

ESTTA Tracking number: **ESTTA749694**

Filing date: **06/01/2016**

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

Proceeding	91214849
Party	Plaintiff Apple Inc.
Correspondence Address	ALICIA GRAHN JONES KILPATRICK TOWNSEND & STOCKTON LLP 1100 PEACHTREE STREET, SUITE 2800 ATLANTA, GA 30309-4530 UNITED STATES AlJones@ktslaw.com, cgenteman@kilpatricktownsend.com, ARoach@kilpatricktownsend.com, JPetersen@ktslaw.com, agar- cia@ktslaw.com, tmadmin@ktslaw.com,
Submission	Plaintiff's Notice of Reliance
Filer's Name	Alicia Grahn Jones
Filer's e-mail	AlJones@ktslaw.com, cgenteman@kilpatricktownsend.com, ARoach@kilpatricktownsend.com, JPetersen@ktslaw.com, agar- cia@ktslaw.com, tmadmin@ktslaw.com
Signature	/Alicia Grahn Jones/
Date	06/01/2016
Attachments	Apple v. Hasan - Third Notice of Reliance - Applicant_s Initial and Suppl. RFA Responses.pdf(12170 bytes) -Apple v. Hasan - Third Notice of Reliance - Exhibits A-C.pdf(1634478 bytes)

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

In the Matter of Application Serial No. **85/866,375**
For the mark: **IT'S AN APP FOR THAT**
Filed: March 4, 2013
Published: August 13, 2013

-----X		
APPLE INC.,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No. 91214849
	:	
SYED ALI HASAN,	:	
	:	
Applicant.	:	
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OPPOSER'S THIRD NOTICE OF RELIANCE

Opposer Apple Inc. ("Apple"), pursuant to 37 C.F.R. §§ 2.120(j)(3)(i) and 2.120(j)(8), submits of record in connection with this opposition proceeding copies of Applicant Syed Ali Hasan's ("Applicant") initial and supplemental Response by Applicant to Opposer's First Requests for Admission, along with a copy of Opposer's First Requests for Admission to Applicant.¹

These discovery responses are relevant to the issues of likelihood of confusion and dilution and show, among other things, the validity of Apple's ownership and registration of its marks relied upon in this proceeding, Apple's priority of rights, the public's association of Apple's marks with Apple and the fame of Apple's marks in the United States prior to the filing

¹ Apple has included Opposer's First Requests for Admission to Applicant in compliance with 37 C.F.R. §§ 2.120(j)(3)(i) because Applicant's responses do not reproduce or include the requests to which Applicant provided responses.

date of the subject application, Applicant's awareness of Apple and Apple's marks prior to Applicant's adoption of its mark and filing of the subject application.

Applicant's April 27, 2015 Response by Applicant to Opposer's First Requests for Admission is attached hereto as Exhibit A; Applicant's May 25, 2015 supplemental Response by Applicant to Apple's First Requests for Admission is attached hereto as Exhibit B, and Opposer's First Requests for Admission to Applicant, served on December 15, 2014, are attached hereto as Exhibit C.

Dated: June 1, 2016

Respectfully submitted,

**KILPATRICK TOWNSEND &
STOCKTON LLP**

By: /s/Alicia Grahn Jones

Alicia Grahn Jones

Allison Scott Roach

Crystal C. Genteman

1100 Peachtree Street, Suite 2800

Atlanta, Georgia 30309

Telephone: (404) 815-6500

Facsimile: (404) 815-6555

Attorneys for Opposer Apple Inc.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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APPLE INC.,	:
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Opposer,	:
	:
v.	: Opposition No. 91214849
	:
SYED ALI HASAN,	:
	:
Applicant.	:
-----X	

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing OPPOSER'S THIRD NOTICE OF RELIANCE has been served on Applicant by depositing said copy with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to:

Syed Ali Hasan
530 Lytton Ave, 2nd Floor
Palo Alto, California 94304

This the 1st day of June, 2016.

/s/Alberto Garcia

Alberto Garcia

EXHIBIT A

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

In The Matter of Application Serial No. 85/866,375

For the mark: **IT'S AN APP FOR THAT**

Filed: March 4, 2013

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APPLE INC.,	:	Opposition No. 91214849
Opposer,	:	
v	:	
Syed Ali Hasan,	:	
Applicant.	:	

RESPONSE BY APPLICANT TO OPPOSERS FIRST REQUESTS FOR ADMISSION

Answers:

1-7: YES

8: UNAWARE, I don't watch TV

9: UNAWARE, No disclosure was provided by Apple, Inc., to me

10-13: YES, subject to region

14-16: YES, subject to the audience

17: Was aware of Opposer, but DID NOT ADOPT OPPOSERS MARK

18: YES

19: Was aware in the context of it being used to sell/distribute a variety of apps,
DID NOT ADOPT OPPOSERS MARK

20: YES, "THERE'S AN APP FOR THAT" as a warehouse for a variety of apps

21: YES

22: NOT IN USE

23: YES

24: NO, I am not using "There's an app for that"

25: NO, I am not using "There's an app for that"

26: None was sought because I am not using "There's an app for that"

27: None was required because I am not using "There's an app for that"

28: None was required because I am not using "There's an app for that"

29: YES. Specifically, an Ipod mini from Palo Alto apple store c.2009

Dated: 4/27/15

Syed Ali Hasan

By: /s/Syed Ali Hasan

Syed Ali Hasan

530 Lytton Ave, 2nd Floor

Palo Alto, CA

94301

650 485 0875

In Pro Per

EXHIBIT B

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

In The Matter of Application Serial No. 85/866,375

For the mark: **IT'S AN APP FOR THAT**

Filed: March 4, 2013

Published: August 13, 2013

APPLE INC.,	:	Opposition No. 91214849
Opposer,	:	
v	:	
Syed Ali Hasan,	:	
Applicant.	:	

RESPONSE BY APPLICANT TO OPPOSERS FIRST REQUESTS FOR ADMISSION

Answers:

1: YES

2: YES

3: YES

4: YES

5: YES

6: YES

7: YES

8: UNAWARE, I don't watch TV

9: UNAWARE, No disclosure was provided by Apple, Inc., to me

10: YES, subject to region

11: YES, subject to region

12: YES, subject to region

13: YES, subject to region

- 14: YES, subject to the audience
15: YES, subject to the audience
16: YES, subject to the audience
17: Was aware of Opposer, but DID NOT ADOPT OPPOSERS MARK
18: YES
19: Was aware in the context of it being used to sell/distribute a variety of apps,
DID NOT ADOPT OPPOSERS MARK
20: YES, "THERE'S AN APP FOR THAT" as a warehouse for a variety of apps
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27: None was required because I am not using "There's an app for that"
28: None was required because I am not using "There's an app for that"
29: YES. Specifically, an Ipod mini from Palo Alto apple store c.2009

Dated: 4/27/15
Modified: 5/25/15

Syed Ali Hasan
By: /s/Syed Ali Hasan
Syed Ali Hasan
530 Lytton Ave, 2nd Floor
Palo Alto, CA
94301
650 485 0875
In Pro Per

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

In the Matter of Application Serial No. 85/866,375

For the mark: **IT'S AN APP FOR THAT**

Filed: March 4, 2013

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APPLE INC.,	:
Opposer,	: Opposition No. 91214849
v.	:
SYED ALI HASAN,	:
Applicant.	:

-----X

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the RESPONSES to the OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION HAVE BEEN SERVED ON OPPOSER by depositing said copy with FEDEX, addressed to

Allison Scott Roach
1100 Peachtree St NE # 2800
Atlanta, GA

This the 25th day of May 2015

/s/ Syed Ali Hasan, Syed Ali Hasan In pro per

EXHIBIT C

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

In the Matter of Application Serial No. **85/866,375**
For the mark: **IT'S AN APP FOR THAT**
Filed: March 4, 2013
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APPLE INC.,	:
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Opposer,	:
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v.	:
	:
SYED ALI HASAN,	:
	:
Applicant.	:
-----X	

Opposition No. 91214849

OPPOSER'S FIRST REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to 37 C.F.R. §§ 2.116 and 2.120 and Rule 36 of the Federal Rules of Civil Procedure, Opposer Apple Inc. ("Opposer") requests that Applicant Syed Ali Hasan ("Applicant") admit the truth of the matters designated below within thirty (30) days of service hereof.

DEFINITIONS

- A. "Opposer" refers to Apple Inc.
- B. "Opposer's Mark" shall refer individually and collectively to Opposer's THERE'S AN APP FOR THAT mark, including but not limited to, the mark underlying the registrations in Paragraph 7 of Opposer's February 10, 2014 Notice of Opposition.
- C. "Opposer's Goods and Services" shall refer individually and collectively to all goods and services offered, sold, or promoted under or in connection with Opposer's Mark.
- D. "Applicant" refers to Sayed Ali Hasan.

E. “Applicant’s Mark” refers to the mark IT’S AN APP FOR THAT that is the subject of Application Serial No. 85/866,375.

F. “Applicant’s Goods and Services” shall refer individually and collectively to all goods and services offered, sold, or promoted under or in connection with Applicant’s Mark and all goods and services Applicant intends to offer, sell, or promote under or in connection with Applicant’s Mark.

G. “You” or “Your” shall refer to Applicant as defined in paragraph D, above.

H. The singular and the plural shall be mutually interchangeable, and usage of words either in the singular or plural in the following Requests shall not be construed to limit any Request.

I. “Person(s)” means any individual, firm, partnership, corporation, proprietorship, association, governmental body, or any other organization or entity.

J. “Identify” or “specify” when used in reference to a Person who is an individual, means to state his or her full name, present or last known address and phone number, and present or last known position or business affiliation.

K. “Identify” or “specify” when used in reference to a Person who is a firm, partnership, corporation, proprietorship, association, or other organization or entity, means to state its full name, the legal form of such entity or organization, its present or last known address and telephone number, and the identity of its chief executive officer, partners, or Persons in equivalent positions.

L. The conjunctive form “and” and the disjunctive form “or” shall be mutually interchangeable and shall not be construed to limit any Request.

M. The terms “any” and “all” shall be mutually interchangeable and shall not be

construed to limit any Request.

N. The term “including” shall mean “including without limitation.”

O. The term “concerning” shall be interpreted broadly, including both explicit and implicit reference and meaning, without limitation, relating to, regarding, referring to, constituting, defining, discussing, containing, construing, embodying, evidencing, supporting, refuting, reflecting, stating, dealing with, prepared in contemplation of, prepared in connection with, prepared as a result of, or in any way pertaining to.

REQUESTS

1. Admit that Opposer owns federal trademark Registration No. 3,884,408.
2. Admit that federal trademark Registration No. 3,884,408 is valid.
3. Admit that Opposer began using the mark THERE’S AN APP FOR THAT reflected in Registration No. 3,884,408 in commerce at least as early as January 2009.
4. Admit that Opposer owns federal trademark Registration No. 4,091,498.
5. Admit that federal trademark Registration No. 4,091,498 is valid.
6. Admit that Opposer began using the mark THERE’S AN APP FOR THAT reflected in Registration No. 4,091,498 in commerce at least as early as January 2009.
7. Admit that since prior to Applicant’s filing date of Serial No. 85/866,375, Opposer has promoted Opposer’s Mark online.
8. Admit that since prior to Applicant’s filing date of Serial No. 85/866,375, Opposer has promoted Opposer’s Mark in television advertising.
9. Admit that Opposer has expended considerable sums of money promoting Opposer’s Mark.
10. Admit that Opposer’s Mark is well-known in the United States.

11. Admit that Opposer's Mark is famous in the United States.
12. Admit that Opposer's Mark was well-known in the United States prior to Applicant's filing date of Serial No. 85/866,375.
13. Admit that Opposer's Mark was famous in the United States prior to Applicant's filing date of Serial No. 85/866,375.
14. Admit that the public is familiar with Opposer's Mark.
15. Admit that the public identifies Opposer's Mark with Opposer.
16. Admit that products and services associated with Opposer's Mark are understood by the public to originate from Opposer.
17. Admit that Applicant was aware of Opposer prior to adopting Applicant's Mark.
18. Admit that Applicant was aware of Opposer prior to filing application Serial No. 85/866,375.
19. Admit that Applicant was aware of Opposer's Mark prior to adopting Applicant's Mark.
20. Admit that Applicant was aware of Opposer's Mark prior to filing application Serial No. 85/866,375.
21. Admit that application Serial No. 85/866,375 was filed after December 2009.
22. Admit that Applicant began using Applicant's Mark after December 2009.
23. Admit that application Serial No. 85/866,375 was filed after January 2009.
24. Admit that Applicant began using Applicant's Mark after January 2009.
25. Admit that Applicant selected Applicant's Mark because the public is familiar with Opposer's Mark.
26. Admit that Opposer has never given Applicant permission to use Opposer's Mark.

27. Admit that Opposer has never given Applicant permission to register Applicant's Mark.

28. Admit that Opposer has never endorsed, sanctioned, or approved of Applicant's use of Applicant's Mark.

29. Admit that Applicant has purchased products or services from Opposer.

Dated: December 15, 2014

**KILPATRICK TOWNSEND &
STOCKTON LLP**

By: /s/Alicia G. Jones
Alicia G. Jones
Crystal C. Genteman
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309
Telephone: (404) 815-6500
Facsimile: (404) 815-6555

Attorneys for Opposer Apple Inc.

