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

Proceeding	91205896
Party	Plaintiff Beau L. Tardy
Correspondence Address	WENDY PETERSON NOT JUST PATENTS LLC PO BOX 18716 MINNEAPOLIS, MN 55418 UNITED STATES wsp@NJPLS.com
Submission	Opposition/Response to Motion
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Date	01/06/2015
Attachments	Objection to Motion to Compel final.pdf(29264 bytes)

**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

v.

Wild Brain Entertainment, Inc., Applicant

OBJECTION TO MOTION TO COMPEL

Opposer objects to Applicant's Motion to Compel in that it is moot, is intentionally repetitive and contains requests that have already been dismissed as inappropriate by the Board and appears to be for no proper purpose. Applicant bound it as a book to mail to Opposer (192 pages with exhibits).

The motion is moot because Applicant and Opposer have had email discussions regarding standing and evidence and Opposer has supplemented its discovery responses with a Supplemental Disclosure to make corrective information known to Applicant as a part of the discovery process in writing under Fed. R. Civ. P. 26(e)(1)(A). The rules allow corrective action to be filed in a method that addresses the information at issue. **Applicant did not follow-up with any additional interrogatories regarding outstanding facts that were not provided in the Supplemental Disclosure.**

The declaration and evidence in the Supplemental Disclosure establishes that Opposer has a long history in the mark DIZZY for a wide variety of goods and has more interest in this proceeding

than the general public and indeed more interest than Applicant. Applicant has now let 3 of 4 of its DIZZY applications intentionally go abandoned. (See Motion to Amend the Notice filed simultaneously with this Objection that adds another abandoned DIZZY application to the list of applications to show no bona fide intent by Applicant.)

Every existing relevant piece of evidence that is available has been submitted at one time or another by Opposer. *Amazon Technologies, Inc. v. Wax*, 93 U.S.P.Q.2d 1702 (TTAB 2009).

Opposer asks that the Board deny the Motion to Compel.

Since Opposer did not require the extension of time to order to timely object and since Opposer believes that this Motion to Compel is not dispositive because Opposer's pretrial disclosures will render it moot, Opposer relinquishes the extension and asks that the Board return to the schedule from the Board order on November 14, 2014 (43 TTABVUE 9). Opposer will proceed to pretrial disclosures by 2/14/2015.

Submitted By: /Wendy Peterson/

Date: January 6, 2015

Wendy Peterson, Attorney for Opposer, Beau Tardy
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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2015, the foregoing was served upon Applicant's attorney
by email to:

jreichman@kenyon.com , wmerone@kenyon.com , tmocketny@kenyon.com

By: /Wendy Peterson/

Date: January 6, 2015

Wendy Peterson, Attorney for Opposer, Beau Tardy