

ESTTA Tracking number: **ESTTA749031**

Filing date: **05/28/2016**

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

Proceeding	91227454
Party	Defendant Abdullah Enterprises
Correspondence Address	ABDULLAH ENTERPRISES 3616 Gender Road Canal Winchester, OH 43110 UNITED STATES naid20@gmail.com
Submission	Answer
Filer's Name	Junaid Abdullah
Filer's e-mail	naid20@gmail.com
Signature	/Junaid Abdullah/
Date	05/28/2016
Attachments	OhioStateAnswer.pdf(101160 bytes) buckeyestateExhibitA.pdf(265153 bytes) DRSSstoresigninstructionsExhibitB.pdf(257210 bytes) DandRstorecaliExhibitC.pdf(955710 bytes) buckeyedollarstoreExhibitD.pdf(1056597 bytes)

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

In the Matter of: Opposition No. 91227454

Serial No. 86544434

DATE OF OPPOSITION: April 20, 2016

Abdullah Enterprises,

Applicant,

v.

The Ohio State University,

Opposer,

Answer

Abdullah Enterprises (hereinafter the “Applicant” or “Buckeye Dollar”), a discount retail store operating solely at the \$1 price point, having a principal place of business at 3616 Gender Road, Canal Winchester, Ohio 43110 has an answer, to opposition No. 91227454 filed by The Ohio State University (hereinafter “Ohio State” or “Opposer”) regarding application Serial No. 86544434. For the mark of Buckeye Dollar, for use in connection with “Retail discount store services in the field of general consumer merchandise”, in Class 35.

The Opposer has filed an opposition on 3 “Grounds for Opposition” and they are as follows.

1. False suggestion of a connection - Trademark Act section 2(a)
2. Priority and likelihood of confusion – Trademark Act section 2(d)
3. Dilution by blurring – Trademark Act section 43(c)

The Applicant would like to start by pointing out the origin of the term “Buckeye” and why Ohio is called “The Buckeye State” and why all Ohioans were considered “Buckeyes” long before Ohio State claims that only people with Ohio State University ties are considered “Buckeyes” (exhibit A).

Buckeye Dollar is a general merchandise retail store at the \$1 price point. Buckeye Dollar offers a vast array of products. Buckeye Dollar offers snacks, grocery items, drinks, candy, cleaning supplies, kitchen products, paper/foil products, toiletries, health/beauty products, cosmetics, party, toys, pet supplies, greeting cards, stationary, helium balloons, jewelry, reading/sun glasses, cell phone accessories, and more. Buckeye Dollar also carries seasonal items. All items are \$1 or less

Abdullah Enterprises will list each opposition from the Opposer and will answer each opposition:

1. False suggestion of a connection:

The Opposer claims in their opposition that the Applicant used the colors of red and black on their Buckeye Dollar exterior store signage to falsely suggest a connection to the Opposer. The Buckeye Dollar store sign is red, because it was the #1 color, suggested by the retail store developer of Buckeye Dollar.

Buckeye Dollar was set up with the help of “Discount Retail Store Services” out of Las Vegas (hereinafter “DRSS”). Abdullah Enterprises was given a dollar store development package from DRSS (exhibit B). Under the “Very important message; Exterior signage for your new store” section DRSS states the following “the color of your sign is critical. The color needs to be one that is easy to see from both up close and far away, from the parking lot to the street day or night. The color that meets those requirements the best is **red**. **Red** is easily seen from anywhere and stands out from other signs. As demonstrated by the photo above, **red** makes your sign distinctive and prominent.” As for the black trim around the red letters of the Buckeye Dollar store sign, it is the standard outer casing color, the sign company “Branham” uses with most exterior signs they create. The Opposer also points to a store sign

that is red and grey with white letters that spell “DOLLAR”. The Opposer claims that those colors were used to falsely suggest a connection to their primary colors of red and grey. That red and grey “DOLLAR” sign is a standard grand opening sign that is sent to every customer that develops a dollar store with DRSS (exhibit C). Also the inside of Buckeye Dollar has no red color or signage at all, the prominent colors inside Buckeye Dollar are green and gold (exhibit D).

2. Priority and likelihood of confusion:

The Opposer believes that the mark Buckeye Dollar will confuse customers and cause them to think Buckeye Dollar emanates from Ohio State. As many Ohio residents know, Ohio has long been known as “The Buckeye State” (exhibit A) long before Ohio State became a prominent university. Buckeye Dollar is a \$1 store founded in Ohio, by a lifelong Ohio resident, who also graduated from a public University in Ohio (The University of Akron). To Ohio residents “Buckeye Dollar” simply translates to “Ohio’s \$1 store”. With all products being sold for just \$1, it is clear to the public that Buckeye Dollar couldn’t possibly have any licensed

Ohio State products. Licensing fees alone would keep Buckeye Dollar from ever having licensed Ohio State products. Buckeye Dollar is the same type of store model as the well-known dollar store “Dollar Tree™”.

3. Dilution by blurring

Being that Ohio is “The Buckeye State” there are hundreds of businesses that carry the name “Buckeye -----” in every industry possible. Almost every business that has “Buckeye” in their business name has no affiliation with Ohio State at all. Buckeye Dollar is just one of hundreds of business that carry the nickname of the beloved state of Ohio. Clearly the public can see that Buckeye Dollar is not an educational or sports institution. Buckeye Dollar is simply a \$1 retail store and the public clearly knows that.

Based on the information and the answers to the opposition of Ohio State, it is clear that Applicant did nothing to attempt to trade off of the Opposer. The Applicant has never and will never sell Ohio State products, nor will the Applicant ever suggest to be connected with the Opposer.

Please address all communications and correspondence to: Junaid
Abdullah, Abdullah Enterprises CEO, 3616 Gender Road, Canal
Winchester, Ohio 43110, Telephone 330.573.8183, Facsimile
614.829.6197, E-mail naid20@gmail.com.

Date: May 28th, 2016

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Junaid Abdullah', written in a cursive style.

Junaid Abdullah
Abdullah Enterprises, CEO
Buckeye Dollar
3616 Gender Road
Canal Winchester, Ohio 43110-8679

CERTIFICATE OF SERVICE

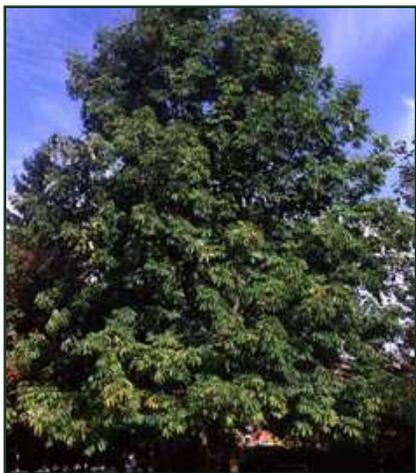
The undersigned hereby certifies that a copy of this answer had been served upon all parties, at their address record by First Class Mail on this 28th day of May, 2016:

Samantha M. Quimby
Frost Brown Todd LLC
10 West Broad Street Suite 2300
Columbus, Ohio 43215-3484

A handwritten signature in black ink, appearing to read 'Junaid Abdullah', written in a cursive style.

Junaid Abdullah
Abdullah Enterprises, CEO
Naid20@gmail.com

Why is Ohio known as the Buckeye State and why are Ohioans known as "Buckeyes"?



Buckeye Tree

According to one story from pioneer historians, it could have started at Marietta in 1788.

An imposing procession, headed by the high sheriff Col. Ebenezer Sproat marched to Campus Martius Hall to open the first court in the Northwest Territory. Col. Sproat, large and well-proportioned, made a commanding appearance with his drawn sword.

He greatly impressed the Indians. In admiration, they dubbed him "Hetuch," their name for the eye of the buck deer. The nickname stuck and Col. Sproat became familiarly known as "Big Buckeye." Later the name was passed on to other Ohioans and eventually to the state.

Another commonly accepted explanation is that the nickname refers to the large number of buckeye trees native to Ohio. However, all accounts generally agree that the name of the buckeye originated from its close resemblance to the eye of the buck deer.

In 1840, Gen. William Henry Harrison was elected President of the United States. During his campaign, buckeye wood cabins and buckeye walking sticks became emblems of Ohio's first citizen to win the highest office in the land. This forever set Ohioans apart as "Buckeyes." While for many years the Ohio buckeye was considered the state tree of Ohio, the designation was unofficial until 1953, when the Ohio Legislature adopted the Ohio buckeye as the official tree.

The Ohio buckeye tree is usually found along streams and on fertile bottom lands. Buckeye leaves, which open in early spring, have five leaflets four to six inches in length, attached at a common point to a long stem. The full grown tree is of medium size, seldom exceeding 24 inches in diameter and 60 feet in height.



Buckeye Leaf

In addition to Ohio Buckeye (*Aesculus glabra*), a second species, yellow buckeye (*Aesculus octandra*), is also native to Ohio.

The two species are very similar and difficult to distinguish. They can most easily be differentiated by the seed pod. The pod of the Ohio buckeye is warty, while the pod of the yellow buckeye is smooth. Often confused with the buckeye is *Aesculus hippocastanum*, commonly known as the horse chestnut. It is an imported relative that has frequently been planted as an ornamental. However, the horse chestnut has sticky buds and usually has seven leaflets, while the true buckeye generally has five.



Yellow Buckeye Seed Pod



Ohio Buckeye Seed Pod

Buckeye wood is light and easily worked, and resists splitting. One important use was in the manufacture of artificial limbs. It is quite similar to and often used in place of basswood or linden for woodenware.

The buckeye nut is bitter and, if eaten in quantity, is poisonous to man. The poisonous quality apparently does not affect squirrels, which will eat the nuts in the absence of more desirable food.



Ohio Buckeyes

The buckeye has considerable folklore. It is renowned for its mystical qualities. Some people carry it as a good luck charm and prefer it to a left hand rabbit's foot or four-leaf clover. Others use it as an amulet and make vast claims for its ability to cure rheumatism and a wide variety of other ailments.

In any case, if you can say you are a “Buckeye”, you are an Ohioan and your heritage is something to be proud of.



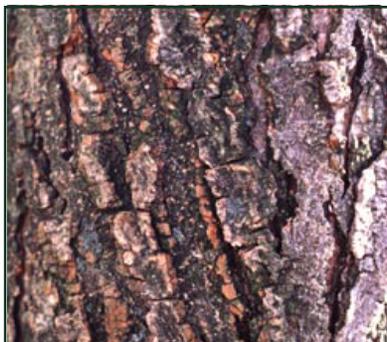
Ohio Buckeye Flower

The pale yellow to cream colored buckeye flowers grow in loose clusters six to eight inches high.



Buckeye Bud

Buckeye buds are not sticky.



Ohio Buckeye Bark

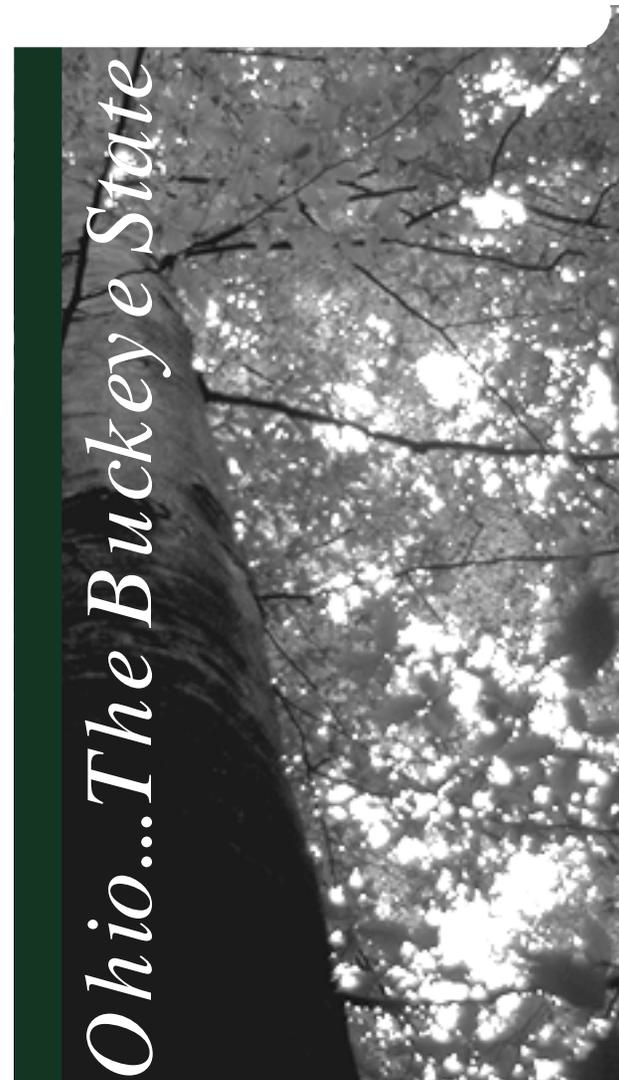
Bark breaks into flakes on flat scales.



2045 Morse Rd., H-1
Columbus, Ohio 43229-6693
phone: 614-265-6694
fax: 614-447-9231
ohiodnr.com/forestry

Equal Employment Opportunity Employer/M/F/H

Revised 11/98



Heather White
800-518-3064 ext. 113
Email: heather.white@drssmail.com

List of items you will need to send to Heather White as soon as you have found a store site (please read this entire letter prior to sending these items) – PLEASE SEND THE FOLLOWING ITEMS BY EMAIL:

- Your final store name with correct spelling
- Your store address
- Digital pictures of your store front and neighboring stores signs
- Logo design (we highly recommend you do not use a logo)
- Your contact information
- Listings of local sign companies from your yellow pages

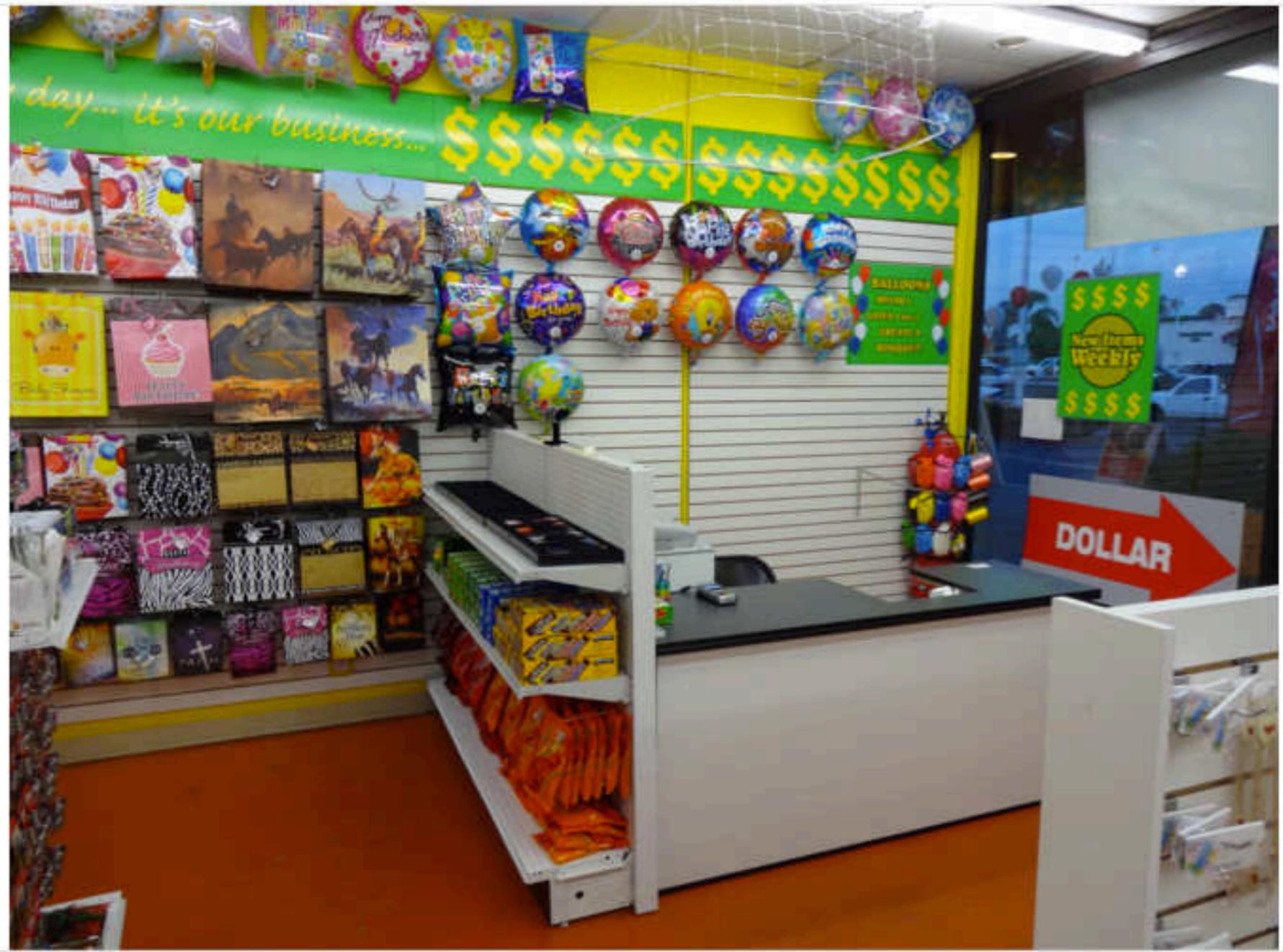
STEP ONE

The first thing you want to keep in mind is the length of the name and how many letters it contains. A greater percentage of shopping centers require what is called "individually illuminated channel letters" as shown below:

INDIVIDUAL ILLUMINATED CHANNEL LETTERS



We have found that each letter can range in cost from \$200.00 to \$400.00 per letter. So the shorter the name the less money it will cost. To help ensure the best chance of getting your sign completed in time for your soft open, we strongly suggest that you do not use a logo as this will take much longer to develop and cost much more. If you decide you prefer to have a logo, please make sure to have a drawing of what you want your logo to be and ready to be emailed to Theresa Whitley with the other information we have requested. In addition to the length of the name you choose, the color of your sign is critical. The color needs to be one that is easy to see from both up close and far away, from the parking lot to the street day or night. The color that meets those requirements the best is red. Red is easily seen from anywhere and stands out from other signs. As demonstrated by the photo above, red makes your sign distinctive and prominent. But that being said, whatever color you choose, it needs to be thought about carefully.



◀ Previous

Next ▶

Let's talk!



← Previous

Next →

Let's talk!