disclosures	1/21/13
Plaintiff's 15-day Rebuttal Period Ends	2/20/13

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.

Opposition No. 91201218

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.

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

REDBOX AUTOMATED RETAIL, LLC)

Opposer,)

v.)

STANLEY LEE BARNES)
d/b/a RED BOX TICKETS USA, LLC)

Applicant.)

Opposition No. 91201218

Serial No. 85/135,579

Mark: RED BOX TICKETS USA, LLC

OPPOSER'S MOTION FOR DEFAULT JUDGMENT

EXHIBIT B

ESTTA Tracking number: **ESTTA456157**

Filing date: **02/13/2012**

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

Proceeding	91201218
Party	Plaintiff Redbox Automated Retail, LLC
Correspondence Address	JAMES P MURAFF NEAL GERBER & EISENBERG LLP TWO NORTH LASALLE STREET, SUITE 1700 CHICAGO, IL 60602 UNITED STATES jmuraff@ngelaw.com, mhall@ngelaw.com, khinner@ngelaw.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	James P. Muraff
Filer's e-mail	jmuraff@ngelaw.com, kblouin@ngelaw.com, mbenson@ngelaw.com, mhall@ngelaw.com
Signature	/James P. Muraff/
Date	02/13/2012
Attachments	Notice of Filing_Opposer's Amended Notice of Opposition.pdf (15 pages) (341397 bytes)

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

In the Matter of Application)
Serial No.: 85/135,579)

Published in the Official Gazette)
On April 19, 2011)

REDBOX AUTOMATED RETAIL, LLC)

Opposer,)

v.)

Stanley Lee Barnes)
DBA Red Box Tickets USA, LLC)

Applicant.)

Opposition No. 91201218

NOTICE OF FILING OF OPPOSER'S AMENDED NOTICE OF OPPOSITION

Opposer, Redbox Automated Retail, LLC ("Opposer"), hereby files its Amended Notice of Opposition to Trademark Application No. 85/135,579.

1. On August 17, 2011, the Trademark Trial and Appeal Board (the "Board") initiated this Opposition proceeding.
2. On January 13, 2012, following a discovery conference, the Board suspended the proceeding for settlement discussions until February 11, 2012.
3. In its January 13, 2012 suspension order, the Board found Opposer's dilution claim insufficient for failure to allege fame of Opposer's mark prior to Applicant's use of the Subject Mark. The Board granted Opposer leave to amend the pleading to replead the dilution claim within twenty days from the resumption of the proceedings, or by March 2, 2012.

4. Accordingly, pursuant to Trademark Rule §2.107 and Fed. R. Civ. P. 15(a)(2),
Opposer hereby submits its Amended Notice of Opposition, which is attached hereto as Exhibit
A.

Respectfully submitted,

REDBOX AUTOMATED RETAIL, LLC

Date: February 13, 2012

By: /James P. Muraff/
James P. Muraff
One of the Attorneys for
Redbox Automated Retail, LLC
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street
Chicago, Illinois 60602-3801
(312) 269-8000 (telephone)
(312) 269-1747 (fax)

CERTIFICATE OF TRANSMISSION

I, James P. Muraff, hereby certify that the foregoing *Notice of Filing of Opposer's Amended Notice of Opposition* is being electronically transmitted via the Electronic System for Trademark Trials and Appeals ("ESTTA") at <http://estta.uspto.gov/> on the date noted below:

Date: February 13, 2012

By: / James P. Muraff/
Attorney for Redbox Automated Retail, LLC
James P. Muraff
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street, Suite 1700
Chicago, Illinois 60602-3801
(312) 269-8000

CERTIFICATE OF SERVICE

I, James P. Muraff, an attorney, state that, pursuant to 37 CFR §§ 2.101 and 2.119, I caused a true and correct copy of the foregoing *Notice of Filing of Opposer's Amended Notice of Opposition* to be served upon:

Stanley Lee Barnes
DBA Red Box Tickets USA, LLC
3127 St. Vincent
St. Louis, MO 63104
United States

via Email and Overnight Courier postage prepaid on February 13, 2012.

/James P. Muraff /
James P. Muraff

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

In the Matter of Application)
Serial No.: 85/135,579)

Published in the Official Gazette)
On April 19, 2011)

REDBOX AUTOMATED RETAIL, LLC)

Opposer,)

v.)

Stanley Lee Barnes)
DBA Red Box Tickets USA, LLC)

Applicant.)

Opposition No. 91201218

**EXHIBIT A TO NOTICE OF FILING OF
OPPOSER'S AMENDED NOTICE OF OPPOSITION**

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

In the Matter of Application)
Serial No.: 85/135579)

Published in the Official Gazette)
On April 19, 2011)

REDBOX AUTOMATED RETAIL, LLC)

Opposer,)

v.)

Stanley Lee Barnes)
DBA Red Box Tickets USA, LLC)

Applicant.)

Opposition No. 91201218

AMENDED
NOTICE OF OPPOSITION

This Amended Notice of Opposition is submitted in the matter of Application Serial No. 85/135579, for registration by Stanley Lee Barnes, of the term RED BOX TICKETS USA, LLC based on their use of that term in connection with "providing kiosks at retailers for the payment of traffic citations" in International Class 36, which published for opposition in the *Official Gazette* on April 19, 2011. Redbox Automated Retail, LLC, a Delaware Limited Liability Company having a place of business at One Tower Lane, Oakbrook Terrace, Illinois 60181, believes that it would be damaged by the registration and therefore opposes the same.

The grounds for Opposition herein are as follows:

1. Redbox Automated Retail, LLC, is a vendor of automated DVD rental services through automated kiosks. Opposer has more than 27,000 locations nationwide and has serviced over 40 million different customers. Opposer has REDBOX automated kiosks located across the United States in Quick Service Restaurants (QSR), pharmacies, grocery stores, discount stores, convenience stores, train stations, airports, and other locations nationwide.

2. For many years, and before the acts of Applicant alleged herein, Opposer has provided automated DVD rental services through kiosks at retailers under and in connection with its REDBOX trademark and trade name, establishing both common law rights as well as rights under the Lanham Act. Indeed, Opposer has devoted significant resources, time and effort to marketing and promoting its automated DVD rental services under the REDBOX trademark and trade name. Opposer maintains a website under the domain name www.redbox.com, which is available to all members of the trade and public, and which promotes its REDBOX kiosks and showcases its services.

3. As a result of the foregoing, Opposer has obtained a registration for the trademark REDBOX for use in connection with automated DVD rental services through kiosks and vending machines at retailers, including Registration Nos. 2,919,854, 2,988,869, 3,082,012, and 3,229,436, among others. Copies of the Trademark Registrations are attached hereto as Exhibit A. Opposer's REDBOX trademark, and its registration therefore, is now among its most valuable assets.

4. As a result of Opposer's extensive and continuous use of the REDBOX marks in connection with DVD rental services through kiosks and vending machines at retailers, the REDBOX mark in connection with automated DVD rentals through kiosks is widely recognized among the general public as being uniquely associated with Opposer. As a result of Opposer's great effort and expense, Opposer's REDBOX mark is famous within the meaning of the federal Lanham Act § 43 and was famous prior to the date of filing of Applicant's subject application.

5. On September 22, 2010, long after Opposer began use of and acquired fame in its REDBOX trademark, Applicant filed an application to register the term RED BOX TICKETS

USA, LLC based upon use in connection with "providing kiosks at retailers for the payment of traffic citations".

6. Applicant's use and registration of the term RED BOX TICKETS USA, LLC as a trademark is likely to cause confusion or mistake, or to deceive purchasers, in that purchasers would be likely to believe Applicant's services are Opposer's services, or are in some way legitimately connected with, sponsored by, or approved by Opposer in violation of 15 U.S.C. § 1052(d).

7. Additionally, Applicant's use of the term RED BOX TICKETS USA, LLC would dilute Opposer's distinctive, valuable and famous REDBOX trademark in violation of 15 U.S.C. § 1125(c). Applicant's registration of the term RED BOX TICKETS USA, LLC would, therefore, damage Opposer, and on that basis, Opposer opposes registration of the term RED BOX TICKETS USA, LLC by Applicant.

WHEREFORE, Opposer requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

Opposer requests that the requisite filing fee of \$300.00 be charged to the deposit account of Neal, Gerber & Eisenberg, LLP, Account No. 502261.

Respectfully submitted,

Date: February 13, 2012

By: James P. Muraff
James P. Muraff
One of the Attorneys for
Redbox Automated Retail, LLC
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street
Chicago, Illinois 60602-3801
(312) 269-8000 (telephone)
(312) 269-1747 (fax)

CERTIFICATE OF TRANSMISSION

I, James P. Muraff, hereby certify that the foregoing *Amended Notice of Opposition* is being electronically transmitted via the Electronic System for Trademark Trials and Appeals (“ESTTA”) at <http://estta.uspto.gov/> on the date noted below:

Date: February 13, 2012

By: James P. Muraff
Attorney for Redbox Automated Retail, LLC
James P. Muraff
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street, Suite 1700
Chicago, Illinois 60602-3801
(312) 269-8000

CERTIFICATE OF SERVICE

I, James P. Muraff, an attorney, state that, pursuant to 37 CFR §§ 2.101 and 2.119, I caused a true and correct copy of the foregoing *Amended Notice of Opposition* to be served upon:

Stanley Lee Barnes
DBA Red Box Tickets USA, LLC
3127 St. Vincent
St. Louis, MO 63104
United States

via Email and Overnight Courier postage prepaid on February 13, 2012.

/James P. Muraff /
James P. Muraff

Exhibit A

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,919,854

United States Patent and Trademark Office

Registered Jan. 18, 2005

**TRADEMARK
PRINCIPAL REGISTER**

REDBOX

FUTURE PROPERTY MANAGEMENT, INC. (DE-
LAWARE CORPORATION)
1013 CENTRE ROAD
WILMINGTON, DE 19805

FIRST USE 3-31-2003; IN COMMERCE 3-31-2003.

SN 78-201,219, FILED 1-8-2003.

FOR: VENDING MACHINES, IN CLASS 9 (U.S.
CLS. 21, 23, 26, 36 AND 38).

JENNIFER CHICOSKI, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 2,988,869

Registered Aug. 30, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

REDBOX

**FUTURE PROPERTY MANAGEMENT, INC. (DE-
LAWARE CORPORATION)
1013 CENTRE ROAD
WILMINGTON, DE 19805**

FIRST USE 3-31-2003; IN COMMERCE 3-31-2003.

SER. NO. 78-201,199, FILED 1-8-2003.

**FOR: AUTOMATED DVD RENTAL SERVICES, IN
CLASS 41 (U.S. CLS. 100, 101 AND 107).**

BARBARA GAYNOR, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 3,082,012

Registered Apr. 18, 2006

**SERVICE MARK
PRINCIPAL REGISTER**

REDBOX

REDBOX AUTOMATED RETAIL, LLC (DELA-
WARE CORPORATION)
ONE MCDONALD'S PLAZA
OAK BROOK, IL 60523

FOR: VENDING SERVICES, NAMELY, PROVID-
ING RETAIL FACILITIES FEATURING AUTOMA-
TED DVD RENTAL, IN CLASS 35 (U.S. CLS. 100, 101
AND 102).

FIRST USE 3-31-2003; IN COMMERCE 3-31-2003.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,919,854.

SER. NO. 78-514,282, FILED 11-10-2004.

CAROLINE WOOD, EXAMINING ATTORNEY

Int. Cls.: 9 and 41

Prior U.S. Cls.: 21, 23, 26, 36, 38, 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 3,229,436

Registered Apr. 17, 2007

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**



redbox

REDBOX AUTOMATED RETAIL, LLC (DELA-
WARE LTD LIAB CO)
ONE TOWER LANE, SUITE 1200
OAKBROOK TERRACE, IL 60181

FOR: VENDING MACHINES, IN CLASS 9 (U.S.
CLS. 21, 23, 26, 36 AND 38).

FIRST USE 5-0-2004; IN COMMERCE 5-0-2004.

FOR: RENTAL OF PRE-RECORDED DVDS ON A
VARIETY OF SUBJECTS THROUGH AUTOMATED
VENDING MACHINES, IN CLASS 41 (U.S. CLS. 100,
101 AND 107).

FIRST USE 5-0-2004; IN COMMERCE 5-0-2004.

OWNER OF U.S. REG. NOS. 2,919,854, 2,988,869,
AND 3,082,012.

THE MARK CONSISTS OF THE WORD "RED-
BOX" WITH AN ARC OVER THE WORD.

SER. NO. 78-866,011, FILED 4-20-2006.

GINA HAYES, EXAMINING ATTORNEY

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

REDBOX AUTOMATED RETAIL, LLC)

Opposer,)

v.)

STANLEY LEE BARNES)
d/b/a RED BOX TICKETS USA, LLC)

Applicant.)

Opposition No. 91201218

Serial No. 85/135,579

Mark: RED BOX TICKETS USA, LLC

OPPOSER'S MOTION FOR DEFAULT JUDGMENT

EXHIBIT C

April 26, 2012

VIA U.S. MAIL AND EMAIL

<REDBOXTICKETSUSA@GMAIL.COM AND <REACHYOU2007@YAHOO.COM>

Mr. Stanley Lee Barnes
Red Box Tickets USA, LLC
3127 St. Vincent
St. Louis, Missouri 63104

Re: **Redbox Automated Retail, LLC v. Stanley Lee Barnes**
d/b/a Red Box Tickets USA, LLC

Dear Mr. Barnes:

As it appears the parties are unable to reach a settlement at this time, we must move forward with our obligations to prepare this matter for trial.

In that regard, there are procedural matters that must be addressed. As you may recall, you participated in a discovery conference with Ms. Cheryl Goodman, the Interlocutory Attorney from the Trademark Trial and Appeal Board, and me on January 11, 2012. Following the conference, the Board issued an Order on January 13, 2012. In the Order, among other matters, the Board set forth dates that govern this proceeding. In compliance with the Order, Opposer filed and served an amended notice of opposition on February 13, 2012. You were ordered to file and serve an answer that complies with Federal Rule of Civil Procedure 8(b) (which was generally explained on pages 6 and 7 of the order) within 20 days, or by March 2, 2012. According to the rules of procedure, your answer is long overdue.

Please provide your answer by Thursday, May 3, 2012 so that we may avoid taking this matter before the Board. Also, please let us know if you have retained an attorney to represent your company, as advised by the Board in its order.

If you wish to reconsider your position regarding settlement, our client remains open to engaging in meaningful efforts toward that end. Otherwise, we shall expect to receive your answer no later than Thursday, May 3, 2012.

Sincerely,



James P. Muraff

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

REDBOX AUTOMATED RETAIL, LLC)

Opposer,)

v.)

STANLEY LEE BARNES)
d/b/a RED BOX TICKETS USA, LLC)

Applicant.)

Opposition No. 91201218

Serial No. 85/135,579

Mark: RED BOX TICKETS USA, LLC

OPPOSER'S MOTION FOR DEFAULT JUDGMENT

EXHIBIT D

Blouin, Kathleen E.

From: barnes stanley [redboxticketsusa@gmail.com]
Sent: Thursday, April 26, 2012 1:03 PM
To: Blouin, Kathleen E.; Benson, Mavis H.; Muraff, James P.; Cheryl.goodman@uspto.gov; Hall, Marianne A.
Subject: Fwd: Opposition No. 91201218 RED BOX TICKETS, USA, LLC Opposer's first set of Interrogatories / Production of documents / things.
Attachments: 85135579.pdf; 85135579 (2).pdf; xxxxxxx.doc



----- Forwarded message -----

From: barnes stanley <redboxticketsusa@gmail.com>
Date: Wed, Apr 11, 2012 at 11:54 AM
Subject: Opposition No. 91201218 RED BOX TICKETS, USA, LLC Opposer's first set of Interrogatories / Production of documents / things.
To: "Muraff, James P." <jmuraff@ngelaw.com>, Cheryl.goodman@uspto.gov, "Benson, Mavis H." <mbenson@ngelaw.com>, "Blouin, Kathleen E." <kblouin@ngelaw.com>, "Hall, Marianne A." <mhall@ngelaw.com>

Neal, Gerber & Eisenberg LLP,

Please find the the attached response to the Opposer's first set of Interrogatories and Production of documents and things.

Stanley Barnes, CEO
Red Box Tickets USA, LLC.
redboxticketsusa@gmail.com

This electronic mail message contains information which is (a) LEGALLY PRIVILEGED, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee (s) names herein. If you are not the Addressee (s), or the person responsible for delivering this to the Addressee (s), you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please contact us immediately at the telephone number shown below and take the steps necessary to delete the message completely from your computer system. Thank you.

--
Stanley Barnes, CEO
Red Box Tickets USA, LLC.
redboxticketsusa@gmail.com

This electronic mail message contains information which is (a) LEGALLY PRIVILEGED, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee (s) names herein. If you are not the Addressee (s), or the person responsible for delivering this to the Addressee (s), you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please contact us immediately at the telephone number shown below and take the steps necessary to delete the message completely from your computer system. Thank you.

To: Barnes,Stanley,Lee (reachyou2007@yahoo.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85135579 - RED BOX TICKETS
USA, LLC - N/A
Sent: 2/17/2011 6:57:27 PM
Sent As: ECOM104@USPTO.GOV
Attachments:

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

APPLICATION SERIAL NO. 85135579

MARK: RED BOX TICKETS USA, LLC

85135579

CORRESPONDENT ADDRESS:

BARNES,STANLEY,LEE
BARNES,STANLEY,LEE
3127 SAINT VINCENT AVE
SAINT LOUIS, MO 63104-1417

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Barnes,Stanley,Lee

**CORRESPONDENT'S REFERENCE/DOCKET
NO:** N/A

CORRESPONDENT E-MAIL ADDRESS:
reachyou2007@yahoo.com

EXAMINER'S AMENDMENT

ISSUE/MAILING DATE: 2/17/2011

APPLICATION HAS BEEN AMENDED: In accordance with the authorization granted by Stanley Lee Barnes on February 17, 2011, the trademark examining attorney has amended the application as indicated below. Please advise the undersigned immediately of any objections. Otherwise, no response is necessary. TMEP §707. Any amendments to the identification of goods and/or services may clarify or limit the goods and/or services, but may not add to or broaden the scope of the goods and/or services. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.* Applicant's substitute specimens and declaration are accepted.

Applicant Stanley Lee Barnes is an individual U.S. citizen.

The identification of services is amended to read as follows: "Providing kiosks at retailers for the payment of traffic citations, in International Class 36." See TMEP §§1402.01, 1402.01(e).

The following disclaimer statement is added to the record:

No claim is made to the exclusive right to use "TICKETS USA, LLC" apart from the mark as shown.

See 15 U.S.C. §1056(a); TMEP §§1213, 1213.08(a)(i).

/Barney L. Charlon/
Trademark Examining Attorney
Law Office 104
(571) 272-9141
(571) 273-9104 (fax)

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

To: Barnes, Stanley, Lee (reachyou2007@yahoo.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85135579 - RED BOX TICKETS
USA, LLC - N/A
Sent: 2/17/2011 6:57:28 PM
Sent As: ECOM104@USPTO.GOV
Attachments:

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

**USPTO LETTER (AN OFFICE ACTION) HAS ISSUED ON 2/17/2011 FOR
SERIAL NO. 85135579**

Please follow the instructions below:

TO READ OFFICE LETTER: Click on this [link](#) or go to <http://portal.uspto.gov/external/portal/tow> and enter the application serial number to access the Office letter

PLEASE NOTE: The Office letter may not be immediately available but will be viewable within 24 hours of this e-mail notification.

HELP: For *technical* assistance in accessing the Office correspondence, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office letter.

Trademark Snap Shot Publication & Issue Review Stylesheet
 (Table presents the data on Publication & Issue Review Complete)

OVERVIEW

SERIAL NUMBER	85135579	FILING DATE	09/22/2010
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHARLON, BARNEY LAWREN	L.O. ASSIGNED	104

PUB INFORMATION

RUN DATE	03/17/2011		
PUB DATE	04/19/2011		
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE		
STATUS DATE	03/16/2011		
LITERAL MARK ELEMENT	RED BOX TICKETS USA, LLC		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	RE PUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

--

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	RED BOX TICKETS USA, LLC
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Barnes, Stanley Lee
ADDRESS	3127 St. Vincent St. Louis, MO 63104
ENTITY	01-INDIVIDUAL
CITIZENSHIP	United States of America
DBA/AKA	DBA Red Box Tickets USA, LLC

GOODS AND SERVICES

INTERNATIONAL CLASS	036
DESCRIPTION TEXT	Providing kiosks at retailers for the payment of traffic citations

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	036	FIRST USE DATE	09/15/2010	FIRST USE IN COMMERCE DATE	09/15/2010	CLASS STATUS	6-ACTIVE
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MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	"TICKETS USA, LLC"

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
03/16/2011	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	020
03/16/2011	ALIE	A	ASSIGNED TO LIE	019
02/26/2011	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	018
02/26/2011	XAEC	I	EXAMINER'S AMENDMENT ENTERED	017
02/26/2011	XAEC	I	EXAMINER'S AMENDMENT ENTERED	016

02/26/2011	GNEA	O	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	015
02/26/2011	GNEA	O	EXAMINERS AMENDMENT E-MAILED	014
02/26/2011	CNEA	R	EXAMINERS AMENDMENT -WRITTEN	013
02/17/2011	XAEC	I	EXAMINER'S AMENDMENT ENTERED	012
02/17/2011	GNEA	O	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	011
02/17/2011	GNEA	O	EXAMINERS AMENDMENT E-MAILED	010
02/17/2011	CNEA	R	EXAMINERS AMENDMENT -WRITTEN	009
01/27/2011	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	008
01/27/2011	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	007
01/27/2011	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	006
01/05/2011	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	005
01/05/2011	GNRT	F	NON-FINAL ACTION E-MAILED	004
01/05/2011	CNRT	R	NON-FINAL ACTION WRITTEN	003
12/29/2010	DOCK	D	ASSIGNED TO EXAMINER	002
09/27/2010	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	NONE
CORRESPONDENCE ADDRESS	BARNES, STANLEY LEE BARNES, STANLEY LEE 3127 SAINT VINCENT AVE SAINT LOUIS, MO 63104
DOMESTIC REPRESENTATIVE	NONE

Red Box Tickets USA, LLC

Stanley Barnes, CEO

March 10, 2012

3127 St. Vincent

St. Louis, Missouri 63104

Subject: Opposition No. 91201218

INTERROGATORIES ANSWERS:

INTERROGATORY NO.1

Describe in detail the nature of each business or business activity conducted by Applicant:

These are the Facts of the case:

A) Red Box Tickets USA, LLC is owned and operated by Stanley Barnes Public Record.

B) Red Box Tickets USA, LLC has followed every State of Missouri rule and regulations regard operating a business in the State of Missouri.

The LLC Article provides a public record which clearly states Red Box Tickets USA, LLC Company's purpose: To provide marketing, consulting services, and discounted services to network organizations.

Fact:

Stanley Barnes Declaration Signature and Response Signature is a Public Record

Proposed:

Tracked Text Description:

Red Box Tickets USA, LLC operates discount ticket citation sites such as gas stations, and general stores. Red Box Tickets USA, LLC offers pre paid membership discounted service and nonprofit organization fund supports. Red Box Tickets USA, LLC provides amnesty programs and we are a referral service, ticket consolidation operation providing fundraiser services. Red Box Tickets USA, LLC services the United States as well as international clients. We have an automatic payment system Kiosk.

A party need not provide discovery with respect to those of its marks and goods and/or services that

Are not involved in the proceedings and have no relevance thereto. The Business regarding the matter is Traffic Citations.

INTERROGATORY NO. 2

Identify each instance in which Applicant has used Applicant's Mark, specifying in what geographic areas, by address, city and state.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order abandonment, the names of a minimal number of customers for a period, may be discoverable under the protective order. Applicants business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome. The Opposer INTERROGATORY NO. 2 are answered by reading INTERROGATORY NO.1.

INTERROGATORY NO. 3

Identify each person who has knowledge of (1) CIRCUMSTANCE OF APPLICANT'S selection and adoption of Applicant's Mark and (2) how it is being used, and is intended to be used in the future.

To the extent this interrogatory identifies more than ten (10) persons, limited the response to only those persons who possess the most or best knowledge.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order. (Note 3) However, the names of first customer for a party's involved goods or services sold under its involved mark, and , if there is a question of abandonment, the names of a minimal number of customers for a period, may be discoverable under the protective order. Applicants business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome. Opposer INTERROGATORY NO. 2 are answered by reading INTERROGATORY NO.1. Also answer INTERROGATORY NO.3. The requested data is public information and is on the World Wide Web.

INTERROGATORY NO. 4

State whether Applicant's Mark has been used on or in connection with any goods or services in interstate commerce. If it has been used, identify the use and the date of such use.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not

discoverable, even under the protective order. (Note 3) However, the names of first customer for a party's involved goods or services sold under its involved mark, and , if there is a question of abandonment, the names of a minimal number of customers for a period, may be discoverable under the protective order. Applicants business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome. The Opposer INTERROGATORY NO. 2 are answered by reading INTERROGATORY NO.1. Also answer INTERROGATORY NO.3.

INTERROGATORY NO. 5

Describe in detail all the goods and services that are offered by the Applicant in conjunction with Applicant's Mark identifying the dates on which Applicants first began such use(s) and the geographic areas in which such use occurred, if applicable.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order. (Note 3) However, the names of first customer for a party's involved goods or services sold under its involved mark, and , if there is a question of abandonment, the names of a minimal number of customers for a period, may be discoverable under the protective order. Applicants business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome. The Opposer INTERROGATORY NO. 2 are answered by reading INTERROGATORY NO.1. Also answer INTERROGATORY NO.3 and INTERROGATORY NO. 5

The answer is noted in Interrogatory No.21 September 15, 2010 for the date.

INTERROGATORY NO. 6

State the annual Sales and or gross revenues in U. S. Dollars of Applicant's goods and services offered in connection with the Applicant's Mark from the date of first use of Applicant's Mark,

Including a breakdown of geographic areas and specific locations of where such gross revenue was generated from, identifying the amounts from each location.

Complete compliance with this request for discovery is unduly burdensome; the Opposer has enough public information to meet the propounding party's discovery needs. The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order. Search reports are discoverable, but the comments or opinions of the attorneys relating thereto are privileged and not discoverable. Red Box Tickets USA, LLC further strikes this line of questioning and objects due to the fact That Mr. James Muraff one of the Attorneys for the Opposor actions displayed in a settlement phone conversation we found to be unethical.

INTERROGATORY NO. 7

Describe in detail the manner in which Applicant's Mark is promoted in the United States Including, But not limited to, forms of media, advertising, sponsorships and further identify the graphic regions in which said efforts are conducted.

Red Box Tickets USA, LLC. Has signed non disclosures statement with its clients and third party vendors in which each party has refused to give RED BOX TICKETS USA, LLC each party s permission to disclose the data to any third party. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

INTERROGATORY NO.8

For each marketing medium including Applicant's Mark since inception of each said advertisement and / or marketing campaign.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data. Note answer to INTERROGAORY NO.7

INTERROGATORY NO.9

Identify the person or persons who have been responsible for marketing or promotion of Applicant's goods and services under the Applicant's Mark indicating the period during which each person was so responsible. To the extent interrogatory identifies more than ten (10) persons; limit the response to only those persons who possess the most knowledge.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data. Note INTERROGATORY 7, 8 answers.

INTERROGATORY NO.10

Identify all advertisement agencies or third parties that have participated, cooperated or been involved in creating, producing or designing any advertising, marketing or promotion for the goods/services identified in response to Interrogatory No. 8, and indicate the time period(s) during which each third party was so involved.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data. . Note INTERROGATORY 7, 8, 9 answers.

INTERROGATORY NO.11

Describe in detail the channels of distribution by which the goods and / or services offered or intended to be offered in connection with the Applicant's Mark reach the ultimate user or consumer.

Stanley Barnes Declaration Signature and Response Signature is a Public Record

Proposed:

Tracked Text Description:

Red Box Tickets USA, LLC Operates discounted ticket citation site such as gas stations, general stores. Red Box Tickets USA, LLC offers pre paid membership discounted service and nonprofit organization fund supports. Red Box Tickets USA, LLC provides amnesty programs and we are a referral service, ticket consolidation operation providing fundraiser services. Red Box Tickets USA, LLC services the United States as well as international clients. We have an automatic payment system Kiosk.

INTERROGATORY NO.12

Identify and describe any and all trademark searches, Investigations, Polls, Studies, Evaluations, Analysis, Test, Rating, or surveys relating to Applicant's Mark, and any and all legal opinions relating to Opposer and Opposer's "Red BOX" marks.

Red Box Tickets USA, LLC filed and researched the application trade mark through the United States Patent and Trademark Office online filing system. The TMEP provides trademark examining attorneys in the USPTO, trademark applicants, and attorneys and representatives for trademark applicants with a reference work on the current law, practices, and procedures relative to the federal trademark application and registration process. The TMEP contains information and guidelines designed to assist USPTO examining attorneys in reviewing trademark application.

INTERROGATORY NO.13

State whether Applicant was aware of and had knowledge of Opposer, Opposer's business activities, and Opposer's Red Box Marks, prior to Applicant's selection adoption of Applicant's Mark.

Applicant was not aware of Opposer prior to being opposed. Applicant was only aware that Opposer's sole business activities were DVD movies after being Opposed. Applicant now know Traffic Citation Business is not the same line of business as Opposer.

INTERROGATORY NO.14

Describe in detail Applicant's reason for filing the Application.

Fact:

Stanley Barnes Declaration Signature and Response Signature is a Public Record

Proposed:

Tracked Text Description:

Red Box Tickets USA, LLC operates discounted ticket citation site such as gas stations, general stores. Red Box Tickets USA, LLC offers pre paid membership discounted service and nonprofit organization fund supports. Red Box Tickets USA, LLC provides amnesty programs and we are a referral service,

ticket consolidation operation providing fundraiser services. Red Box Tickets USA, LLC services the United States as well as international clients. We have an automatic payment system Kiosk.

INTERROGATORY NO.15

Identify the location of each of the Applicant's kiosks bearing Applicant's Mark and for each identify the name of the retailer or entity that owns or control the property at which the kiosk is featured.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data.

INTERROGATORY NO.16

Identify the date Applicant's first kiosk was installed and address where it was installed.

The Applicant's first kiosk was a mobile kiosk transported from location to location.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data.

INTERROGATORY NO.17

Identify any actual consumers of Applicant's products and services offered or sold in connection with Applicant's Mark.

Red Box Tickets USA, LLC can not disclosed consumer personal information with any third party

This required report would be illegal to provide consumers personal data and their rights to privacy.

INTERROGATORY NO.18

Identify the third party vendor, manufacturer or supplier that the applicant purchased its kiosks from.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order.

INTERROGATORY NO.19

Identify the third party vendor, manufacturer or supplier that the Applicant hired to transport and install its kiosks.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order.

INTERROGATORY NO.20

Identify all terms and other than "Red Box Tickets USA, LLC" that were proposed or considered for the use by Applicant at anytime in connection with the same goods or service identified in the Application.

The only time another name was considered was in settlement talks with the Opposer.

Ticket Citation Box was the only name and prior to this time never was another name considered in connection with the same goods or services identified in the Application.

INTERROGATORY NO.21

Identify all activities evidencing Applicant's alleged use of Applicant's Mark in commerce in connection the goods identified in the Application at least as September 15, 2010.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order.

Complete Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient, information to meet the propounding party's discovery needs.

INTERROGATORY NO.22

Identify any third parties Applicant has contacted regarding a possible revenue share agreement
In connection with or relating to Applicant's business activities.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order.

Complete Compliance with this request for discovery is unduly burdensome, the Opposer has enough Sufficient, information to meet the propounding party's discovery needs. Red Box Tickets further strikes this line of questioning and Red Box Tickets USA, LLC further objects to this line of questioning due to the fact That Mr. James Muraff one of the Attorneys for the Opposor actions displayed in a settlement phone conversation we found to be unethical. Red Box Tickets USA, LLC Has third sign Non Discloser agreements and clients refused to sign waivers to disclose.

INTERROGATORY NO.23

Identify all third parties that Applicant has contacted regarding the sale or offering of advertising or marketing in connection with Applicant's kiosks.

Noted t he answers in INTERROGATORY NO. 7, 8,9,10

Red Box Tickets USA, LLC. Has signed non disclosures statement with its clients and third party vendors in which each party has refused to give RED BOX TICKETS USA, LLC each party s permission to disclose the data to any third party. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

INTERROGATORY NO.24

Identify all entities that currently advertise on or in connection with Applicant's kiosks and for each identify the revenue arrangement.

Red Box Tickets USA, LLC. Has signed non disclosures statement with its clients and third party vendors in which each party has refused to give RED BOX TICKETS USA, LLC each party s permission to disclose the data to any third party. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC further strikes and objects to this line of due to the fact that Mr. James Muraff one of the Attorneys for the Opposor actions displayed in a settlement phone conversation we found to be unethical and misleading.

Dated: March 10, 2012

By: Stanley Barnes, CEO

Red Box Tickets USA, LLC

I, Stanley Barnes, state that I served a reply to the foregoing Opposer's First Set of Interrogatories upon the following party:

Neal, Gerber & Eisenberg LLP.

Two North LaSalle Street Suite

Chicago, IL 60602

312-269-8000

Stanley Barnes, CEO

March 10, 2012

3127 St. Vincent

St. Louis, Missouri 63104

Subject: Opposition No. 91201218

Response to Request for Production O Documents and Things

All documents evidencing, referring, or relating to the selection or adoption by Applicant of Applicant's Mark.

These documents are filed electronically USPTO.GOV. Red Box Tickets USA, LLC filed and researched the application trade mark through the United States Patent and Trademark Office online filing system. The TMEP provides trademark examining attorneys in the USPTO, trademark applicants, and attorneys and representatives for trademark applicants with a reference work on the current law, practices, and procedures relative to the federal trademark application and registration process. The TMEP contains information and guidelines designed to assist USPTO examining attorneys in reviewing trademark application.

See Attached Exhibited A

Regarding each selected 2 requests for documents and things the following is the answer for each questions is as follows:

Complete compliance with this request for Response for production of documents and things is unduly burdensome and the Opposer already has sufficient information.

Have no relations to a simple agreement to change our companies name and a settlement offer for the cost to changed said items. The cost to change said item has been already provided to you via email invoice.

The Opposer has enough sufficient information to answer each request from 1-26

And including the additional item marked 26. For prior settlement talks and answering the Interrogatories.

Search reports are discoverable, but the comments or opinions of attorneys relating thereto are privileged and not discoverable.

Regardless of when proceedings commenced a party is not required, in advance of trial, to disclose each document or exhibit it plans to introduce.

We also, note that a party need not provide discovery with respect to those of its marks and goods and/ or services that are not involved in the proceedings and have no relevance thereto.

Dated: March 10, 2012

By: Stanley Barnes, CEO

Red Box Tickets USA, LLC

I, Stanley Barnes, state that I served a reply to the foregoing Opposer's First request for production of Documents and things upon the following party:

Neal, Gerber & Eisenberg LLP.

Two North LaSalle Street Suite

Chicago, IL 60602

312-269-8000

Blouin, Kathleen E.

From: barnes stanley [redboxticketsusa@gmail.com]
Sent: Thursday, April 26, 2012 1:13 PM
To: Muraff, James P.; Benson, Mavis H.; Blouin, Kathleen E.; Hall, Marianne A.; Cheryl.goodman@uspto.gov
Subject: Fwd: Applicate's First Set of Interrogatories To Opposer Opposition No. 91201218
Follow Up Flag: Follow up
Flag Status: Completed

Mr. Muraff,

We have not recieved any response to Red Box Tickets USA, LLC / Applicate's First Set of Interrogatories.

Please respond.

Regards,

Red Box Tickets USA, LLC.
Stanley Barnes

----- Forwarded message -----

From: barnes stanley <redboxticketsusa@gmail.com>
Date: Mon, Apr 16, 2012 at 3:18 PM
Subject: Applicate's First Set of Interrogatories To Opposer Opposition No. 91201218
To: "Muraff, James P." <jmuraff@ngelaw.com>, Cheryl.goodman@uspto.gov, "Benson, Mavis H." <mbenson@ngelaw.com>, "Blouin, Kathleen E." <kblouin@ngelaw.com>, "Hall, Marianne A." <mhall@ngelaw.com>

In the United States Patent And Trademark Office Before The Trademak Trial And Appeal Board

Stanley Lee Barnes
dba/ Red Box Tickets USA, LLC

Serial No. 85/135579

Applicant

V.

Redbox Automated Retail, LLC

Applicant's First Set of Interrogatories to the Opposer

Pursuant to 37 C.F.R. .120 and Rule 33 of the federal rules of Civil Procedures,

Applicant, Red Box Tickets USA, LLC, hereby request that the Opposer , Redbox Automated Retail, LLC and his predecessors, representatives, agents, employees, and other persons acting on his behalf or on behalf of his predecessors.

A. The term "Applicant" shall mean Stanley Barnes, dba/ Red Box Tickets USA, LLC and its predecessors, agents, employees and other persons acting on its behalf or on behalf of its predecessors.

B. The term "Opposer" Redbox Automated Retail, LLC and its predecessors, agents, employees and other persons acting on its behalf or on behalf of its predecessors.

Interrogatories

Interrogatory 1

Identify each instance in which Acting Agent for the Opposer shared the Applicants Interest to resolve the current issue by sharing the settlement agreement from the Applicant with the Clinet of Redbox Automated Retail.

Interrogatory 2

State whether the exact date Opposer client Redbox Automated Retail , LLC has offered membership services prior to Opposing the Applicant Application

Interrogatory 3

State whether Redbox Automated Retail , LLC has currently been in the Traffic Citation Business offering membership , funding raising programs and non profit group support proior to Opposing the Applicant.

Interrogatory 4

State whether Redbox Automated LLC is activitly working in the Traffic Citation business before or after the Opposing the Applicant.

Interrogatory 5

Identify each instance and exact dates in which the acting Agent share with the Opposer that Red Box Tickets USA, LLC would be interested in selling the Application Trademark's rights for Ticket Citation.

Interrogatory 6

Identify world wide in scope if Redbox Automated Retail , LLC is currently in the Traffic Citation Business or using any other company names Such as CoinStar , associates or employees to conduct Traffic Citation Business online or via Kiosk

Interrogatory 7

How Long has Redbox Retail Automated or CoinStar or any of its employees or agents been offering the services for Traffic Tickets, Traffic Citations, Membership programs through third party vendors, manufacturer or supplier via Kiosks or websites.

Interrogatory 8

State the annual sales and or/ gross revues in US dollars spent to research the Traffic , Citation, Kiosks and membership programs business.

Interrogatory 9

Identify the reason for Opposing the Applicant Application and is Redbox Automated Retail, LLC seeking to enter into the same line of Business as the Applicant.

Interrogatory 10

Identify any consumers of Opposer that use Opposer traffic citation Kiosk are Location in which both Kisok are located.

Interrogatory 11

State whether the Opposer has business Activities in the Traffic,Citation and Membership Business.

Interrogatory 12

State whether the Opposer or any of it's third party companies are active in the Traffic, Citation, and Membership Business .

Interrogatory 13

Identify the first date that The Opposer first kiosk was installed for Traffic,Citation and memberships was installed for DVD Movies.

Interrogatory 14

Identify and describe any and all investigations,polls, studies,evaluations,analysis,tests,rating. or surveys relating to Opposer

going into the Business of Traffic , Citation via online or Kiosks.

I, Stanley Barnes, State that I served a copy of the foregoing Applicant's First Set of Interrogatories to Opposer upon the following party:

The term "Applicant" shall mean Stanley Barnes, dba/ Red Box Tickets USA, LLC and its predecessors, agents, employees and other persons acting on its behalf or on behalf of its predecessors.

The term "Applicant" shall mean Stanley Barnes, dba/ Red Box Tickets USA, LLC and its predecessors, agents, employees and other persons acting on its behalf or on behalf of its predecessors.

I, Stanley L. Barnes, state that I served a copy of the foregoing Applicant's First Set of Interrogatories to Opposer upon the following party:

James P. Muraff, Esq.
Kathleen E. Blouin, Esq
Neal, Gerber & Eisenbreg LLP
2 North LaSalle Street Suite 1700
Chicago, Illinois 60602

via email to: "Muraff, James P." <jmuraff@ngelaw.com>, Cheryl.goodman@uspto.gov, "Benson, Mavis H." <mbenson@ngelaw.com>, "Blouin, Kathleen E." <kblouin@ngelaw.com>, "Hall, Marianne A." <mhall@ngelaw.com>,

Stanley Barnes, CEO
Red Box Tickets USA, LLC.
redboxticketsusa@gmail.com

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--

Stanley Barnes, CEO
Red Box Tickets USA, LLC.
redboxticketsusa@gmail.com

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