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

Proceeding	91205896
Party	Defendant Wild Brain Entertainment, Inc.
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Submission	Motion to Compel Discovery
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Attachments	Motion to Compel (July 2014).pdf(71094 bytes) Motion to Compel EXHIBITS A-E (July 2014).pdf(547809 bytes) Motion to Compel EXHIBIT F (July 2014).pdf(5964244 bytes) Motion to Compel EXHIBITS G-I (July 2014).pdf(606839 bytes)

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

BEAU L. TARDY,

Opposer,

Opp. No. 91205896

v.

WILD BRAIN ENTERTAINMENT, INC.

Applicant.

APPLICANT’S MOTION TO COMPEL DISCOVERY

Applicant, Wild Brain Entertainment, Inc., moves pursuant to Trademark Rule 2.120(e) for an order compelling Opposer, Beau L. Tardy, to produce documents and things and to answer interrogatories relating to his claimed past use of the mark “DIZZY” and other topics. Wild Brain has made a good faith effort to resolve this discovery dispute with Opposer, but the parties have been unable to resolve their difference. Thus, Board intervention unfortunately is needed.

BACKGROUND

Wild Brain is a subsidiary of DHX Media Ltd., an award-winning entertainment company and one of the world's foremost producers of animation. Wild Brain (defined here to include DHX) develops television, motion pictures, short-form programming, commercial content, and consumer products, and its slate of developed programming includes the critically acclaimed children’s television series INSPECTOR GADGET (U.S. Reg. No. 1968662); TELETUBBIES (U.S. Reg. No. 2333899); YO GABBA GABBA (U.S. Reg. No. 3978391); and others.

In 2010, Wild Brain (as part of a larger partnership) developed a new animated children's program entitled "UMIGO." UMIGO ("yoU Make It GO") is a unique and innovative transmedia experience for children ages two through eight that provides children with opportunities to learn basic principles of mathematics through child-initiated learning and play. UMIGO also encourages children to develop and refine their abilities to think creatively, invent, and work collaboratively. These educational and developmental goals are intended to help early learners obtain skills that prepare them for school and remain on grade level.

One of the animated characters that Wild Brain developed for the UMIGO world is "Dizzy"—a tall, blue creature who is always concocting challenges for himself and his counterpart "Bit," a silent, Zen-like, methodical math-wiz. Working together the two friends solve problems, have adventures, and help to impart basic math skills to young children.

In January 2012, Wild Brain filed applications to register the mark DIZZY for a wide range of goods, anticipating that its "Dizzy" character would be well-received and spawn sales of show-related merchandise. The application at issue in this opposition (Serial No. 85509929) specifically seeks to protect the mark in connection with use on goods in Class 9, including "downloadable computer games," "motion picture films," and "pre-recorded ... [DVDs]," among others. Such goods are of the sort a media company will commonly market and produce once an animated program has been established. *Cf., e.g.*, U.S. Reg. Nos. 3951067, 3951068, 3951069, 3951070, 3998373, 4002621 (various registrations covering ancillary goods for YO GABBA GABBA, all of which were filed based on an intent to use before the first "Yo Gabba Gabba!" television show even aired); *see also Blair Corp. v. Fassinger*, 2008 WL 4674607, *4-5 (TTAB 2008) (finding that applicant had a *bona fide* intent to use her mark where "her plan

[was] to first sell her series of books, and the literary character MALLORY VALERIE BLAIR, followed by the marketing of the associated products identified in her application”); *see also Spin Master, Ltd. v. Zobmondo Entertainment, LLC*, 778 F. Supp.2d 1052, 1063, n.13 (C.D. Cal. 2011) (finding no intent to deceive as to intent to use in a case “factually similar” to *Blair*).

Opposer initiated this Opposition in July 2012, claiming he had standing based on use of the DIZZY mark by “Dizzy Worldwide Corp.” (of which he was supposedly the principal) for similar goods and services for “over ten years,” and expressing a concern that confusion would likely arise if Wild Brain used its mark for the specified goods. *See* D.I. 1. In its Answer, Wild Brain, among other actions, denied that Opposer had standing under the pleaded facts, pointing out that Dizzy Worldwide Corp. was a long-defunct company. *See* D.I. 4. In September 2012, Opposer filed an application to register DIZZY in his own name in an effort to fix his standing problem. *See* Serial No. 85741800. In that application (which was filed under Section 1(a)), Opposer claimed that he had used the DIZZY mark since December 1996 for goods that mirror many of those Wild Brain seeks to cover, and he attached a specimen (from 2012) to support that “use.” *See id.* He also represented in his application that he was not aware of any party having superior rights to his to use the DIZZY mark in commerce for the covered goods. *See id.*

The following month, Opposer amended his Notice of Opposition and asserted an additional ground for standing—namely, his ownership of the new DIZZY application. *See* D.I. 9, pp. 4-5 (¶ 3). Opposer, however, continued to plead and rely on priority. *See id.*, ¶¶ 1, 4. He also raised a new claim—that Wild Brain supposedly lacked a *bona fide* intent to use the DIZZY mark—and relied on that as an alternate basis to oppose registration. *See id.*, pp. 6-9, ¶¶ 10-29.

After Wild Brain raised concerns as to Opposer's amended notice (*see* D.I. 11), and following a detailed Board discussion (D.I. 12) about the filing, Opposer filed a Second Amended Notice of Opposition (D.I. 15) (February 2013). Shortly thereafter, Opposer filed a Third Amended Notice (D.I. 22) (November 2013), and he recently filed a Fourth (D.I. 32) (March 2014) (attached as Exhibit A). In the Second and Third Notices, Opposer continued to assert priority in the DIZZY mark and to plead confusion. *See* D.I. 15, 22. By way of the Fourth Notice, however, Opposer withdrew his confusion claim—which, given that similarity of marks and goods was not at issue, was just a claim of priority—with prejudice, meaning he cannot now claim that he is the prior user of the DIZZY mark. *See* Ex. A, p. 1; *see also* 37 CFR § 2.106(c).

Notwithstanding the above, however, Opposer continues to maintain in his pending application (Serial No. 85741800) that he has used the DIZZY mark since December 1996, and he still relies on that application in his Fourth Notice to establish standing. *See* Ex. A, pp. 2-36 (¶ 2). Furthermore, Opposer continues to assert in his Fourth Notice that “DIZZY is the brand name owned by [Opposer] as an individual and as several business entities and has been a company name, merchandise, pop culture websites, cartoon character, TV show, comics, and web streaming entertainment.” *Id.*, p. 2 [sic]. Opposer also claims that “Dizzy went from being the name of a business that provided productions services, to a brand of its own.” *See id.*

THE DISCOVERY AT ISSUE

To get a firmer grasp on Opposer's changing standing claims and factual allegations, Wild Brain served a series of discovery requests designed to explore the factual basis for Opposer's many assertions about his alleged past use. Through its Document Requests (attached

as Exhibit B), for example, Wild Brain seeks documents concerning the chain of title in and past owners of the DIZZY mark (Req. Nos. 1-2, 15-17, 21-22); the alleged past use of the mark both as “a company name” and with “merchandise,” “pop culture websites,” “cartoon character,” “TV show,” “comics,” and “web streaming entertainment” (Req. Nos. 3-9); *cf.* Ex. A, p. 2; assertions (which Opposer makes for the purposes of establishing standing) that Opposer has engaged in activity that makes him a competitor (Req. Nos. 10-11); *cf.* Ex. A, ¶ 1; prior claims made by Opposer that he has common law rights in the mark (Req. Nos. 12-14, 23-24); search reports relating to the DIZZY mark (Req. No. 19); prior registrations for the DIZZY mark (Req. Nos. 20); sales under the mark (Req. Nos. 25-29, 38-40); marketing and promotional activity (Req. No. 30); product and service samples (Req. Nos. 31-32, 37); prior legal conflicts (Req. Nos. 33-34); licensing activity (Req. No. 35); Applicant (Req. No. 36); and Opposer’s pending trademark application (Req. No. 41). Meanwhile, Wild Brain’s Interrogatories (attached as Exhibit C) call for narrative answers on mostly the same general issues. *See generally* Ex. C.

Opposer, however, has flatly refused to produce any material relating to his claimed ownership or past use of DIZZY mark, including evidence that would support the allegations he makes in the Fourth Amended Notice. In response to each substantive discovery request (document or interrogatory), Opposer raises the same, boilerplate “relevancy” objections:

Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Responses to Applicant’s First Set of Document Requests (attached as Exhibit D)

Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Responses to Applicant's First Set of Interrogatories (attached as Exhibit E)

Moreover, Opposer's statement (made in response to certain propounded document requests) that he will produce material "subject to" his objection is a canard. To date, Opposer has only produced a handful of documents in this case: a printout purporting to track visits to a website Opposer operates; a copy of a "DIZZY" comic strip that evidently ran earlier this year (in February 2014); a copy of the public file wrapper for Serial No. 85741800; and "specimens" of goods, all of which seem to date back to no earlier than September 2012. *See* Exhibit F.

Opposer evidently believes that he can simply rely on the allegations he made about supposedly being a "competitor" of Wild Brain and having used DIZZY as a "brand," *cf.*, *e.g.*, D.I. 1, ¶ 1; Ex. A, p. 2, as well as maintain a claim of standing based on an application he filed in which he claims "use," *see* Ex. A, pp. 2-3, without having to respond to discovery relating to those claims and contentions. Opposer's position is unsupportable, and he should be compelled to produce documents and answers that relate to the merits of his factual and legal claims.

On June 18, 2014, Wild Brain attempted in good faith to confer with Opposer about his discovery deficiencies, but Opposer refused to participate in a meet-and-confer conference unless a representative of the Board was also involved. *See* Exhibit G. Wild Brain explained that the Rules do not authorize the parties to request that the Board oversee every run-of-the-mill meet-and-confer session (as opposed to a Rule 26(f) conference), *see* Exhibit H; *cf.* D.I. 2, p. 3;

TBMP, § 401.01, but Opposer stood by his position that Board involvement is required.¹ *See* Exhibit I. In correspondence relating to Wild Brain’s efforts to schedule the meet-and-confer conference, however, Opposer repeatedly asserted that he believes his objections were proper. *See id.* Thus, it is likely that further discussions would not have resolved this dispute.

ARGUMENT

It is not necessary to offer much argument in support of this motion. Ostensibly, the question to consider is whether the discovery sought is relevant to these proceedings. *See* Fed. R. Civ. P. 26(b)(1). However, given that Opposer *references* his prior use in support of both his original Notice of Opposition and his Fourth Amended Notice of Opposition, and he is relying on that claim of prior use to support an application to register the DIZZY mark (and on which application he then further relies for standing), *see infra*, that question resolves itself. *See also* D.I. 21 (stating that discovery in this matter “should be focused primarily on opposer’s pleaded common law rights in the DIZZY mark, including chain of title in the pleaded mark”).

For example, Opposer alleges in the Fourth Notice that he has standing because he “is a competitor of Applicant” who owns the “DIZZY ... brand name,” which he allegedly has used as “a company name, merchandise, pop culture websites, cartoon character, TV show, comics, and web streaming entertainment.” *See* Ex. A, ¶ 1. Opposer further alleged in his original Notice of Opposition that he had standing because of his ownership and use of the DIZZY name “since

¹ Opposer claims that during the November 4, 2013, Rule 26(f) discovery conference, the parties and the assigned Interlocutory Attorney supposedly discussed the Board participating in any meet-and-confer sessions. *See* Exhibit I. The Board’s post-conference Order, however, makes no mention of a special arrangement, and simply notes instead that if the parties refuse to cooperate in the discovery process, the Board *has the authority* “**to require** a telephone conference prior to the filing of any motion to compel discovery.” *See* D.I. 21, p. 10, n.7 (emphasis added).

1997.” *See* D.I. 1, ¶ 1. The Board and Wild Brain, however, are asked to accept blindly these allegations because Opposer is refusing to produce any evidence relating to such past use.

Absent evidence of past use (and right now, there *is* no such evidence), Opposer’s standing story changes markedly. He goes from supposedly being an aggrieved competitor with long-standing rights in the DIZZY name (the picture Opposer presented in his original Notice) to a mere interloper—a person who, even though he has no historical connection to the DIZZY mark, nonetheless opposed Wild Brain’s application (back in July 2012) based on a false claim of priority and who then, months after the opposition began, filed his own application to register DIZZY and made misrepresentations on that application, both when he claimed to have made prior use of the mark since December 1996, and when he attested in his declaration that he was not aware of another party (such as Wild Brain) having superior rights in the DIZZY name.

If that is the story Opposer intends to tell, then Wild Brain will concede that discovery as to Opposer’s past involved with the DIZZY mark is not required, and the parties can proceed straight to a motion to dismiss. After all, a party must have standing **at the time it initiates a proceeding**, *see, e.g., Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 191 (2000), and the subsequent acquisition of standing cannot “relate back” and save what amounts to a jurisdictional defect. *See, e.g., Gaia Technologies, Inc. v. Reconversion Technologies, Inc.*, 93 F.3d 774, 777-78 (Fed. Cir. 1996). Consequently, the veracity of Opposer’s claim of standing that he made **in his original Notice of Opposition** (and which was based on his allegations of priority; *see* D.I. 1, ¶ 1) is relevant to this action, as are Opposer’s continued allegations today that he has “used” the mark (a statement he has made both in his Fourth Amended Notice and in support of his later-filed application to register the DIZZY mark).

CONCLUSION

The discovery sought by Wild Brain is highly relevant to this case. The Board should therefore overrule the identical “relevance” objections that Opposer made to every document request and substantive interrogatory, and order that Opposer respond to the each of the requests as propounded (and against which Opposer has generally not asserted any other objections).

Respectfully submitted,

Dated: July 11, 2014

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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing *Applicant's Motion to Compel Discovery* was served on the parties or counsel indicated below by electronic mail sent to the address(es) listed below (as agreed to by the parties):

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Dated: July 11, 2014

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*Counsel for Applicant,
Wild Brain Entertainment, Inc.*

Exhibit A

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

Opposition Proceeding 91205896

In the matter of Trademark Application No. 85509929

For the mark: DIZZY

Published for Opposition Date: June 5, 2012

Beau Tardy, Opposer/Opposer

v.

Wild Brain Entertainment, Inc., Applicant

FOURTH AMENDED NOTICE OF OPPOSITION

The above-identified Opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same. On July 3, 2012, Opposer timely filed a Notice of Opposition against the above-identified application.

Opposer through its counsel now amends its Notice of Opposition. This Amended Notice of Opposition is intended to supercede and completely replace the prior pleading. For purposes of expediency, the prior rights of the Opposer and the ground of likelihood of confusion have been withdrawn by Opposer.

Based upon information and belief, Opposer avers it will be damaged by the registration of the opposed mark and asks the Board to sustain the opposition in favor of the Opposer.

Opposer submits that actions by Applicant thwart the intent to use provisions set forth by Congress by reserving rights in the mark and using the system to traffic in marks.

Standing. Opposer is a competitor of Applicant. DIZZY is the brand name owned by Beau Tardy as an individual and as several business entities ~~continuously, substantially~~ ~~exclusively, openly and obviously throughout the years 1996 to present (2012).~~ The DIZZY name is and has been a company name, merchandise, pop culture websites, cartoon character, TV show, comics, and web streaming entertainment. Dizzy went from being the name of a business that provided production services, to a brand on its own.

1. Both parties produce cartoon characters for entertainment purposes and use these characters to advertise collateral goods and entertainment services. The web site for Wild Brain Entertainment www.wildbrain.com self-identifies that it: "Provides animation for commercials, TV series, feature films and other media." Opposer has therefore established its standing because of its interest as a competitor. See *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982); *Cerveceria Modelo S.A. de C.V. v. R.B. Marco & Sons Inc.*, 55 USPQ2d 1298 (TTAB 2000); and *Hartwell Co. v. Shane*, 17 USPQ2d 1569 (TTAB 1990).
2. **Additional Standing.** Opposer has a pending trademark application SN 85741800 (see Exhibit A) for DIZZY for IC 009: *Digital materials, namely, CDs featuring television programs, cartoons, music in the field of entertainment; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring animation; Digital media, namely, DVDs, downloadable audio and video recordings, downloadable files featuring television programs, cartoons, music in the field of entertainment;*

Downloadable videos and downloadable audio visual recordings featuring television programs, cartoons, music in the field of entertainment via the internet and wireless devices; Prerecorded digital video disks featuring television programs, cartoons, music in the field of entertainment; Prerecorded video cassettes featuring television programs, cartoons, music in the field of entertainment refused because of a likelihood of confusion under Trademark Act Section 2(d), 15 U.S.C. §1052(d) because of a likelihood of confusion with the subject pending application. Opposer has standing under *Life Zone Inc. v. Middleman Group Inc.*, 87 USPQ2d 1953 (TTAB 2008).

3. **Applicant.** Applicant Wild Brain Entertainment Inc. submitted an intent to use application and is attempting to register the word mark DIZZY for IC 9 for *Electrical and scientific apparatus, namely, electronic game software; computer game software; downloadable computer games; computer and video-game cassettes, cartridges, discs and programs; downloadable game software; motion picture films featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; pre-recorded video and audio cassettes, video and audio tapes, video and audio discs, CD ROMs, compact discs, digital versatile discs, musical video recordings, musical sound recordings and phonograph records featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; software and manuals sold as a unit in the field of children's education, namely, for use in creating, updating and maintaining calendars, for information management and for use as computer screen savers; decorative refrigerator magnets; hand held units for playing electronic games for use with external display screen or monitor.*

4. **Lack of Bona Fide Intent-to-Use Grounds.** Upon information and belief Applicant did not have a bona fide intention to use the mark in commerce on all the specified goods when it filed this and its other applications covering DIZZY for the many goods specified therein under Trademark Act § 1(b), 15 U.S.C. § 1052(b). *Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503, 1506 (TTAB 1993).
5. Applicant has shown a propensity for applying for trademarks for goods and goods categories for which it did not file Statements of Use (TEAM SMITHEREEN SN 77581487, OKI'S OASIS SN 77015865) indicating applications may be made merely to reserve a right in a mark. *Paramount Pictures Corp. v. White*, 31 USPQ 1768 (TTAB 1996) (“use in commerce” involves the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark).
 - a. Applicant has shown a propensity for applying for long lists of trademark goods to reserve rights in potential collateral items in the name of characters.
 - b. This application for DIZZY, SN 85509929 has over 20 goods in the list.
 - c. During this proceeding on September 2, 2013, Applicant abandoned a DIZZY mark SN 85509933 for failing to file a Statement of Use for the following list of goods: Toys, games and sporting goods, namely, board games, card games, play figures and accessories therefor, action figures and accessories therefor, toy figures, electric action toys, mechanical action toys, dolls and accessories therefor, doll playsets, plush toys, stuffed toys, puppets, windup toys, dominoes, jigsaw puzzles, manipulative games, marbles, paddle ball games, yo-yo's, balloons, jump ropes, kites and accessories therefor, namely, kite boards, kite handles, kite string, kite tails and kite reels, bubble making wands

and solution sets, magic tricks, bath toys, play swimming pools, toy vehicles and accessories therefor, toy model hobby craft kits, toy banks, toy boxes, toy guns, toy holsters, toy archery bows and arrows, toy rockets, toy bucket and shovel sets, children's play cosmetics, baby rattles, baby multiple activity toys, toy construction blocks, musical toys, target games, action skill games, balls, namely, baseballs, basketballs, footballs, golf balls, tennis balls, playground balls, sport balls, soccer balls, volleyballs, rubber balls, foam rubber balls, baseball bats, baseball gloves, flying disks, disc type toss toys, body boards, badminton sets, dart flights, golf club head covers, roller skates, skateboards, toy scooters, swim fins, swim floats for recreational use, face masks, pinball-type games, Christmas tree decorations, egg decorating kits, hand held units for playing electronic games other than those adapted for use with an external display screen or monitor, arcade game machines, arcade-type electronic video game machines, pinball machines, pinball-type game machines, stand-alone video game machines, LCD game machines, beach balls, in-line skates, ride-on toys, toy swords, and playing cards.

- d. During this proceeding on September 2, 2013, Applicant abandoned a DIZZY mark SN 85509926 for failing to file a Statement of Use with over 30 goods in the list: Paper goods and printed matter, namely, a series of fiction books featuring stories in the field of children's education; trading cards; collectors cards; comic books and magazines in the field of children's education; graphic novels; novels; printed postcards; picture postcards; comic postcards; postcards; notebooks; binders; decals; stickers; posters; photograph and

scrapbook albums; calendars; greeting cards; folders; desk pads; writing pads; stationery folders and stationery; pens; pencils; erasers; video game strategy manuals and books; computer game instruction manuals; paper towels; paper storage containers; chalk boards; dry erase writing boards and writing surfaces; paper flags; paper pennants.

- e. On information and belief, Applicant did not have a bona fide intent to use the goods in the DIZZY mark SN 85509926 and has no goods used in commerce in this application as of the date of this amendment March 12, 2014 and will not file a Statement of Use by January 2014, two years after the application was filed.
- f. Applicant's application on November 18, 2010 for UMIGO SN 85179735 had the following goods in the original application: Electrical and scientific apparatus, namely, electronic game software; computer game software; downloadable computer games; computer and video-game cassettes, cartridges, discs and programs; downloadable game software; motion picture films featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; pre-recorded video and audio cassettes, video and audio tapes, video and audio discs, CD ROMs, compact discs, digital versatile discs, musical video recordings, musical sound recordings and phonograph records featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; software and manuals sold as a unit in the field of children's education,

namely, for use in creating, updating and maintaining calendars, for information management and for use as computer screen savers; and decorative refrigerator magnets.

- g. UMIGO RN 4358390 is one of Wild Brain's prior registrations.
 - h. When UMIGO registered on June 25, 2013, the goods list was: electrical and scientific apparatus, namely, downloadable computer games; downloadable game software; and musical sound recordings featuring music in the field of children's education.
 - i. Applicant's prior registration for UMIGO is another example of an application where the applied-for-goods greatly exceeded the actual use and registration.
 - j. On information and belief, Applicant on many occasions has not had firm plans or intentions in all of its goods in any original single application for any successful character in which it has filed trademark applications.
 - k. On information and belief, Applicant has never produced and sold all of the collateral items in any original single application for any successful character in which it has filed trademark applications.
6. Upon information and belief Applicant has shown a propensity for the filing of intent-to-use applications (TEAM SMITHEREEN) to replace applications which have lapsed (TEAM SMITHEREEN) because no timely statement of use was filed and provides additional evidence bearing on applicant's lack of a bona fide intent to use the mark. *Research in Motion Limited v. Nbor Corp.* (TTAB 2009).

7. Upon information and belief Applicant has claimed an intent to use as 'hand held units for playing electronic games for use with external display screen or monitor' without bona fide intent to develop and market these products.
8. Upon information and belief Applicant has not offered any of the goods listed in the application for sale to the public under the involved mark, DIZZY.
9. Upon information and belief Applicant has no documents sufficient to show actual or planned promotional expenditures under the mark for DIZZY for the goods listed.
10. Upon information and belief Applicant has no documents concerning trade shows, conventions, seminars and other events open to the public at which the listed goods sold or were offered for sale under the DIZZY mark were or are planned to be displayed.
11. Upon information and belief there is no projected date of first use in commerce for all of the goods listed under the mark DIZZY.
12. Upon information and belief there is no projected date of first use in commerce for any of the goods listed under the mark DIZZY.

Inasmuch as the issuance of a federal registration for Applicant will harm Opposer's ~~prior~~ rights and the public interest, Opposer respectfully requests that this registration be denied and that the Opposition is sustained in favor of Opposer. .

Submitted By: /Wendy Peterson/

Date: March 12, 2014

Wendy Peterson, Attorney for Opposer, Beau Tardy

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CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2014, the foregoing was served upon Applicant's attorney
by email to:

JONATHAN D REICHMAN
KENYON & KENYON LLP
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By: /Wendy Peterson/

Date: March 12, 2014

Wendy Peterson, Attorney for Opposer, Beau Tardy

Exhibit B

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

BEAU L. TARDY,

Opposer,

v.

WILD BRAIN ENTERTAINMENT, INC.,

Applicant.

Opposition No.: 91/205,896

Mark: DIZZY

**WILD BRAIN ENTERTAINMENT, INC.'S FIRST SET OF
REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, and Section 2.120 of the Trademark Rules of Practice of the United States Patent and Trademark Office, Opposer Wild Brain Entertainment, Inc. (hereinafter "Applicant") hereby requests that Opposer Beau L. Tardy (hereinafter "Opposer") produce the documents and things listed below for inspection and copying at the offices of Kenyon & Kenyon LLP, 1 Broadway, New York, New York 10004, within thirty (30) days of the date of service of this *First Set of Requests for the Production of Documents and Things*, pursuant to the attached Definitions and Instructions. These requests are continuing in nature, and impose upon Opposer the obligations as stated in Rule 26(e) of the Federal Rules of Civil Procedure.

DEFINITIONS AND INSTRUCTIONS

The definitions and instructions contained in *Applicant Wild Brain Entertainment, Inc.'s First Set of Interrogatories* are hereby incorporated by reference as though fully set forth herein.

The following additional instructions are to be used with respect to each request contained herein:

(a) Opposer is required to furnish responsive documents within its possession, custody, or control, or within the possession, custody, or control of its attorneys, agents, representatives, or employees.

(b) Each response shall be made based upon Opposer's entire knowledge and acquired with due diligence from all available sources, including without limitation all information in Opposer's possession or that of its agents, representatives, or attorneys.

(c) If Opposer cannot respond to a request in full after exercising the due diligence necessary to secure the applicable documents and/or things, Opposer shall respond to the extent possible, and set forth and describe in detail all efforts to ascertain the requested documents and/or things.

(d) If Opposer qualifies a response in any manner, Opposer shall set forth the exact nature and extent of the qualification.

(e) Wherever reasonably practical, please produce documents in such a manner as will facilitate their identification with the particular request or category of requests to which they are responsive, pursuant to the provisions of Rule 34(b) of the Federal Rules of Civil Procedure.

DOCUMENT REQUESTS

Request No. 1

Any and all documents and things which identify each person or entity which has held an ownership interest in Opposer's DIZZY mark at any time between 1996 and the present.

Request No. 2

Any and all documents and things which comprise, reflect, or relate to the chain-of-title regarding ownership of Opposer's DIZZY mark between 1996 and the present.

Request No. 3

Any and all documents and things which reflect, confirm, or establish the use of DIZZY as a company name, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Request No. 4

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with merchandise, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Request No. 5

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with pop culture websites, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Request No. 6

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with cartoon character, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Request No. 7

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with TV show, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Request No. 8

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with comics, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Request No. 9

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with web streaming entertainment, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Request No. 10

Any and all documents and things which support Opposer's allegation in Paragraph 2 that it produces cartoon characters (other than DIZZY) for entertainment purposes.

Request No. 11

Any and all documents and things which support Opposer's allegation in Paragraph 2 that it uses its cartoon characters to advertise collateral goods and entertainment services.

Request No. 12

Any and all documents and things which reflect, confirm, or establish Opposer's alleged common law rights in the goods identified in Paragraph 4.

Request No. 13

Any and all documents and things which reflect, confirm, or establish that Opposer's DIZZY mark "was first used anywhere in a different form other than that sought to be registered at least as early as 12/31/1996."

Request No. 14

Any and all documents and things which reflect, confirm, or establish that Opposer has used DIZZY in commerce "since at least 1996 . . . for Production [sic] of television commercials, television programs, cartoons, animations, games, screensavers and other forms of entertainment."

Request No. 15

Any and all documents and things which identify the “predecessor-in-interest” referred to in Paragraph 5.

Request No. 16

Any and all documents and things which reflect, confirm, or establish the abandonment of rights by Opposer’s predecessor-in-interest, as referred to in Paragraph 5.

Request No. 17

Any and all documents and things which reflect, confirm, or establish Opposer’s “privity of interest” as referred to in Paragraph 5.

Request No. 18

Any and all documents and things which reflect the class of purchasers for Opposer’s goods and services, as referred to in Paragraph 27.

Request No. 19

Any and all documents and things which comprise or relate to any search or clearance reports for the mark DIZZY obtained or procured by or on behalf of Opposer.

Request No. 20

Any and all documents and things which comprise, refer, or relate to Registrations Nos. 2,339,835 and 2,339,836, including without limitation any decision to allow such registrations to expire.

Request No. 21

With respect to each business entity referenced in Paragraph 1 of the Notice of Opposition, any and all documents and things which reflect each such entity’s organization; the state under which each entity was organized; each entity’s corporate status from 1996 to present; the effective

date(s) and expiration or dissolution date(s) of same; and the officers and employees of each of the entities from 1996 to present.

Request No. 22

Any and all documents and things describing by year, beginning with your earliest alleged use, how, where, and in what form Opposer and/or Opposer's predecessors-in-interest used the DIZZY mark in commerce in the United States for any business, good, or service, and identify documents sufficient to evidence such use by year for each such business, good, or services.

Request No. 23

Any and all documents and things relating to the channel(s) of trade in connection with the sale of goods and services bearing or sold in connection with the DIZZY mark in the United States.

Request No. 24

Any and all documents and things identifying or listing every outlet (whether retailer, distributor, individual websites, media outlet, online channels, etc.) in the United States which have sold or offered for sale any goods and services bearing or sold in connection with the DIZZY mark.

Request No. 25

All invoices and purchase orders for goods and services bearing or sold in connection with the DIZZY mark in the United States.

Request No. 26

Any and all documents and things evidencing or relating to the total gross revenue generated from the sales of goods and services bearing or sold in connection with the DIZZY mark in the United States, by quarter (or if quarterly information is not available, then by year).

Request No. 27

Any and all documents and things evidencing or relating to the total number of units of Opposer's (or Opposer's predecessors in interest's) goods and services sold under the DIZZY mark in the United States, by quarter (or if quarterly information is not available, then by year).

Request No. 28

Any and all documents and things evidencing the geographic location(s) at which Opposer's (or Opposer's predecessors in interest's) goods and services have been sold under the DIZZY mark in the United States, by quarter (or if quarterly information is not available, then by year), including the dates each of those goods were offered for sale there.

Request No. 29

All annual, quarterly, monthly, and weekly sales reports and/or royalty reports for each of goods and services bearing or sold in connection with the DIZZY mark.

Request No. 30

Any and all documents and things comprising or regarding the marketing, promotion, or advertising of goods and services bearing or sold in connection with the DIZZY mark in the United States, including any and all expenditures therefor, by quarter (or if quarterly information is not available, then by year).

Request No. 31

Representative samples of all printed publications, television exhibitions, radio exhibitions, Internet exhibitions, and website pages relating to the advertising or promotion of the DIZZY mark in connection with Opposer's (or Opposer's predecessors in interest's) goods and services in the United States.

Request No. 32

Representative samples of each type of label, container, carton, tag, invoice, sticker, embossing, box, bag, packaging, silkscreen, or other means by which Opposer (including its predecessors-in-interest) has used the DIZZY mark in connection with Opposer's (or Opposer's predecessors in interest's) goods and services in the United States.

Request No. 33

Any and all documents and things relating to any time Opposer has ever challenged a third party regarding the use of the DIZZY mark (or other designation in which Opposer considered such mark to be in conflict with the DIZZY mark) in the United States, including, without limitation:

- (a) Any and all documents and things identifying the third party;
- (b) Any and all documents and things describing the designation used and the goods or services in connection with which it is or was used;
- (c) Any and all documents and things describing the nature of the action taken by Opposer, including, without limitation any and all protest letters sent by Opposer or legal proceedings instituted by Opposer; and
- (d) Any and all documents and things describing the results, if any, of said action.

Request No. 34

Any and all documents and things relating to any time Opposer has ever been challenged by a third party regarding the use of the DIZZY mark (or other designation in which the challenger considered such mark to be in conflict with the DIZZY mark) in the United States, including, without limitation:

- (e) Any and all documents and things identifying the third party;
- (f) Any and all documents and things describing the designation used and the goods or services in connection with which it is or was used;
- (g) Any and all documents and things describing the nature of the action taken by Opposer, including, without limitation any and all protest letters sent by Opposer or legal proceedings instituted by Opposer; and

(h) Any and all documents and things describing the results, if any, of said action.

Request No. 35

Any and all licenses or permissions granted by Opposer (including its predecessors-in-interest) to any third party with respect to use of the DIZZY mark in the United States, including any related correspondence.

Request No. 36

Any and all documents and things concerning Applicant.

Request No. 37

Samples of goods and services that make use of the DIZZY mark in the United States.

Request No. 38

Any and all documents and things sufficient to identify the total number of goods and services, by quarter and by product or service name, sold and/or distributed to consumers under the DIZZY mark in the United States.

Request No. 39

Any and all documents and things sufficient to identify the compensation that Opposer has received, by quarter and by product or service name, for all goods and services sold and/or distributed under the DIZZY mark in the United States.

Request No. 40

Any and all documents and things sufficient to identify all persons involved in the distribution or sale of goods and services bearing or sold in connection with the DIZZY mark to consumers in the United States.

Request No. 41

Any and all documents and things related to United States Trademark Application Serial No. 85/741,800.

Request No. 42

Any and all documents and things identified by Opposer in response to the Interrogatories which are not otherwise covered by these Requests.

Dated: February 12, 2014

KENYON & KENYON LLP

*Attorneys for Applicant
Wild Brain Entertainment, Inc.*



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of *Wild Brain Entertainment, Inc. 's First Set of Requests for the Production of Documents and Things* was served by electronic mail, as agreed upon by the parties, on Opposer's counsel of record on the 12th day of February, 2014, at the following address of record:

Wendy Peterson
Not Just Patents LLC
P.O. Box 18716
Minneapolis, Minnesota 55418
wsp@njpls.com



Natasha Sardesai-Grant

Exhibit C

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

BEAU L. TARDY,

Opposer,

v.

WILD BRAIN ENTERTAINMENT, INC.,

Applicant.

Opposition No.: 91/205,896

Mark: DIZZY

WILD BRAIN ENTERTAINMENT, INC.'S FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Section 2.120 of the Trademark Rules of Practice of the United States Patent and Trademark Office, Applicant Wild Brain Entertainment, Inc. (hereinafter "Applicant") hereby propounds the following written Interrogatories to be answered by Beau L. Tardy (hereinafter "Opposer"), separately and under oath, by serving written responses to the offices of Kenyon & Kenyon LLP, 1 Broadway, New York, New York 10004, within thirty (30) days of the date of service of this *First Set of Interrogatories*, pursuant to the attached Definitions and Instructions. These Interrogatories are continuing in nature, and impose upon Opposer the obligations set forth in Rule 26(e) of the Federal Rules of Civil Procedure.

DEFINITIONS AND INSTRUCTIONS

These Interrogatories, and *Wild Brain Entertainment, Inc.'s First Set of Document Requests* being served concurrently herewith, are subject to the definitions and instructions set forth below:

(a) The term “Opposer” shall refer to Beau L. Tardy, and any predecessors-in-interest, predecessor or successor corporation or entity; any parent, subsidiary, or affiliated company; and any attorney, officer, director, agent, representative or employee of Beau L. Tardy or any of the other foregoing entities.

(b) The term “Applicant” shall refer to Wild Brain Entertainment, Inc., and any predecessor or successor corporation or entity; any parent, subsidiary or affiliated company; and any attorney, officer, director, agent, representative or employee of Wild Brain Entertainment, Inc. or any of the other foregoing entities.

(c) The term “Notice of Opposition” shall refer to the *Notice of Opposition* filed by Opposer in the above-captioned proceeding.

(d) The term “bear” or “bearing” in connection with “designation,” “mark,” “Mark,” “trademark,” or “trade name,” as in, for example, “bearing the designation,” or “bearing the mark,” shall refer to the designation appearing on the product itself, on tags or labels for the product, on packaging for the product, on displays associated with the product, or in any other way used in connection with the product that would be considered “use” under United States trademark laws.

(e) The term the “Application” shall refer to the United States Trademark Application that is the subject of the above-captioned proceeding.

(f) “Good” or “goods” shall be construed to include a “service” or “services.”

(g) The term “documents” shall include, without limitation, all “writings” or “photographs” of any kind, as those terms are defined in Rule 1001(1) and (2) of the Federal Rules of Evidence (hereinafter the “FRE”), including the “original” of any such documents, as that term is defined in FRE 1001(3), drafts, and non-identical copies (whether differing from the

original by reason of notations made on the copies or otherwise), and any “duplicate” of said documents, as that term is defined in FRE 1001(4), and shall further include, without limitation, the following items, whether printed or recorded, or reproduced by any electronic or mechanical means or process, or written or produced by hand: writings; drawings; graphs, charts; photographs; phone records; correspondence; notes; telegrams; telefaxes, facsimile transmissions; agreements; drafts of agreements; memoranda; summaries of records of telephone conversations; instructions to employees or independent contractors; opinions; training manuals; reports; laboratory and engineering reports or notebooks; field test reports; studies; diaries; plans; brochures; compact discs and all packaging and inserts therefor; advertisements; marketing and promotional materials; specifications; bids; proposals; contracts; trademark applications; trademark registrations; surveys; copyright applications; copyright registrations; patents; patent applications; computer program specifications including input or output specifications; job orders; bills of lading; purchase orders; invoices; material specifications; investigative reports; data compilations from which information can be obtained, or translated, if necessary, through detection devices into reasonably useable form; computer programs; source listings; electronic mail; data processing storage media; and computer printouts.

(h) The term “relating to” shall include, without limitation, referring to, responding to, concerning, connected with, commenting on, regarding, discussing, showing, describing, evidencing, reflecting, analyzing, constituting, and forming a basis for.

(i) The term “person,” as well as any pronoun referring thereto, shall include, but shall not be limited to, any natural person, group, investigatory body, governmental unit, governmental agency, governmental department, corporation, association, partnership, limited

partnership, joint venture, sole proprietorship, business, business entity, organization, or institution.

(j) The term “entity” shall refer to a person, organization, corporation, partnership, business, association, or other enterprise carrying on a trade or business.

(k) The term “communication” shall refer to the transmittal of information in the form of facts, opinions, ideas, inquiries, or otherwise, whether oral or written or in electronic form.

(l) Any word written herein in the singular shall be construed as plural, or vice versa, when necessary to facilitate an inclusive, comprehensive, and exhaustive answer to the discovery request.

(m) “And” and “or” shall be construed disjunctively and/or conjunctively as necessary in order to bring within the scope of the discovery request all possible responses which might otherwise be construed to be outside its scope.

(n) “Identify” when used herein with respect to a person, shall require a response that includes, without limitation:

(i) the person’s full name;

(ii) the person’s employer, business position, and business address at the relevant time; and

(iii) the person’s last known employer, business position, business address, telephone numbers, facsimile number, and email address.

(o) “Identify” or “state” when used herein with respect to a business entity, shall require a response that includes, without limitation:

(i) the entity’s full name;

- (ii) the entity's principal place of business;
- (iii) the nature or type of entity;
- (iv) the state of incorporation or registration, if applicable; and
- (v) the principal business conducted by such entity.

(p) "Identify" or "state" when used herein with respect to a document or communication, shall require a response that includes, without limitation:

- (i) the general character, nature, or type of the document or communication;
- (ii) the date of the document or communication, or if it has no date or the date is uncertain, the approximate date of its preparation or occurrence;
- (iii) the title of the document;
- (iv) the full name(s) of the author(s) and all addressee(s) and recipient(s) of the document or communication;
- (v) a summary of the document's or communication's subject matter;
- (vi) the present location and custodian of the document or communication or any copies thereof; and
- (vii) a file number or other identifying mark or code, if applicable.

(q) These are continuing interrogatories and requests, and therefore require further and supplemental responses by Opposer as it acquires or locates additional information responsive to these interrogatories and requests.

(r) If any document(s) requested to be identified or produced has been destroyed, a response shall require the following additional information as to each such document:

- (i) the date of destruction of the document;
- (ii) the reason for the destruction of the document;

- (iii) the identity of the person who destroyed the document; and
- (iv) the identity of any person who directed that the document be destroyed.

(s) If any of these discovery requests cannot be answered in full, respond to the fullest extent possible, specifying the reasons for the inability to respond to the remainder of the discovery request, and state whatever information or knowledge is available concerning the unanswered portion.

If any responsive information, communication or document is withheld on the basis of any claim of privilege, a response shall require a general description of the substance or subject matter of the information, communication, or document withheld, a statement of the privilege being invoked or claimed and the basis therefor, and identification all persons who have had access to such information, communication or document. Where applicable, a response shall also require the date of the document and identification of the author or sender, addressee, and all recipients thereof, by name, address, title, and business affiliation.

INTERROGATORIES

Interrogatory No. 1

With respect to each business entity referenced in Paragraph 1 of the Notice of Opposition, identify and describe them in detail, including providing each such entity's name; particulars of each such entity's organization; the state under which each such entity was organized; each such entity's corporate status from 1996 to present; the effective date(s) and expiration or dissolution date(s) of same; and the officers and employees of each such entity from 1996 to present; and identify all documents relating thereto.

Interrogatory No. 2

Describe in detail by year, beginning with your earliest alleged use, how, where, and in what form Opposer and/or Opposer's predecessors-in-interest used the DIZZY mark in commerce in the United States for any business, good, or service, and identify documents sufficient to evidence such use by year for each such business, good, or services.

Interrogatory No. 3

Identify the time periods that Opposer used the DIZZY mark as a "company name," for any "merchandise," "pop culture websites," "cartoon character," "TV show," or "comics," or for "streaming entertainment," as set forth in your Amended Notice of Opposition, and identify specimens that evidence such use in connection with each of the above-listed goods or services for each year within each period the mark was so used for those goods or services, and all documents relating thereto.

Interrogatory No. 4

Identify every outlet (whether retailer, distributor, individual websites, media outlet, online channel, etc.) through which any goods and services bearing or sold in connection with the DIZZY mark were distributed, sold, or offered for sale in the United States, including by describing what goods or services were distributed, sold, or offered for sale through each such outlet and the dates those goods or services were distributed, sold, or offered for sale through each outlet, and identify all documents relating thereto.

Interrogatory No. 5

Identify the person(s) most knowledgeable concerning the marketing, offering, distribution, and sale of goods and services bearing or sold in connection with the DIZZY mark in the United States, and identify all documents relating thereto.

Interrogatory No. 6

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, state by quarter (or if quarterly information is not available, then by year) the quantity (if applicable) and total gross revenue generated by the distribution or sale of each such good or service in the United States, and identify all documents relating thereto.

Interrogatory No. 7

For goods and services bearing or sold in connection with the DIZZY mark, identify for each year that each such good or service was distributed, sold, or offered for sale the specific geographic location(s) (i.e., city and state) in which such goods were sold or offered for sale in the United States and the dates each of those goods were offered for sale there, and identify all documents relating thereto.

Interrogatory No. 8

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, state by quarter (or if quarterly information is not available, then by year) the total amount spent advertising or promoting each such good or service in the United States and identify all of the advertising outlets (whether television station, radio station, Internet website, etc.) through which any such advertisements for the DIZZY mark were broadcasted or exhibited in the United States, and identify all documents relating thereto.

Interrogatory No. 9

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, identify the persons with the most knowledge

concerning such use (including first use) of the mark in the United States, and identify all documents relating thereto.

Interrogatory No. 10

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, identify the person(s) with the most knowledge concerning the marketing, promotion, and sale of such goods and services in the United States, and identify all documents relating thereto.

Interrogatory No. 11

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, identify (including by providing contact information for) the manufacturer(s) of the goods and/or the provider of such including by indicating the period that each such manufacture or provider was responsible for the manufacture or provision of the goods or services, and identify all documents relating thereto.

Interrogatory No. 12

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, identify (including by providing contact information for) the distributors, retailers, and/or other outlets to or through whom Opposer has sold and/or distributed such goods and services in the United States, including by indicating the period that each such distributor, retailers, and/or other outlet was involved in the sale or distribution of the goods or services, and identify all documents relating thereto.

Interrogatory No. 13

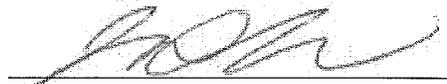
Identify all persons who furnished any information used in responding to each of the foregoing interrogatories and to *Wild Brain Entertainment, Inc.'s First Set of Document Requests*, and for

each person so identified, indicate the discovery request for which such person furnished information, and identify all documents referred to or considered in responding to the foregoing interrogatories.

Dated: February 12, 2014

KENYON & KENYON LLP

*Attorneys for Applicant
Wild Brain Entertainment, Inc.*



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of *Wild Brain Entertainment, Inc.'s First Set of Interrogatories* was served by electronic mail, as agreed upon by the parties, on Opposer's counsel of record on the 12th day of February, 2014, at the following address of record:

Wendy Peterson
Not Just Patents LLC
P.O. Box 18716
Minneapolis, Minnesota 55418
wsp@njpls.com



Natasha Sardesai-Grant

Exhibit D

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

Opposition Proceeding 91205896

In the matter of Trademark Application No. 85509929

For the mark: DIZZY

Published for Opposition Date: June 5, 2012

Beau Tardy, Opposer/Opposer

v.

Wild Brain Entertainment, Inc., Applicant

RESPONSES TO APPLICANT'S FIRST SET OF DOCUMENT REQUESTS

Beau L. Tardy ("Opposer"), by its undersigned counsel, hereby objects and responds to Applicant Wild Brain Entertainment Inc's ("Opposer") Document Requests, pursuant to Rule 34 of the Federal Rules of Civil Procedure and Section 2.120 of the Trademark Rules of Practice of the United States Patent and Trademark Office.

Opposer's responses are based upon the best information presently available to Opposer and within Opposer's possession, custody, or control. Where Opposer does not have information, response to any Request shall not be deemed to constitute an admission of any kind, that any responsive information does not exist, and/or that any statement or characterization in such response is complete. These responses are given without prejudice to further revision or supplementation of these responses by Opposer if further discovery or investigation so

requires. These objections and responses are also provided without prejudice to any right of Opposer to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence or witness offered by Applicant. Accordingly, Opposer reserves the right to rely, at the time of taking testimony or in other proceedings in this opposition, upon documents and evidence in addition to the material or information produced in response to these Requests, regardless of whether any such material or information is newly discovered or is presently in existence but not as yet located and produced despite diligent and good faith efforts.

Request No. 1

Any and all documents and things which identify each person or entity which has held an ownership interest in Opposer's DIZZY mark at any time between 1996 and the present.

Response 1: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 2

Any and all documents and things which comprise, reflect, or relate to the chain-of-title regarding ownership of Opposer's DIZZY mark between 1996 and the present.

Response 2: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 3

Any and all documents and things which reflect, confirm, or establish the use of DIZZY as a company name, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Response 3: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 4

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with merchandise, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Response 4: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 5

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with pop culture websites, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Response 5: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 6

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with cartoon character, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Response 6: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 7

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with TV show, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Response 7: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 8

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with comics, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Response 8: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 9

Any and all documents and things which reflect, confirm, or establish the use of DIZZY in connection with web streaming entertainment, as referred to in Paragraph 1 of the Amended Notice of Opposition.

Response 9: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 10

Any and all documents and things which support Opposer's allegation in Paragraph 2 that it produces cartoon characters (other than DIZZY) for entertainment purposes.

Response 10: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 11

Any and all documents and things which support Opposer's allegation in Paragraph 2 that it uses its cartoon characters to advertise collateral goods and entertainment services.

Response 11: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 12

Any and all documents and things which reflect, confirm, or establish Opposer's alleged common law rights in the goods identified in Paragraph 4.

Response 12: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 13

Any and all documents and things which reflect, confirm, or establish that Opposer's DIZZY mark "was first used anywhere in a different form other than that sought to be registered at least as early as 12/31/1996."

Response 13: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 14

Any and all documents and things which reflect, confirm, or establish that Opposer has used DIZZY in commerce “since at least 1996 . . . for Production [sic] of television commercials, television programs, cartoons, animations, games, screensavers and other forms of entertainment.”

Response 14: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 15

Any and all documents and things which identify the “predecessor-in-interest” referred to in Paragraph 5.

Response 15: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 16

Any and all documents and things which reflect, confirm, or establish the abandonment of rights by Opposer's predecessor-in-interest, as referred to in Paragraph 5.

Response 16: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 17

Any and all documents and things which reflect, confirm, or establish Opposer's "privity of interest" as referred to in Paragraph 5.

Response 17: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 18

Any and all documents and things which reflect the class of purchasers for Opposer's goods and services, as referred to in Paragraph 27.

Response 18: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 19

Any and all documents and things which comprise or relate to any search or clearance reports for the mark DIZZY obtained or procured by or on behalf of Opposer.

Response 19: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 20

Any and all documents and things which comprise, refer, or relate to Registrations Nos. 2,339,835 and 2,339,836, including without limitation any decision to allow such registrations to expire.

Response 20: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, all documents requested are available for download from the USPTO web site.

Request No. 21

With respect to each business entity referenced in Paragraph 1 of the Notice of Opposition, any and all documents and things which reflect each such entity's organization; the state under which each entity was organized; each entity's corporate status from 1996 to present; the effective date(s) and expiration or dissolution date(s) of same; and the officers and employees of each of the entities from 1996 to present.

Response 21: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 22

Any and all documents and things describing by year, beginning with your earliest alleged use, how, where, and in what form Opposer and/or Opposer's predecessors-in-interest used the DIZZY mark in commerce in the United States for any business, good, or service, and identify documents sufficient to evidence such use by year for each such business, good, or services.

Response 22: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 23

Any and all documents and things relating to the channel(s) of trade in connection with the sale of goods and services bearing or sold in connection with the DIZZY mark in the United States.

Response 23: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 24

Any and all documents and things identifying or listing every outlet (whether retailer, distributor, individual websites, media outlet, online channels, etc.) in the United States which have sold or offered for sale any goods and services bearing or sold in connection with the DIZZY mark.

Response 24: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 25

All invoices and purchase orders for goods and services bearing or sold in connection with the DIZZY mark in the United States.

Response 25: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 26

Any and all documents and things evidencing or relating to the total gross revenue generated from the sales of goods and services bearing or sold in connection with the DIZZY mark in the United States, by quarter (or if quarterly information is not available, then by year).

Response 26: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 27

Any and all documents and things evidencing or relating to the total number of units of Opposer's (or Opposer's predecessors in interest's) goods and services sold under the DIZZY mark in the United States, by quarter (or if quarterly information is not available, then by year).

Response 27: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 28

Any and all documents and things evidencing the geographic location(s) at which Opposer's (or Opposer's predecessors in interest's) goods and services have been sold under the DIZZY mark in the United States, by quarter (or if quarterly information is not available, then by year), including the dates each of those goods were offered for sale there.

Response 28: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 29

All annual, quarterly, monthly, and weekly sales reports and/or royalty reports for each of goods and services bearing or sold in connection with the DIZZY mark.

Response 29: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 30

Any and all documents and things comprising or regarding the marketing, promotion, or advertising of goods and services bearing or sold in connection with the DIZZY mark in the United States, including any and all expenditures therefor, by quarter (or if quarterly information is not available, then by year).

Response 30: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 31

Representative samples of all printed publications, television exhibitions, radio exhibitions, Internet exhibitions, and website pages relating to the advertising or promotion of the DIZZY mark in connection with Opposer's (or Opposer's predecessors in interest's) goods and services in the United States.

Response 31: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 32

Representative samples of each type of label, container, carton, tag, invoice, sticker, embossing, box, bag, packaging, silkscreen, or other means by which Opposer (including its predecessors-in-interest) has used the DIZZY mark in connection with Opposer's (or Opposer's predecessors in interest's) goods and services in the United States.

Response 32: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 33

Any and all documents and things relating to any time Opposer has ever challenged a third party regarding the use of the DIZZY mark (or other designation in which Opposer considered such mark to be in conflict with the DIZZY mark) in the United States, including, without limitation:

- (a) Any and all documents and things identifying the third party;
- (b) Any and all documents and things describing the designation used and the goods or services in connection with which it is or was used;
- (c) Any and all documents and things describing the nature of the action taken by Opposer, including, without limitation any and all protest letters sent by Opposer or legal proceedings instituted by Opposer; and
- (d) Any and all documents and things describing the results, if any, of said action.

Response 44: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 34

Any and all documents and things relating to any time Opposer has ever been challenged by a third party regarding the use of the DIZZY mark (or other designation in which the challenger considered such mark to be in conflict with the DIZZY mark) in the United States, including, without limitation:

(e) Any and all documents and things identifying the third party;

(f) Any and all documents and things describing the designation used and the goods or services in connection with which it is or was used;

(g) Any and all documents and things describing the nature of the action taken by Opposer, including, without limitation any and all protest letters sent by Opposer or legal proceedings instituted by Opposer; and (h) Any and all documents and things describing the results, if any, of said action.

Response 34: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 35

Any and all licenses or permissions granted by Opposer (including its predecessors-in-interest) to any third party with respect to use of the DIZZY mark in the United States, including any related correspondence.

Response 35: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 36

Any and all documents and things concerning Applicant.

Response 36: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 37

Samples of goods and services that make use of the DIZZY mark in the United States.

Response 37: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 38

Any and all documents and things sufficient to identify the total number of goods and services, by quarter and by product or service name, sold and/or distributed to consumers under the DIZZY mark in the United States.

Response 39: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 39

Any and all documents and things sufficient to identify the compensation that Opposer has received, by quarter and by product or service name, for all goods and services sold and/or distributed under the DIZZY mark in the United States.

Response 39: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 40

Any and all documents and things sufficient to identify all persons involved in the distribution or sale of goods and services bearing or sold in connection with the DIZZY mark to consumers in the United States.

Response 40: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1.

Request No. 41

Any and all documents and things related to United States Trademark Application Serial No. 85/741,800.

Response 41: Opposer objects to this Document Request in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Opposer has provided documents responsive to a reasonable interpretation of this request in Document Production #1 and documents that are downloadable from the USPTO web site.

Request No. 42

Any and all documents and things identified by Opposer in response to the Interrogatories which are not otherwise covered by these Requests.

Response 42: Not applicable.

Submitted By: /Wendy Peterson/

Date: May 14, 2014

Wendy Peterson, Attorney for Opposer, Beau Tardy

Not Just Patents LLC

PO Box 18716

Minneapolis, MN 55418

(651) 500-7590; wsp@NJPLS.com

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2014, the foregoing was served upon Applicant's attorney by email to:

JONATHAN D REICHMAN

KENYON & KENYON LLP

jreichman@kenyon.com, wmerone@kenyon.com, nsardesai@kenyon.com,

tmdocketny@kenyon.com

By: /Wendy Peterson/

Date: May 14, 2014

Wendy Peterson, Attorney for Opposer, Beau Tardy

Exhibit E

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

Opposition Proceeding 91205896

In the matter of Trademark Application No. 85509929

For the mark: DIZZY

Published for Opposition Date: June 5, 2012

Beau Tardy, Opposer/Opposer

v.

Wild Brain Entertainment, Inc., Applicant

RESPONSES TO APPLICANT'S FIRST SET OF INTERROGATORIES

Beau L. Tardy ("Opposer"), by its undersigned counsel, hereby objects and responds to Applicant Wild Brain Entertainment Inc's ("Opposer") Interrogatories, pursuant to Rule 34 of the Federal Rules of Civil Procedure and Section 2.120 of the Trademark Rules of Practice of the United States Patent and Trademark Office.

Opposer's responses are based upon the best information presently available to Opposer and within Opposer's possession, custody, or control. Where Opposer does not have information, response to any Request shall not be deemed to constitute an admission of any kind, that any responsive information does not exist, and/or that any statement or characterization in such response is complete. These responses are given without prejudice to further revision or supplementation of these responses by Opposer if further discovery or investigation so requires. These objections and responses are also provided without prejudice to any right of

Opposer to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence or witness offered by Applicant. Accordingly, Opposer reserves the right to rely, at the time of taking testimony or in other proceedings in this opposition, upon documents and evidence in addition to the material or information produced in response to these Requests, regardless of whether any such material or information is newly discovered or is presently in existence but not as yet located and produced despite diligent and good faith efforts.

Interrogatory No. 1

With respect to each business entity referenced in Paragraph 1 of the Notice of Opposition, identify and describe them in detail, including providing each such entity's name; particulars of each such entity's organization; the state under which each such entity was organized; each such entity's corporate status from 1996 to present; the effective date(s) and expiration or dissolution date(s) of same; and the officers and employees of each such entity from 1996 to present; and identify all documents relating thereto.

Response 1: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 2

Describe in detail by year, beginning with your earliest alleged use, how, where, and in what form Opposer and/or Opposer's predecessors-in-interest used the DIZZY mark in commerce

in the United States for any business, good, or service, and identify documents sufficient to evidence such use by year for each such business, good, or services.

Response 2: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 3

Identify the time periods that Opposer used the DIZZY mark as a “company name,” for any “merchandise,” “pop culture websites,” “cartoon character,” “TV show,” or “comics,” or for “streaming entertainment,” as set forth in your Amended Notice of Opposition, and identify specimens that evidence such use in connection with each of the above-listed goods or services for each year within each period the mark was so used for those goods or services, and all documents relating thereto.

Response 3: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 4

Identify every outlet (whether retailer, distributor, individual websites, media outlet, online channel, etc.) through which any goods and services bearing or sold in connection with the DIZZY mark were distributed, sold, or offered for sale in the United States, including by

describing what goods or services were distributed, sold, or offered for sale through each such outlet and the dates those goods or services were distributed, sold, or offered for sale through each outlet, and identify all documents relating thereto.

Response 4: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 5

Identify the person(s) most knowledgeable concerning the marketing, offering, distribution, and sale of goods and services bearing or sold in connection with the DIZZY mark in the United States, and identify all documents relating thereto.

Response 5: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiver of, the foregoing general and specific objections, Opposer identifies Beau Tardy as the person most knowledgeable and the documents identified as Document Production #1 in response.

Interrogatory No. 6

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, state by quarter (or if quarterly information is

not available, then by year) the quantity (if applicable) and total gross revenue generated by the distribution or sale of each such good or service in the United States, and identify all documents relating thereto.

Response 6: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 7

For goods and services bearing or sold in connection with the DIZZY mark, identify for each year that each such good or service was distributed, sold, or offered for sale the specific geographic location(s) (i.e., city and state) in which such goods were sold or offered for sale in the United States and the dates each of those goods were offered for sale there, and identify all documents relating thereto.

Response 7: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 8

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, state by quarter (or if quarterly information is not available, then by year) the total amount spent advertising or promoting each such good

or service in the United States and identify all of the advertising outlets (whether television station, radio station, Internet website, etc.) through which any such advertisements for the DIZZY mark were broadcasted or exhibited in the United States, and identify all documents relating thereto.

Response 8: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 9

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, identify the persons with the most knowledge concerning such use (including first use) of the mark in the United States, and identify all documents relating thereto.

Response 9: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 10

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, identify the person(s) with the most knowledge

concerning the marketing, promotion, and sale of such goods and services in the United States, and identify all documents relating thereto.

Response 10: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 11

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, identify (including by providing contact information for) the manufacturer(s) of the goods and/or the provider of such including by indicating the period that each such manufacture or provider was responsible for the manufacture or provision of the goods or services, and identify all documents relating thereto.

Response 11: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 12

For each good or service that you have distributed or sold that either bears or was distributed or sold in connection with the DIZZY mark, identify (including by providing contact information for) the distributors, retailers, and/or other outlets to or through whom Opposer

has sold and/or distributed such goods and services in the United States, including by indicating the period that each such distributor, retailers, and/or other outlet was involved in the sale or distribution of the goods or services, and identify all documents relating thereto.

Response 12: Opposer objects to this Interrogatory in that it seeks information that is neither relevant to the claims or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

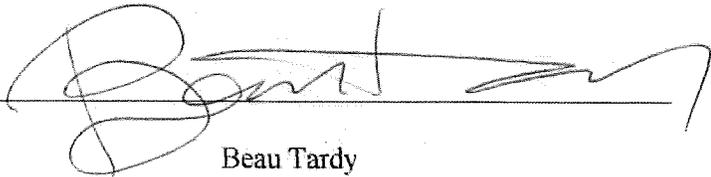
Interrogatory No. 13

Identify all persons who furnished any information used in responding to each of the foregoing interrogatories and to Wild Brain Entertainment, Inc.'s First Set of Document Requests, and for each person so identified, indicate the discovery request for which such person furnished information, and identify all documents referred to or considered in responding to the foregoing interrogatories.

Response 13: Opposer identifies Beau Tardy as the person who furnished all information.

I, Beau Tardy, believe based on reasonable inquiry, that the foregoing answers are true and correct to the best of my knowledge, information and belief. I verify under penalty of perjury that the foregoing is true and correct.

Executed this day 12 May 2014


Beau Tardy

Submitted By: /Wendy Peterson/

Date: May 12, 2014

Wendy Peterson, Attorney for Opposer, Beau Tardy

Not Just Patents LLC

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2014, the foregoing was served upon Applicant's attorney by email to:

JONATHAN D REICHMAN

KENYON & KENYON LLP

jreichman@kenyon.com, wmerone@kenyon.com, nsardesai@kenyon.com,

tmdocketny@kenyon.com

By: /Wendy Peterson/

Date: May 14, 2014

Wendy Peterson, Attorney for Opposer, Beau Tardy

Exhibit F

StatCounter

- Projects
- Users
- Upgrade
- Support
- About

Get 1st Page Rank in Search Engines...
Increase Traffic. Improve ROI

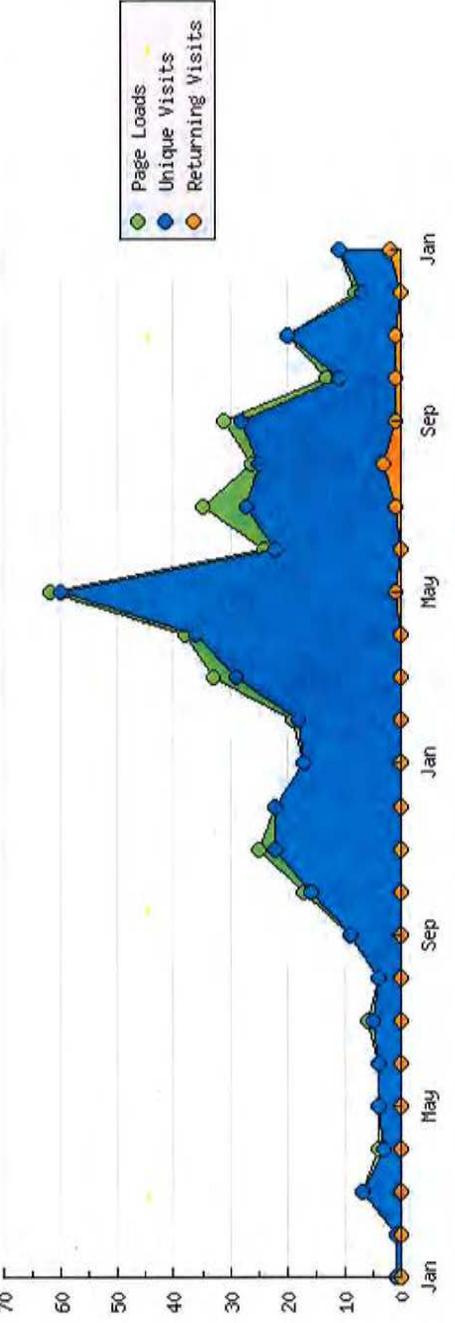


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English

03:51:44 11 September 2012 Summary Log: No Limit



Date Range: This Year or Jan 2009 - Jan 2011

Data to Show: Page Loads Unique Visits Returning Visits

Graph Type: Bar Graph Area Graph No Graph

	Page Loads	Unique Visits	First Time Visits	Returning Visits
Total	441	409	399	10
Average	18	16	16	0

Month	Page Loads	Unique Visits	First Time Visits	Returning Visits
Jan 2011	11	11	9	2
Dec 2010	8	7	7	0
Nov 2010	20	20	19	1
Oct 2010	13	11	10	1
Sep 2010	31	28	27	1
Aug 2010	26	25	22	3

- Summary
- Hourly
- Popular Pages
- Entry Pages
- Exit Pages
- Came From
- Keyword Analysis
- Recent Keyword Activity
- Recent Came From
- Search Engine Wars
- Exit Links
- Exit Link Activity
- Downloads
- Download Activity
- Visitor Paths
- Visit Length
- Returning Visits
- Recent PageLoad Activity
- Recent Visitor Activity
- Recent Visitor Map
- Country/State/City/ISP
- Browsers
- System Stats
- Lookup IP Address
- Download Logs
- SEO SPONSORS
- Top 10 Search Listing
- 48 Hour Google Listing
- 1,000 Hits for \$9.99
- OUR SPONSORS
- Get Targeted Visitors
- Free Website Content
- Australia Domain Names
- Free Website & Hosting!
- \$7.99 .com Sale!

Stats | Config

Daily | Weekly | Monthly | Quarterly | Yearly

03:51:44 11 September 2012 Summary Log: No Limit

- Summary
- Hourly
- Popular Pages
- Entry Pages
- Exit Pages
- Came From
- Keyword Analysis
- Recent Keyword Activity
- Recent Came From
- Search Engine Wars
- Exit Links
- Exit Link Activity
- Downloads
- Download Activity
- Visitor Paths
- Visit Length
- Returning Visits
- Recent Pageload Activity
- Recent Visitor Activity
- Recent Visitor Map
- Country/State/City/ISP
- Browsers
- System Stats
- Lookup IP Address
- Download Logs



Date Range: This Year or Jan 2009 - Jan 2011

Data to Show: Page Loads Unique Visits Returning Visits

Graph Type: Bar Graph Area Graph No Graph

	Page Loads	Unique Visits	First Time Visits	Returning Visits
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Average	18	16	16	0

Month	Page Loads	Unique Visits	First Time Visits	Returning Visits
Jan 2011	11	11	9	2
Dec 2010	8	7	7	0
Nov 2010	20	20	19	1
Oct 2010	13	11	10	1
Sep 2010	31	28	27	1
Aug 2010	26	25	22	3

- SEO SPONSORS**
- [Top 10 Search Listing](#)
 - [48 Hour Google Listing](#)
 - [1,000 Hits for \\$9.99](#)
- OUR SPONSORS**
- [Get Targeted Visitors](#)
 - [Free Website Content](#)
 - [Australia Domain Names](#)
 - [Free Website & Hosting!](#)
 - [\\$7.99 .com Sale!](#)

Statistics for:
dizzythecat.com

Last Update: 10 Sep 2012 - 07:17 [Update now](#)



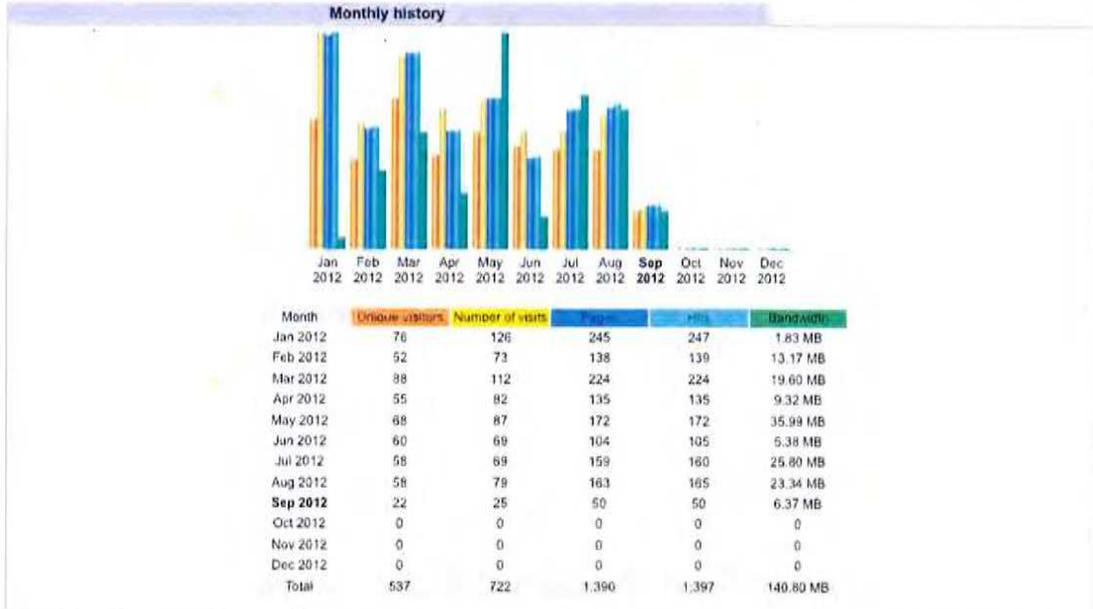
Reported period: Sep 2012 OK

- Summary
- When:
 - Monthly history
 - Days of month
 - Days of week
 - Hours
- Who:
 - Countries
 - Full list
- Hosts:
 - Full list
 - Last visit
 - Unresolved IP Address
- Authenticated users:
 - Full list
 - Last visit
- Robots/Spiders visitors:
 - Full list
 - Last visit
- Navigation:
 - Visits duration
 - File type
 - Downloads:
 - Full list
 - Viewed:
 - Full list
 - Entry
 - Exit
- Operating Systems:
 - Versions
 - Unknown
- Browsers:
 - Versions
 - Unknown
- Referrers:
 - Origin:
 - Referring search engines
 - Referring sites
- Search:
 - Search Keyphrases
 - Search Keywords
- Others:
 - Miscellaneous
 - HTTP Status codes:
 - Pages not found

Summary

Reported period	Unique visitors	Number of visits	Pages	Hits	Bandwidth
Month Sep 2012	22	25	50	50	6.37 MB
First visit	01 Sep 2012 - 02:12				
Last visit	10 Sep 2012 - 06:17				
Viewed traffic *		(1.13 visits/visitor)	(2 Pages/Visit)	(2 Hits/Visit)	(260.81 KB/Visit)
Not viewed traffic *			141	230	838.62 KB

* Not viewed traffic includes traffic generated by robots, worms, or replies with special HTTP status codes.





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StatCounter

dizzy, Admin User | Log Out

- Projects
- Users
- Upgrade
- Support
- About

Projects > "DIZZY WORLDWIDE"

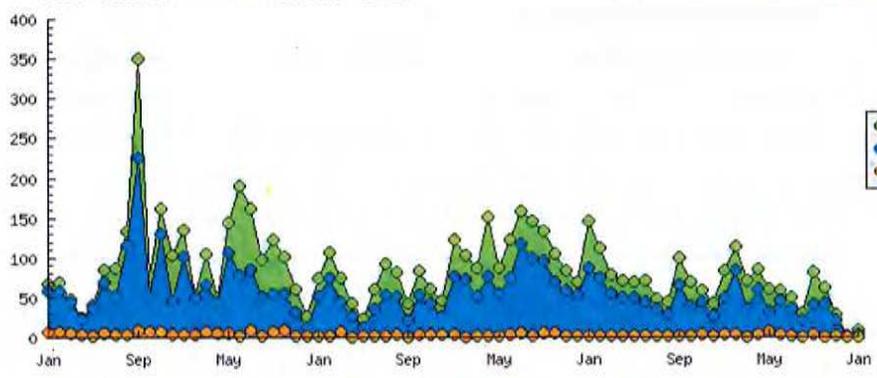
English

Stats | Config

Daily | Weekly | Monthly | Quarterly | Yearly

01:18:03 10 September 2012 Summary Log: No Limit

- Summary
- Hourly
- Popular Pages
- Entry Pages
- Exit Pages
- Came From
- Keyword Analysis
- Recent Keyword Activity
- Recent Came From
- Search Engine Wars
- Exit Links
- Exit Link Activity
- Downloads
- Download Activity
- Visitor Paths
- Visit Length
- Returning Visits
- Recent Pageload Activity
- Recent Visitor Activity
- Recent Visitor Map
- Country/State/City/ISP
- Browsers
- System Stats
- Lookup IP Address
- Download Logs
- SEO SPONSORS
- [Top 10 Search Listing](#)
- [48 Hour Google Listing](#)
- [1,000 Hits for \\$9.99](#)
- OUR SPONSORS
- [Get Targeted Visitors](#)
- [Free Website Content](#)
- [Australia Domain Names](#)



Page Loads
 Unique Visits
 Returning Visits

Date Range: This Year or Jan 2005 - Jan 2011

Data to Show: Page Loads Unique Visits Returning Visits

Graph Type: Bar Graph Area Graph No Graph

	Page Loads	Unique Visits	First Time Visits	Returning Visits
Total	6,308	4,125	3,899	226
Average	86	57	53	3

Month	Page Loads	Unique Visits	First Time Visits	Returning Visits
Jan 2011	9	4	4	0
Dec 2010	2	2	2	0
Nov 2010	28	22	21	1
Oct 2010	63	42	42	0

Feedback | Switch to Old StatCounter

This is



DIZZY COMICS

February 2014



Dear Friends, here it is, the brand new Dizzy Comics! Featuring all your favorite cartoon characters, URBAN JUNGLE, COMBO BOY, THE AMAZING JIM CORN and so much more to come! You can order your issue here or at www.dizzycomics.com. It costs just \$5.00 a copy. Shipping included, with taxes. We'll be in touch with you soon. www.dizzycomics.com



ACROSS
1. Full
2. Outland
3. Skewed

DOWN
1. Wonder
2. Digi
3. (She)up



WORD ANSWERS:
237 C 2413 E
2004 2 301 7
311 1 380 1
3302W NA00

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SPINNING DJ
OUTS
3.17.14 Sat. Feb. Fat St
FUN 02/18/2014
228 West 1st St. Humble TX
www.Skamrocks.com



DIZZY COMICS

February 2014



ICECUBES

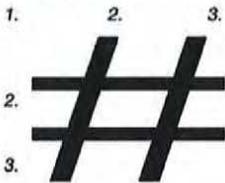


©Levy Brown 2014 / www.icecubescomic.com

@Levy Brown

Dear Friends, here it is, the brand new Dizzy Comics! Featuring all your favorite comics: ICECUBES, URBAN JUNGLE, ZOMBIE BOY, THE AMAZING JIM CORN and so much more to come! You can only get them here or at www.dizzycomics.com. If your paper doesn't carry Dizzy Comics, ask them to! Tell us what you think at www.dizzycomics.com!

WORD!



- ACROSS:
1. Full
 2. Surprised
 3. Scared
- DOWN:
1. Wonder
 2. Digit
 3. (She)ep

URBAN JUNGLE



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WWW.URBANJUNGLECOMIC.COM

THE AMAZING JIM CORN



www.prankstercomics.com

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ICECUBES the book! Get yours!

www.dizzycomics.com

WORD! ANSWERS:

- ACROSS:
1. AWE
 2. WOV
 3. EEE
- DOWN:
1. WOV
 2. WOV
 3. EEE

ZOMBIEBOY



zombieboycomics.com © Mark Stokas



Stokes

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Trademark Snap Shot Amendment & Mail Processing Stylesheet
 (Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	85741800	FILING DATE	09/28/2012
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	FLOWERS, JAY K	L.O. ASSIGNED	112

PUB INFORMATION

RUN DATE	02/02/2013		
PUB DATE	N/A		
STATUS	653-SUSPENSION LETTER - MAILED		
STATUS DATE	02/01/2013		
LITERAL MARK ELEMENT	DIZZY		

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)	NO	1 (b)	NO	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	DIZZY

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Tardy, Beau
ADDRESS	1659 Hill Top Lane Kingwood, TX 77339
ENTITY	01-INDIVIDUAL
CITIZENSHIP	United States of America
DBA/AKA	FORMERLY Dizzy Productions, Dizzy Worldwide Corp., Dizzy TV, Aquarium Creative Agency

GOODS AND SERVICES

INTERNATIONAL CLASS	009
DESCRIPTION TEXT	Digital materials, namely, CDs featuring television programs, cartoons, music in the field of entertainment; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring animation; Digital media, namely, DVDs, downloadable audio and video recordings, downloadable files featuring television programs, cartoons, music in the field of entertainment; Downloadable video recordings and downloadable audio visual recordings featuring television programs, cartoons, music in the field of entertainment via the internet and wireless devices; Prerecorded digital video disks featuring television programs, cartoons, music in the field of entertainment; Prerecorded video cassettes featuring television programs, cartoons, music in the field of entertainment

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	009	FIRST USE DATE	12/31/1996	FIRST USE IN COMMERCE DATE	12/31/1996	CLASS STATUS	6-ACTIVE
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MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
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PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
02/01/2013	GNS3	O	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	013

02/01/2013	GNSL	S	LETTER OF SUSPENSION E-MAILED	012
02/01/2013	CNSL	R	SUSPENSION LETTER WRITTEN	011
02/01/2013	XAEC	I	EXAMINER'S AMENDMENT ENTERED	010
02/01/2013	GNEA	O	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	009
02/01/2013	GNEA	O	EXAMINERS AMENDMENT E-MAILED	008
02/01/2013	CNEA	R	EXAMINERS AMENDMENT -WRITTEN	007
01/28/2013	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
01/28/2013	GNRT	F	NON-FINAL ACTION E-MAILED	005
01/28/2013	GNRT	R	NON-FINAL ACTION WRITTEN	004
01/28/2013	DOCK	D	ASSIGNED TO EXAMINER	003
10/04/2012	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
10/02/2012	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Wendy Peterson
CORRESPONDENCE ADDRESS	WENDY PETERSON NOT JUST PATENTS PO BOX 18716 MINNEAPOLIS, MN 55418-0716
DOMESTIC REPRESENTATIVE	NONE

DIZZY

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 2/1/2013 3:08:00 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

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

U.S. APPLICATION SERIAL NO. 85741800

MARK: DIZZY

85741800

CORRESPONDENT ADDRESS:
WENDY PETERSON
NOT JUST PATENTS
PO BOX 18716
MINNEAPOLIS, MN 55418-0716

GENERAL TRADEMARK INF
<http://www.uspto.gov/trademark>

APPLICANT: Tardy, Beau

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

wsp@NJPLS.com

EXAMINER'S AMENDMENT

ISSUE/MAILING DATE: 2/1/2013

DATABASE SEARCH: The trademark examining attorney has searched the USPTO's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

APPLICATION HAS BEEN AMENDED: In accordance with the authorization granted by Wendy Peterson on January 28, 2013, 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.*

Identification of Goods

The identification of goods is amended to read as follows:

International Class 09: Digital materials, namely, CDs featuring television programs, cartoons, music in the field of entertainment; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring animation; Digital media, namely, DVDs, downloadable audio and video recordings, downloadable files featuring television programs, cartoons, music in the field of entertainment; Downloadable video recordings and downloadable audio visual recordings featuring television programs, cartoons, music in the field of entertainment via the internet and wireless devices; Prerecorded digital video disks featuring television programs, cartoons, music in the field of entertainment; Prerecorded video cassettes featuring television programs, cartoons, music in the field of entertainment

TMEP §1402.01(e).

/Jay K Flowers/

United States Patent and Trademark Office

Trademark Examining Attorney

Law Office 112

571.272.8202

jay.flowers@uspto.gov

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 the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or 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 Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 2/1/2013 3:08:01 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

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

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **2/1/2013** FOR U.S. APPLICATION SERIAL NO.85741800

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 2/1/2013 3:10:38 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

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

U.S. APPLICATION SERIAL NO. 85741800

MARK: DIZZY

85741800

CORRESPONDENT ADDRESS:

WENDY PETERSON

NOT JUST PATENTS

PO BOX 18716

MINNEAPOLIS, MN 55418-0716

GENERAL TRADEMARK IN
<http://www.uspto.gov/trademark>

APPLICANT: Tardy, Beau

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

wsp@NJPLS.com

SUSPENSION NOTICE: NO RESPONSE NEEDED

ISSUE/MAILING DATE: 2/1/2013

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the "Response to Suspension Inquiry or Letter of Suspension" form online at <http://teasroa.uspto.gov/rsi/rsi>.

PRIOR-FILED PENDING APPLICATION(S) FOUND: The trademark examining attorney has searched the USPTO's database of registered and pending marks and has found no similar registered marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d). However, a mark(s) in a prior-filed pending application(s) may present a bar to registration of applicant's mark.

The effective filing date of the pending application(s) identified below precedes the filing date of applicant's application. If the mark in the referenced application(s) registers, applicant's mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark(s). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application(s) is either registered or abandoned. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced application(s) was sent previously.

- Application Serial No(s). 85509929

/Jay K Flowers/

United States Patent and Trademark Office

Trademark Examining Attorney

Law Office 112

571.272.8202

jay.flowers@uspto.gov

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 the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or 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 Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 2/1/2013 3:10:39 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

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

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **2/1/2013** FOR U.S. APPLICATION SERIAL NO. 85741800

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

NOTE TO THE FILE

SERIAL NUMBER: 85741800

DATE: 01/28/2013

NAME: jflowers

NOTE:

Searched:

- Google
- Lexis/Nexis
- OneLook
- Wikipedia
- Acronym Finder
- Other: X-search

Discussed ID with:

- Senior Atty
- Managing Atty

- Protest evidence reviewed

Checked:

- Geographic significance
- Surname
- Translation
- ID with ID/CLASS mailbox

Discussed Geo. Sig. with:

- Senior Atty
- Managing Atty

Checked list of approved Canadian attorneys and agents

Discussed file with

Attorney/Applicant via:

- | | |
|--|---|
| <input type="checkbox"/> phone | <input type="checkbox"/> Left message with Attorney/Applicant |
| <input type="checkbox"/> email | |
| <input type="checkbox"/> Requested Law Library search for: | <input type="checkbox"/> Issued Examiner's Amendment and entered changes in TRADEUPS |
| <input type="checkbox"/> PRINT <input type="checkbox"/> DO NOT PRINT | <input type="checkbox"/> Added design code in TRADEUPS |
| <input type="checkbox"/> Description of the mark | <input type="checkbox"/> Re-imaged standard character drawing |
| <input type="checkbox"/> Translation statement | <input type="checkbox"/> Contacted TM MADRID ID/CLASS about misclassified definite ID |
| <input type="checkbox"/> Negative translation statement | |
| <input type="checkbox"/> Consent of living individual | |
| <input type="checkbox"/> Changed TRADEUPS to: | |
| <input type="checkbox"/> OTHER: | |

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 1/28/2013 12:36:35 PM
Sent As: ECOM112@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 85741800

MARK: DIZZY

85741800

CORRESPONDENT ADDRESS:

WENDY PETERSON

NOT JUST PATENTS

PO BOX 18716

MINNEAPOLIS, MN 55418-0716

CLICK HERE TO RESPOND TO

<http://www.uspto.gov/trademarks/teas/r>

APPLICANT: Tardy, Beau

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

wsp@NJPLS.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: **1/28/2013**

The assigned trademark examining attorney has reviewed the referenced application and has determined the following:

Prior Pending Application

The effective filing date of pending U.S. Application Serial No. 85509929 precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. See 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

Identification of Goods

The identification of goods is unacceptable as indefinite. The applicant must clarify the identification of goods by specifying what is meant by "Downloadable videos" because this wording is overly broad and requires greater specificity. See TMEP §1402.01.

Applicant may adopt the following identification(s), if accurate:

International Class 09: Digital materials, namely, CDs featuring television programs, cartoons, music in the field of entertainment; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring animation; Digital media, namely, DVDs, downloadable audio and video recordings, downloadable files featuring television programs, cartoons, music in the field of entertainment; Downloadable *video recordings* and downloadable audio visual recordings featuring television programs,

cartoons, music in the field of entertainment via the internet and wireless devices; Prerecorded digital video disks featuring television programs, cartoons, music in the field of entertainment; Prerecorded video cassettes featuring television programs, cartoons, music in the field of entertainment

For assistance with identifying and classifying goods in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>. See TMEP §1402.04.

Identifications of goods can be amended only to clarify or limit the goods; adding to or broadening the scope of the goods is not permitted. 37 C.F.R. §2.71(a); see TMEP §§1402.06 *et seq.*, 1402.07. Therefore, applicant may not amend the identification to include goods that are not within the scope of the goods set forth in the present identification.

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. See 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

/Jay K. Flowers/

United States Patent and Trademark Office

Trademark Examining Attorney

Law Office 112

571.272.8202

jay.flowers@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned

trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

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 the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or 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/trademarks/teas/correspondence.jsp>.

Print: Jan 28, 2013

85509929

DESIGN MARK

Serial Number

85509929

Status

OPPOSITION PENDING

Word Mark

DIZZY

Standard Character Mark

Yes

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Wild Brain Entertainment, Inc. CORPORATION DELAWARE 15000 Ventura Blvd, 3rd Fl Sherman Oaks CALIFORNIA 91403

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Electrical and scientific apparatus, namely, electronic game software; computer game software; downloadable computer games; computer and video-game cassettes, cartridges, discs and programs; downloadable game software; motion picture films featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; pre-recorded video and audio cassettes, video and audio tapes, video and audio discs, CD ROMs, compact discs, digital versatile discs, musical video recordings, musical sound recordings and phonograph records featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; software and manuals sold as a unit in the field of children's education, namely, for use in creating, updating and maintaining calendars, for information management and for use as computer screen savers; decorative refrigerator magnets; hand held units for playing electronic games for use with external display screen or monitor.

Filing Date

2012/01/05

Examining Attorney

Print: Jan 28, 2013

85509929

CHUO, EMILY

Attorney of Record

Katherine L. McDaniel

DIZZY

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 1/28/2013 12:36:36 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

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

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **1/28/2013** FOR U.S. APPLICATION SERIAL NO. 85741800

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **1/28/2013** (or sooner if specified in the Office action). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

*** User:jflowers ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration	Search
01	12640	N/A	0	0	0:04	*d{"iey"} {"Sz":2} {"iey"}* [bi,ti] not dead [ld]
02	2128	N/A	0	0	0:02	*d{"iy"} {"Sz":2} {"iey"}* [bi,ti] not dead [ld]
03	1191	N/A	0	0	0:04	2 and "009" [cc]
04	551	0	286	263	0:02	2 and ("009" "041" a b 200) [ic]
05	446	0	285	262	0:01	4 not *diseas* [bi,ti] not dead [ld]
06	285	0	285	262	0:01	5 not *paradis* [bi,ti] not dead [ld]

Session started 1/28/2013 12:15:54 PM

Session finished 1/28/2013 12:23:18 PM

Total search duration 0 minutes 14 seconds

Session duration 7 minutes 24 seconds

Default NEAR limit=1 ADJ limit=1

Sent to TICRS as Serial Number: 85741800

DIZZY

Opazz

Space Jazz©

by Jazzy Burn's



Get With It "Live" 00:00 / 06:31



Digital Album

Immediate download of 7-track album in your choice of MP3 320, FLAC, or just about any other format you could possibly desire.

Buy Now **\$1.99 USD** or more

Share / Embed

- ▶ 1. Get With It "Live" 06:31
- ▶ 2. Work 03:46
- ▶ 3. New York City "live" 16:38
- ▶ 4. TV'S Red Piano Mix 04:33
- ▶ 5. Radio Tuvatu 10:47
- ▶ 6. Chasin' The Bump 02:47
- ▶ 7. Zahedan 11:22

As heard on Dizzy TV! This CD features some of the great Space Jazz© tracks by Jazzy Burn's played live on Dizzy TV.

released 23 May 2012

tags: electronic electro jazztronica spacejazz triphop New York

all rights reserved

feeds for this album, this artist



Tweet | Like | 2



Jazzy Burn's is a mix of jazz, electro and funky beats. Jack Dangers of Meat Beat Manifesto selected a Jazzy Burn's track in ... more

SoundCloud
Facebook
YouTube

discography



Space Jazz©
May 2012



Colorbars
Sep 2011





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[CLEAR® - \\$35 Internet](#) Wireless 4G Internet Service - \$35 4G Mobile & Home Internet Service. [www.clear.com](#)

Tweet Like 0

Screenshot History

Domain: dizzythecat.com Search [Image Size](#) [Return to Whois Record](#)

Viewing Pages: 2 of 2



2005-02-09

2004-11-24

2004-07-01

Viewing Pages: 2 of 2

Site Profile

Website Title:  **** Dizzy Worldwide Productions****

Title Relevancy: **33%**

About Us:  [Wiki article on Dizzythecat.com](#)

SEO Score: **72%**

Terms: **42** (Unique: 35, Linked: 2)

Images: **0** (Alt tags missing: 0)

Links: **1** (Internal: 1, Outbound: 0)

Similar Domains: [dizzyts.com](#), [dizzyworld.com](#), [dizzy sandals.com](#), [dizzy street.com](#), [dizzy town.com](#), [dizzy stuff.com](#), [dizzyler.com](#), [dizzy sheep.com](#), [dizzy poker.com](#), [dizzy wood.com](#), [dizzy wold.com](#), [dizzy view.com](#), [dizzy point.com](#), [dizzy porn.com](#)

Wikipedia: [0 pages](#)

Server Type: Apache

IP Address: [184.173.233.189](#) [Reverse-IP](#) | [Ping](#) | [DNS Lookup](#) | [Traceroute](#)

ASN: **AS36351**

IP Location:  - Texas - Dallas - [Theplanet.com Internet Services Inc.](#)

Response Code: 200

Domain Status: **Registered And Active Website**

Wikipedia: [0 pages](#)

ICANN Registrar: **ENOM, INC.**

Created: 1998-01-06

Expires: **2013-01-05** [Backorder Now](#)

Updated: 2011-07-30

Registrar Status: [clientTransferProhibited](#)

Name Server: NS3027.HOSTGATOR.COM (has [2,128,015 domains](#))
NS3028.HOSTGATOR.COM (has [2,128,015 domains](#))

Whois Server: [whois.enom.com](#)

General TLDs: [DizzyTheCat.com](#)  (registered and active website)
[DizzyTheCat.net](#) (never registered before)
[DizzyTheCat.org](#) (never registered before)
[DizzyTheCat.info](#) (never registered before)
[DizzyTheCat.biz](#) (never registered before)
[DizzyTheCat.us](#) (never registered before)

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dizzytv.com

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[Free Pet Exam Coupon](#) Get Your Coupon For A Free Exam And Consultation On Pet's First Visit! [Banfield.com](#)

[TV Parts At Part Store](#) Replacement TV Parts At PartStore™. Free Shipping On Orders \$75 & Up! [www.partstore.com](#)

Tweet Like 0

Screenshot History

Domain: dizzytv.com

Search

Image Size

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Viewing Pages: 2 of 2



2010-02-07



2009-11-26



2009-09-17



2009-07-14



2009-05-16



2008-11-03



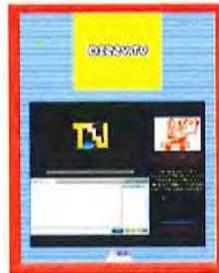
2008-09-23



2008-07-31



2008-06-11



2008-05-21



2008-05-07



2008-04-23

2008-06-16

2008-04-21

2008-01-24

2007-11-22



2006-11-04

Viewing Pages: 2 of 2

Site Profile

Website Title: [Dizzy TV on USTREAM: Dizzy™ TV is "live" Electronic Space Jazz™. Fast-Forward Free Style Future American Mythology for the Electronic Age™. Dimensional TV...](#)

Title Relevancy **95%**

Meta Description: Dizzy TV @ USTREAM: Dizzy™ TV is "live" Electronic Space Jazz™. Fast-Forward Free Style Future American Mythology for the Electronic Age™. Dimensional TV...

Description Relevancy: **100%** relevant.

AboutUs: [Wiki article on Dizzytv.com](#)

SEO Score: **96%**

Terms: **591** (Unique: 314, Linked: 150)

Images: **9** (Alt tags missing: 2)

Links: **78** (Internal: 71, Outbound: 5)

iFrames: **5** (Parts of page not indexable by most search engines.)

Similar Domains: [dizzyts.com](#), [dizzyworld.com](#), [dizzy sandals.com](#), [dizzystreet.com](#), [dizzytown.com](#), [dizzystuff.com](#), [dizzler.com](#), [dizzy sheep.com](#), [dizzy poker.com](#), [dizzywood.com](#), [dizzywold.com](#), [dizzyview.com](#), [dizzy point.com](#), [dizzy porn.com](#)

Wikipedia: [0 pages](#)

IP Address: [64.202.189.170](#) [Reverse-IP](#) | [Ping](#) | [DNS Lookup](#) | [Traceroute](#)

ASN: **AS26496**

IP Location: - New York - New York City - Godaddy.com Lic

Response Code: 200

Domain Status: **Registered And Active Website**

Wikipedia: [0 pages](#)

ICANN Registrar: **GODADDY.COM, LLC**

Created: 2006-06-07

Expires: **2013-06-07** [Backorder Now](#)

Updated: 2012-08-28

Registrar Status: [clientDeleteProhibited](#)
[clientRenewProhibited](#)
[clientTransferProhibited](#)
[clientUpdateProhibited](#)

Name Server: NS19.DOMAINCONTROL.COM (has [34,044,331 domains](#))
 NS20.DOMAINCONTROL.COM (has [34,044,331 domains](#))

Whois Server: whois.godaddy.com

General TLDs: [DizzyTv.com](#) (registered and active website)
[DizzyTv.net](#) (never registered before)
[DizzyTv.org](#) (never registered before)
[DizzyTv.info](#) (never registered before)
[DizzyTv.biz](#) (never registered before)



Dizzy TV

Joined 1 year ago / World

Dizzy TV has not yet updated their profile

3 Follow

Send Message

Featured Videos



Hello Dizzy TV!
1 year ago



Dizzy TV ID
1 year ago

BROWSE & CONNECT

5 Videos



Recently Uploaded



NEED HELP?

If you have questions about what's on this page, look here first: [Help](#) / [FAQ](#) / [Profile](#)

Cat *A*Log



For cool cats who
always land on
their feet! (tm)



COOL TEE'S - T

Two colors, 4 different designs.
\$22.95 - \$24.95. Colors: Yellow, Black, Black

Size: M, Large, Medium, S. **AVAILABLE**
100% Cotton, 100% Polyester

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COOL JACKET - T

Cool hood, fleece-lined, with two zippered
pockets. Black

Size: Large, Extra Large
Price: \$29.95

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DIZZY-TV™

THE AIRLINE OF THE MIND™

OFFICIAL CATALOG

NOW AVAILABLE



VHS TAPES

DIZZY-TV EPISODE #1 featuring DJ SPIN ONE (hip hop/n/b) 30mins

DIZZY-TV EPISODE #2 featuring CRASH DUMMIES (quad turntablists/hip hop/n/skratch) 30mins

DIZZY-TV EPISODE #3 featuring CHRIS LEWIS (100% pure house) 30mins

DIZZY-TV EPISODE #4 NEW YORK UNDERGROUND COMPILATION featuring SOUND AB - BASSLINE MASSIVE - THE ARSONISTS (hip hop/experimental) 30mins



AUDIO CASSETTES

(all cassettes are 50mins long)

DIZZY UNDERGROUND Mix #1 featuring CRASH DUMMIES w/DJ SPIN ONE (quad turntablists/hip hop/n/skratch)

DIZZY UNDERGROUND Mix #2 featuring DJ SPIN ONE (hip hop/n/b)

DIZZY UNDERGROUND Mix #3 featuring CHRIS LEWIS (100% pure house)

VHS TAPES ARE \$10.00 PER TAPE / CASSETTES ARE \$9.00 / ADD \$1.50 FOR SHIPPING AND HANDLING. SEND CHECKS OR MONEY ORDERS TO:

**DIZZY WORLDWIDE
PO BOX #740
KNICKERBOCKER STATION
128 EAST BROADWAY
NEW YORK, NY 10002**

For additional info, call 212-242-1199 or email retfkd@usa.net

HAPPY HOLIDAYS!!



Look for DIZZY-TV on the big screen and the TV screen by purchasing any authorized VHS video and cassette tape. The only place you can find the real thing is at the DIZZY-TV store. We're now on TV! We want to be your new favorite TV show. The DIZZY-TV store is now open in New York City and we're only \$9.99. \$10.00. The only place you'll always find us. The DIZZY-TV store is now open in New York City. The only place you'll always find us.



Look for DIZZY-TV on the big screen and the TV screen by purchasing any authorized VHS video and cassette tape. The only place you can find the real thing is at the DIZZY-TV store. We're now on TV! We want to be your new favorite TV show. The DIZZY-TV store is now open in New York City and we're only \$9.99. \$10.00. The only place you'll always find us. The DIZZY-TV store is now open in New York City. The only place you'll always find us.



DIZZY® THE CAT WITH THE TV HEAD

dizzy
worldwide ©

244 8th ave.
#G-245

new york
ny 10002

usa+
(212) 254-1345

dizzy
@dizzythecat.com

DATE
2001

COMPANY
DIZZY WORLDWIDE ©

TITLE
COMMERCIALS

The phrase "the cat with the TV head" when used
in conjunction with the name "Dizzy" is a registered
trademark of Dizzy Worldwide ©

FORMAT
LENGTH
betaSP NTSC
6:00 mins



71774

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DIZZY © 2001

DESCRIPTION

CATALOG #

9999097543





DIZZY THE CAT #1



MR. BIRD



BONGA



DIZZY

PLUS LOTS MORE!



DIZZY WORLDWIDE © 2008





Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85741800

Filing Date: 09/28/2012

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	<u>DIZZY</u>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	DIZZY
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Tardy, Beau
DBA/AKA/TA/FORMERLY	Formerly Dizzy Productions, Dizzy Worldwide Corp., Dizzy TV, Aquarium Cre
*STREET	1659 Hill Top Lane
*CITY	Kingwood
*STATE (Required for U.S. applicants)	Texas
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	77339

applicants only)	
LEGAL ENTITY INFORMATION	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	009
*IDENTIFICATION	Digital materials, namely, CDs featuring television programs, cartoons, music of entertainment ; Prerecorded video cassettes featuring television programs, c music in the field of entertainment
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/31/1996
FIRST USE IN COMMERCE DATE	At least as early as 12/31/1996
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-7136153198-142104424 . ZY music DIZZY TV history DIZZYthecat history DIZZY 5
CONVERTED PDF FILE(S) (6 pages)	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0004.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0005.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0007.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0008.JPG
SPECIMEN DESCRIPTION	DIZZY music, DIZZY TV samples and webshot histories for two of web sites
*INTERNATIONAL CLASS	009
*IDENTIFICATION	Digital media, namely, pre-recorded video cassettes, digital video discs, digital , downloadable audio and video recordings, DVDs, and high definition digital dis animation
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/31/1996
FIRST USE IN	

COMMERCE DATE	At least as early as 12/31/1996
SPECIMEN FILE NAME(S)	
ORIGINAL SPECIMEN	APPLICANT-SUPPLIED FILE (SOUND/MOTION)
SPECIMEN DESCRIPTION	DIZZY animated cartoons
*INTERNATIONAL CLASS	009
*IDENTIFICATION	Digital media, namely, DVDs, downloadable audio and video recordings, do files featuring television programs, cartoons, music in the field of entertainn Downloadable videos and downloadable audio visual recordings featuring t programs, cartoons, music in the field of entertainment via the internet and v devices; Prerecorded digital video disks featuring television programs, cartoo the field of entertainment
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/31/1996
FIRST USE IN COMMERCE DATE	At least as early as 12/31/1996
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-7136153198-112845489 . DIZZY specimens 1996 to 2012 reduced s
CONVERTED PDF FILE(S) (7 pages)	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0009.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0010.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0011.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0012.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0013.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0014.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\418\85741800\xml1\FTK0015.JPG
SPECIMEN DESCRIPTION	Uses of DIZZY on goods from 1996 to 2012
ADDITIONAL STATEMENTS SECTION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION	

(if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
USE OF THE MARK IN ANOTHER FORM	The mark was first used anywhere in a different form other than that sought to be least as early as 12/31/1996, and in commerce at least as early as 12/31/1996.

ATTORNEY INFORMATION

NAME	Wendy Peterson
FIRM NAME	Not Just Patents
STREET	PO Box 18716
CITY	Minneapolis
STATE	Minnesota
COUNTRY	United States
ZIP/POSTAL CODE	55418
PHONE	(651) 500-7590
EMAIL ADDRESS	wsp@NJPLS.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes

CORRESPONDENCE INFORMATION

*NAME	Wendy Peterson
FIRM NAME	Not Just Patents
*STREET	PO Box 18716
*CITY	Minneapolis
*STATE (Required for U.S. applicants)	Minnesota
*COUNTRY	United States
*ZIP/POSTAL CODE	55418
PHONE	(651) 500-7590
*EMAIL ADDRESS	wsp@NJPLS.com
*AUTHORIZED TO COMMUNICATE VIA	Yes

EMAIL	
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/Wendy Peterson/
* SIGNATORY'S NAME	Wendy Peterson
* SIGNATORY'S POSITION	Attorney of record, Minnesota and Michigan bar members
SIGNATORY'S PHONE NUMBER	(651) 500-7590
* DATE SIGNED	09/28/2012

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85741800

Filing Date: 09/28/2012

To the Commissioner for Trademarks:

MARK: DIZZY (Standard Characters, see [mark](#))

The literal element of the mark consists of DIZZY.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Beau Tardy, Formerly Dizzy Productions, Dizzy Worldwide Corp., Dizzy TV, Aquarium Creative Agency, a citizen of United States, having an address of

1659 Hill Top Lane
Kingwood, Texas 77339
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 009: Digital materials, namely, CDs featuring television programs, cartoons, music in the field of entertainment; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring animation; Digital media, namely, DVDs, downloadable audio and video recordings, downloadable files featuring television programs, cartoons, music in the field of entertainment; Downloadable videos and downloadable audio visual recordings featuring television programs, cartoons, music in the field of entertainment via the internet and wireless devices; Prerecorded digital video disks featuring television programs, cartoons, music in the field of entertainment; Prerecorded video cassettes featuring television programs, cartoons, music in the field of entertainment

In International Class 009, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 12/31/1996, and first used in commerce at least as early as 12/31/1996, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) DIZZY music, DIZZY TV samples and webshot histories for two of web sites; DIZZY animated cartoons; Uses of DIZZY on goods from 1996 to 2012.

Original PDF file:

SPE0-7136153198-

142104424 . ZY music DIZZY TV history DIZZYthecat history DIZZY TV Vimeo.pdf

Converted PDF file(s) (6 pages)

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

[Specimen File5](#)

[Specimen File6](#)

Original PDF file:

SPE0-7136153198-112845489 . DIZZY specimens 1996 to 2012 reduced size.pdf

Converted PDF file(s) (7 pages)

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

[Specimen File5](#)

[Specimen File6](#)

[Specimen File7](#)

Original Specimen:

APPLICANT-SUPPLIED FILE (SOUND/MOTION)

The mark was first used anywhere in a different form other than that sought to be registered at least as early as 12/31/1996, and in commerce at least as early as 12/31/1996.

The applicant's current Attorney Information:

Wendy Peterson of Not Just Patents
PO Box 18716
Minneapolis, Minnesota 55418
United States

The applicant's current Correspondence Information:

Wendy Peterson
Not Just Patents
PO Box 18716
Minneapolis, Minnesota 55418
(651) 500-7590(phone)
wsp@NJPLS.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Wendy Peterson/ Date Signed: 09/28/2012

Signatory's Name: Wendy Peterson

Signatory's Position: Attorney of record, Minnesota and Michigan bar members

RAM Sale Number: 11474

RAM Accounting Date: 10/01/2012

Serial Number: 85741800

Internet Transmission Date: Fri Sep 28 19:59:34 EDT 2012

TEAS Stamp: USPTO/FTK-71.36.153.198-2012092819593420

1318-85741800-49069b7c9dd13c82a71e483662

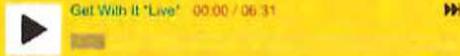
685eeb865-CC-11474-20120928195205476511

DIZZY

Oopazz

Space Jazz©

by Jazzy Burn's



Digital Album

Immediate download of 7-track album in your choice of MP3 320, FLAC, or just about any other format you could possibly desire.

Buy Now **\$1.99 USD** or more

Share / Embed

- ▶ 1. Get With It "Live" 06:31
- ▶ 2. Work 03:48
- ▶ 3. New York City "live" 16:39
- ▶ 4. TV'S Red Piano Mix 04:33
- ▶ 5. Radio Tuvatu 10:47
- ▶ 6. Chasin' The Bump 02:47
- ▶ 7. Zahedan 11:22

As heard on Dizzy TV! This CD features some of the great Space Jazz© tracks by Jazzy Burn's played live on Dizzy TV.

released 23 May 2012

tags: electronic electro jazztronica spacejazz triphop New York

© all rights reserved

feeds for this album, this artist



Tweet Like 2



Jazzy Burn's is a mix of jazz, electro and funky beats. Jack Dangers of Meat Beat Manifesto selected a Jazzy Burn's track in ... more

SoundCloud
Facebook
YouTube

discography



Space Jazz©
May 2012



Colorbars
Sep 2011





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[CLEAR® - \\$35 Internet](#) Wireless 4G Internet Service - \$35 4G Mobile & Home Internet Service. [www.clear.com](#)

[Tweet](#) [Like](#) 0

Screenshot History

Screenshot Navigation

Domain: [Return to Whois Record](#)

Viewing Pages: 2 of 2



2005-02-09

2004-11-24

2004-07-01

Viewing Pages: 2 of 2

Site Profile

Website Title:  **** Dizzy Worldwide Productions****

Title Relevancy: **33%**

About Us:  [Wiki article on Dizzythecat.com](#)

SEO Score: **72%**

Terms: **42** (Unique: 35, Linked: 2)

Images: **0** (Alt tags missing: 0)

Links: **1** (Internal: 1, Outbound: 0)

Similar Domains: [dizzyts.com](#), [dizzyworld.com](#), [dizzy sandals.com](#), [dizzy street.com](#), [dizzytown.com](#), [dizzy stuff.com](#), [dizzyler.com](#), [dizzy sheep.com](#), [dizzy poker.com](#), [dizzy wood.com](#), [dizzy wold.com](#), [dizzy view.com](#), [dizzy point.com](#), [dizzy porn.com](#)

Wikipedia: [0 pages](#)

Server Type: Apache

IP Address: [184.173.233.189](#) [Reverse-IP](#) | [Ping](#) | [DNS Lookup](#) | [Traceroute](#)

ASN: **AS36351**

IP Location:  - Texas - Dallas - Theplanet.com Internet Services Inc.

Response Code: 200

Domain Status: **Registered And Active Website**

Wikipedia: [0 pages](#)

ICANN Registrar: **ENOM, INC.**

Created: 1998-01-06

Expires: **2013-01-05** [Backorder Now](#)

Updated: 2011-07-30

Registrar Status: [clientTransferProhibited](#)

Name Server: NS3027.HOSTGATOR.COM (has [2,128,015 domains](#))
NS3028.HOSTGATOR.COM (has [2,128,015 domains](#))

Whois Server: whois.enom.com

General TLDs:

- [DizzyTheCat.com](#)  (registered and active website)
- [DizzyTheCat.net](#) (never registered before)
- [DizzyTheCat.org](#) (never registered before)
- [DizzyTheCat.info](#) (never registered before)
- [DizzyTheCat.biz](#) (never registered before)
- [DizzyTheCat.us](#) (never registered before)

[Memberships](#) | [Developer API](#) | [About Us](#) | [Blog](#) | [Desktop Tools](#) | [Terms of Service](#) | [Privacy](#) | [Support](#) | [Careers](#) | [Contact Us](#) | [Site Map](#)

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Ads by Google

[How to Make a Free Site](#) Create Your Own Website. It's Easy, Fast & 100% Free. Set It Up Now! [Webs.com Free Website](#)

[Free Pet Exam Coupon](#) Get Your Coupon For A Free Exam And Consultation On Pet's First Visit! [Banfield.com](#)

[TV Parts At Part Store](#) Replacement TV Parts At PartStore™. Free Shipping On Orders \$75 & Up! [www.partstore.com](#)

Tweet Like 0

Screenshot History

Screenshot Navigation

Domain: Search [Return to Whois Record](#)

Viewing Pages: 2 of 2



2010-02-07



2009-11-26



2009-09-17



2009-07-14



2009-05-16



2008-11-03



2008-09-23



2008-07-31



2008-06-16

2008-04-21

2008-01-24

2007-11-22



2006-11-04

Viewing Pages: 2 of 2

Site Profile

Website Title: [Dizzy TV on USTREAM: Dizzy™ TV is "live" Electronic Space Jazz™. Fast-Forward Free Style Future American Mythology for the Electronic Age™. Dimensional TV...](#)

Title Relevancy: **95%**

Meta Description: Dizzy TV @ USTREAM: Dizzy™ TV is "live" Electronic Space Jazz™. Fast-Forward Free Style Future American Mythology for the Electronic Age™. Dimensional TV...

Description Relevancy: **100%** relevant.

AboutUs: [Wiki article on Dizzytv.com](#)

SEO Score: **96%**

Terms: **591** (Unique: 314, Linked: 150)

Images: **9** (Alt tags missing: 2)

Links: **78** (Internal: 71, Outbound: 5)

iFrames: **5** (Parts of page not indexable by most search engines.)

Similar Domains: [dizzyts.com](#), [dizzyworld.com](#), [dizzy sandals.com](#), [dizzystreet.com](#), [dizzytown.com](#), [dizzystuff.com](#), [dizzler.com](#), [dizzy sheep.com](#), [dizzy poker.com](#), [dizzywood.com](#), [dizzywold.com](#), [dizzyview.com](#), [dizzy point.com](#), [dizzy porn.com](#)

Wikipedia: [0 pages](#)

IP Address: [64.202.189.170](#) [Reverse-IP](#) | [Ping](#) | [DNS Lookup](#) | [Traceroute](#)

ASN: **AS26496**

IP Location: - New York - New York City - Godaddy.com Llc

Response Code: 200

Domain Status: **Registered And Active Website**

Wikipedia: [0 pages](#)

ICANN Registrar: **GODADDY.COM, LLC**

Created: 2006-06-07

Expires: **2013-06-07** [Backorder Now](#)

Updated: 2012-08-28

Registrar Status: [clientDeleteProhibited](#)
[clientRenewProhibited](#)
[clientTransferProhibited](#)
[clientUpdateProhibited](#)

Name Server: NS19.DOMAINCONTROL.COM (has [34,044,331 domains](#))
NS20.DOMAINCONTROL.COM (has [34,044,331 domains](#))

Whois Server: whois.godaddy.com

General TLDs: [DizzyTv.com](#) (registered and active website)
[DizzyTv.net](#) (never registered before)
[DizzyTv.org](#) (never registered before)
[DizzyTv.info](#) (never registered before)
[DizzyTv.biz](#) (never registered before)



Dizzy TV

Joined 1 year ago / World

Dizzy TV has not yet updated their profile (

3 Follow

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Featured Videos



Hello Dizzy TV!
1 year ago



Dizzy TV ID
1 year ago

BROWSE & CONNECT

5 Videos

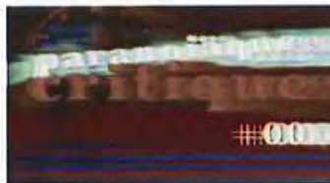


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Malaysia's Great Wonders

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Cat *A*Log



For those cats who
always land on
their feet! (stop)



DIZZY TEES / T

Soft, stretchy, 100% cotton, 100% made in the USA. Colors: Yellow, Black, White, Red.

Size: M, Large, Medium, S, XS, XXS. \$14.99.

[View Product Page](#)
Get Order Form



DIZZY JACKET / T

Good, stretchy, 100% cotton, 100% made in the USA. Colors: Black, White, Red.

Size: M, Large, Medium, S, XS, XXS. \$24.99.

[View Product Page](#)



DIZZY-TV™

THE AIRLINE OF THE MIND™

OFFICIAL CATALOG

NOW AVAILABLE



VHS TAPES

DIZZY-TV EPISODE #1 featuring DJ SPIN ONE (hip hop/n'skratch) 30mins

DIZZY-TV EPISODE #2 featuring CRASH DUMMIES (quad turntablists/hip hop n'skratch) 30mins

DIZZY-TV EPISODE #3 featuring CHRIS LEWIS (100% pure house) 30mins

DIZZY-TV EPISODE #4 NEW YORK UNDERGROUND COMPILATION featuring SOUND AB + BASSLINE MASSIVE + THE ARSONISTS (hip hop/experimental) 30mins



AUDIO CASSETTES

(all cassettes are 50mins long)

DIZZY UNDERGROUND Mix #1 featuring CRASH DUMMIES w. DJ SPIN ONE (quad turntablists/hip hop n'skratch)

DIZZY UNDERGROUND Mix #2 featuring DJ SPIN ONE (hip hop/n'skratch)

DIZZY UNDERGROUND Mix #3 featuring CHRIS LEWIS (100% pure house)

VHS TAPES ARE \$15.00 PER TAPE / CASSETTES ARE \$10.00 / ADD \$1.50 FOR SHIPPING AND HANDLING. SEND CHECKS OR MONEY ORDERS TO:

**DIZZY WORLDWIDE
PO BOX #740
KNICKERBOCKER STATION
128 EAST BROADWAY
NEW YORK, NY 10002**

For additional info, call 212-625-1459 or email info@dizzyusa.net

HAPPY HOLIDAYS!!



...and that's all for now. We'll be back with more tapes soon. We're always looking for new talent to join the team. If you're interested, please send us your resume and a sample of your work to info@dizzyusa.net. We'll be in touch with you soon. Thank you for your support. We love you!



Keep DIZZY Hip - Call -



DIZZY® THE CAT WITH THE TV HEAD

dizzy
worldwide ©

244 5th ave.
#G-245

new york
ny 10002

usa+
(212) 254-1345

dizzy
@dizzythecat.com

DATE 2001

COMPANY DIZZY WORLDWIDE ©

TITLE **COMMERCIALS**

The phrase "the cat with the tv head"™ when used in conjunction with the name "Dizzy" is a registered trademark of Dizzy Worldwide ©

FORMAT betaSP NTSC
LENGTH 6:00 mins



ディズィ

DIZZY WORLDWIDE ©. DO NOT
DUPLICATE WITHOUT WRITTEN
PERMISSION FROM DIZZY WORLDWIDE.
ALL RIGHTS RESERVED.
DIZZY © 2001

DESCRIPTION

CATALOG #

9999097543





DIZZY THE CAT

#1



MR BIRD



BONGA



DIZZY

PLUS LOTS MORE!



WINTER ISSUE!

DIZZY WORLDWIDE © 2005

BT





Welcome to the new DAZZYSHOP! Here is where you will find all your favorite DAZZY THE CAT® products. We ship worldwide! Shipping to United States Please Contact if you need Postal Priority, DHL or EMS please email me first at the address: dazzyworkshop@jazzmine.com. You can also call us at 817-477-3319 to check on your order. We will refund any item you're not 100% satisfied with except shipping costs. All transactions will processed securely by PayPal the except all major credit cards, even without a PayPal account. Thanks for shopping with!



Shipping info: Tracking ID: 2385 Select the carrier for faster transit!

Enter customs/invoicing with SpringMagine server



DAZZY T-SHIRT featuring Dazzy The Cat® in the front in 2 color and blue/white and the back, address new DAZZY the Cat® in white across the full chest. They are 100% cotton. Fruit Of The Loom® or Hanes® fabric and come in 2 sizes: medium, large or extra large shirt colors.

Select size: Medium select color: Blue

View Cart



ROCKA ROLLER featuring Dazzy®, Dazzy's cat's inspired version of the rock and roll star in red color. Item of 100% cotton, size medium, large or extra large. Comes with complimentary Dazzy the Cat® t-shirt in DazzyShop.com

View Cart



DESIGNS BY RETRIEVE original MICHIE! Now DAZZY get DAZZY poster! Featuring awesome Dazzy featuring image of Dazzy cat. This 12 x 18 inch (30x45 cm) poster includes the words of how Dazzy get DAZZY and was designed by the world famous Designer Retrieve in Seattle, WA. Please to contact her and thank her for the design!

View Cart



DIGITAL DAZZY POSTER! Awesome full size 18.5" x 18" inch (46x46 cm) poster featuring Dazzy The Cat® in a digital world computer style. Featuring 4K resolution. Comes with your poster before a professional design! Designed by Debra Carlson from in Seattle, Australia

View Cart



DAZZY POSTER BY RETRIEVE! The new DAZZY poster as a professional art!

View Cart

Gathering data... Please allow up to 3 hours for this zone to activate. Contact customer service with any questions.

Shop Ad Here

Powered by PayPal





Exhibit G

Bloom, Ellen

From: Merone, William
Sent: Wednesday, June 18, 2014 1:13 PM
To: 'Wendy Peterson'
Cc: Sardesai-Grant, Natasha; Reichman, Jonathan
Subject: RE: Tardy v. Wild Brain Entertainment (Opp. No. 91205896)

Ms. Peterson:

Natasha and I will call you at 3:00 pm EST at (651) 500-7590 (the number provided in your papers), unless you'd prefer us to use another number or call earlier.

Regarding Mr. Baxley, there is no provision in the Rules that permit a party to request Interlocutory Attorney involvement in meet-and-confer sessions, nor was Mr. Baxley's participation mandated by any order issued in this case. Rather, Board participation by request is limited to the initial Rule 26(f) discovery conferences. *See* D.I. 2, p. 3; *see also* TBMP 401.01. In the November 2013 order following the Rule 26(f) discovery conference, Mr. Baxley merely noted that **the Board** has the power to require a pre-motion teleconference if the parties are refusing to cooperate in the discovery process. *See* D.I. 21, n.7. However, given that your client has permitted you to participate in the discovery process, that is not an issue here.

Thus, we will not be contacting Mr. Baxley regarding this matter and will call you directly at 3:00 pm. If you still maintain that Board participation in a meet-and-confer session is mandatory, then you are of course free to raise that objection in your opposition to any motion to compel we may file (assuming we cannot resolve the outstanding discovery issues through the meet-and-confer process).

Regards,

William Merone

From: Wendy Peterson [mailto:wspnjpls@gmail.com]
Sent: Wednesday, June 18, 2014 12:06 PM
To: Merone, William
Subject: Re: Tardy v. Wild Brain Entertainment (Opp. No. 91205896)

I can make myself available this afternoon or Friday morning. Please email Andrew Baxley to set up a telephone conference with him as ordered in the discovery conference.

Wendy

On Wed, Jun 18, 2014 at 9:31 AM, Merone, William <WMerone@kenyon.com> wrote:

Ms. Peterson:

We are not intending to conference with your client; this is a discovery matter.

Under the Rules, the parties are required to meet and confer to resolve discovery disputes before filing a motion to compel. If you are saying that you do not have standing authorization to interact with opposing counsel, then your client is evidently not prepared to fulfill his responsibilities in association with the litigation of this case. *Cf., e.g.,* D.I. 21 (“The Board expects parties and/or their attorneys to cooperate

with one another in the discovery process and looks with disfavor on those who do not so cooperate.”).

Please let us know by the end of the day whether your client has authorized you to cooperate in the discovery process, including necessary meet and confer sessions.

Regarding your views on standing, we are aware of your position and disagree. If you are saying that your client stands on its objections on the grounds of relevance for the reasons listed below, then if you wish we can treat this exchange as the “meet and confer” and we’ll proceed immediately with filing our motion to compel. Alternately, we’ll be available to discuss this matter with you either later today or Friday.

Please let us know how you wish to proceed.

Regards,

William Merone

From: Wendy Peterson [mailto:wspnjpls@gmail.com]
Sent: Wednesday, June 18, 2014 10:18 AM
To: Merone, William
Subject: Re: Tardy v. Wild Brain Entertainment (Opp. No. 91205896)

Mr. Merone,

Mr. Tardy has standing and will be relying the refusal of his application. Opposer has standing under *Life Zone Inc. v. Middleman Group Inc.*, 87 USPQ2d 1953 (TTAB 2008).

I have not been able to contact Mr. Tardy in the short window that you suggested yesterday for a conference today to get his permission to conduct the conference but the Board acknowledged that standing is not an issue. The relevant application has already been plead into the record, there's nothing else that we need.

Wendy Peterson

On Tue, Jun 17, 2014 at 9:20 AM, Merone, William <WMerone@kenyon.com> wrote:

Ms. Peterson:

Further to Trademark Rule 2.120(e), please let us know your availability to participate in a brief conference about the relevancy objections that Opposer has asserted in his Response to Applicant's First Set of Document Requests and in his Response to Applicant's First Set of Interrogatories. Given that Mr. Tardy relied on a supposed priority of rights when he originally alleged standing, we believe that discovery into the facts relating to Mr. Tardy's past use and/or involvement with the DIZZY mark are relevant to this case.

Natasha and I are both available tomorrow (Wednesday, June 18th) any time after noon (and possible as early as 11:30) to hold a teleconference. Please let us know time works for you.

If you are unavailable tomorrow, please let me know your availability for Friday, June 20th and I can attempt to coordinate schedules. (I will be out of the office and unavailable all day on Thursday).

Regards,

-- Wm. Merone

William M. Merone

Counsel | Trademarks & Copyrights

Kenyon & Kenyon LLP

1500 K Street, NW | Washington, DC 20005-1257

202.220.4270 Office | 202.220.4201 Fax

wmerone@kenyon.com | www.kenyon.com

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Exhibit H

Bloom, Ellen

From: Wendy Peterson <wspnjpls@gmail.com>
Sent: Wednesday, June 18, 2014 12:06 PM
To: Merone, William
Subject: Re: Tardy v. Wild Brain Entertainment (Opp. No. 91205896)

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Wendy

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with one another in the discovery process and looks with disfavor on those who do not so cooperate.”).

Please let us know by the end of the day whether your client has authorized you to cooperate in the discovery process, including necessary meet and confer sessions.

Regarding your views on standing, we are aware of your position and disagree. If you are saying that your client stands on its objections on the grounds of relevance for the reasons listed below, then if you wish we can treat this exchange as the “meet and confer” and we’ll proceed immediately with filing our motion to compel. Alternately, we’ll be available to discuss this matter with you either later today or Friday.

Please let us know how you wish to proceed.

Regards,

William Merone

From: Wendy Peterson [mailto:wspnjpls@gmail.com]
Sent: Wednesday, June 18, 2014 10:18 AM
To: Merone, William
Subject: Re: Tardy v. Wild Brain Entertainment (Opp. No. 91205896)

Mr. Merone,

Mr. Tardy has standing and will be relying the refusal of his application. Opposer has standing under *Life Zone Inc. v. Middleman Group Inc.*, 87 USPQ2d 1953 (TTAB 2008).

I have not been able to contact Mr. Tardy in the short window that you suggested yesterday for a conference today to get his permission to conduct the conference but the Board acknowledged that standing is not an issue. The relevant application has already been plead into the record, there's nothing else that we need.

Wendy Peterson

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Ms. Peterson:

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supposed priority of rights when he originally alleged standing, we believe that discovery into the facts relating to Mr. Tardy's past use and/or involvement with the DIZZY mark are relevant to this case.

Natasha and I are both available tomorrow (Wednesday, June 18th) any time after noon (and possible as early as 11:30) to hold a teleconference. Please let us know time works for you.

If you are unavailable tomorrow, please let me know your availability for Friday, June 20th and I can attempt to coordinate schedules. (I will be out of the office and unavailable all day on Thursday).

Regards,

-- Wm. Merone

William M. Merone

Counsel | Trademarks & Copyrights

Kenyon & Kenyon LLP

1500 K Street, NW | Washington, DC 20005-1257

202.220.4270 Office | 202.220.4201 Fax

wmerone@kenyon.com | www.kenyon.com

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Exhibit I

Bloom, Ellen

From: Wendy Peterson <wspnjpls@gmail.com>
Sent: Wednesday, June 18, 2014 1:18 PM
To: Merone, William
Subject: Re: Tardy v. Wild Brain Entertainment (Opp. No. 91205896)

I agreed to a Board conference today to discuss your motion to compel, I'm sorry if that was not clear. I did not agree to anything else. I am standing by the fact that my client has standing because his application was refused. There is no discovery required regarding my client's standing, the application is already pleaded into the record.

If you want to know what happened in the discovery conference you should call Katherine and ask her. This type of scenario was specifically discussed.

Wendy

On Wed, Jun 18, 2014 at 12:13 PM, Merone, William <WMerone@kenyon.com> wrote:

Ms. Peterson:

Natasha and I will call you at 3:00 pm EST at [\(651\) 500-7590](tel:6515007590) (the number provided in your papers), unless you'd prefer us to use another number or call earlier.

Regarding Mr. Baxley, there is no provision in the Rules that permit a party to request Interlocutory Attorney involvement in meet-and-confer sessions, nor was Mr. Baxley's participation mandated by any order issued in this case. Rather, Board participation by request is limited to the initial Rule 26(f) discovery conferences. *See* D.I. 2, p. 3; *see also* TBMP 401.01. In the November 2013 order following the Rule 26(f) discovery conference, Mr. Baxley merely noted that **the Board** has the power to require a pre-motion teleconference if the parties are refusing to cooperate in the discovery process. *See* D.I. 21, n.7. However, given that your client has permitted you to participate in the discovery process, that is not an issue here.

Thus, we will not be contacting Mr. Baxley regarding this matter and will call you directly at 3:00 pm. If you still maintain that Board participation in a meet-and-confer session is mandatory, then you are of course free to raise that objection in your opposition to any motion to compel we may file (assuming we cannot resolve the outstanding discovery issues through the meet-and-confer process).

Regards,

William Merone

From: Wendy Peterson [mailto:wspnjpls@gmail.com]

Sent: Wednesday, June 18, 2014 12:06 PM

To: Merone, William

Subject: Re: Tardy v. Wild Brain Entertainment (Opp. No. 91205896)

I can make myself available this afternoon or Friday morning. Please email Andrew Baxley to set up a telephone conference with him as ordered in the discovery conference.

Wendy

On Wed, Jun 18, 2014 at 9:31 AM, Merone, William <WMerone@kenyon.com> wrote:

Ms. Peterson:

We are not intending to conference with your client; this is a discovery matter.

Under the Rules, the parties are required to meet and confer to resolve discovery disputes before filing a motion to compel. If you are saying that you do not have standing authorization to interact with opposing counsel, then your client is evidently not prepared to fulfill his responsibilities in association with the litigation of this case. *Cf., e.g.,* D.I. 21 ("The Board expects parties and/or their attorneys to cooperate

with one another in the discovery process and looks with disfavor on those who do not so cooperate.").

Please let us know by the end of the day whether your client has authorized you to cooperate in the discovery process, including necessary meet and confer sessions.

Regarding your views on standing, we are aware of your position and disagree. If you are saying that your client stands on its objections on the grounds of relevance for the reasons listed below, then if you wish we can treat this exchange as

the "meet and confer" and we'll proceed immediately with filing our motion to compel. Alternately, we'll be available to discuss this matter with you either later today or Friday.

Please let us know how you wish to proceed.

Regards,

William Merone

From: Wendy Peterson [mailto:wspnjpls@gmail.com]
Sent: Wednesday, June 18, 2014 10:18 AM
To: Merone, William
Subject: Re: Tardy v. Wild Brain Entertainment (Opp. No. 91205896)

Mr. Merone,

Mr. Tardy has standing and will be relying the refusal of his application. Opposer has standing under *Life Zone Inc. v. Middleman Group Inc.*, 87 USPQ2d 1953 (TTAB 2008).

I have not been able to contact Mr. Tardy in the short window that you suggested yesterday for a conference today to get his permission to conduct the conference but the Board acknowledged that standing is not an issue. The relevant application has already been plead into the record, there's nothing else that we need.

Wendy Peterson

On Tue, Jun 17, 2014 at 9:20 AM, Merone, William <WMerone@kenyon.com> wrote:

Ms. Peterson:

Further to Trademark Rule 2.120(e), please let us know your availability to participate in a brief conference about the relevancy objections that Opposer has asserted in his Response to Applicant's First Set of Document Requests and in his Response to Applicant's First Set of Interrogatories. Given that Mr. Tardy relied on a supposed priority of rights when he originally alleged standing, we believe that discovery into the facts relating to Mr. Tardy's past use and/or involvement with the DIZZY mark are relevant to this case.

Natasha and I are both available tomorrow (Wednesday, June 18th) any time after noon (and possible as early as 11:30) to hold a teleconference. Please let us know time works for you.

If you are unavailable tomorrow, please let me know your availability for Friday, June 20th and I can attempt to coordinate schedules. (I will be out of the office and unavailable all day on Thursday).

Regards,

-- Wm. Merone

William M. Merone

Counsel | Trademarks & Copyrights

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