

ESTTA Tracking number: **ESTTA240317**

Filing date: **10/02/2008**

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

Proceeding	92048260
Party	Plaintiff i play. inc.
Correspondence Address	Steven C. Schnedler Carter & Schnedler, P.A. P.O. Box 2985 Asheville, NC 28802 UNITED STATES schnedler@ashevillepatent.com
Submission	Motion to Reopen
Filer's Name	Steven C. Schnedler
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Signature	/Steven C. Schnedler/
Date	10/02/2008
Attachments	Motion to Reopen Canc Pet Testimony Period.pdf ( 4 pages )(103624 bytes )

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

\_\_\_\_\_) )  
i play. inc. (change of name ) )  
from FAMILY CLUBHOUSE, ) )  
INCORPORATED d/b/a i play), ) )  
a North Carolina corporation, ) )  
Cancellation No. 92048260 ) )  
Cancellation ) )  
Petitioner, ) )  
v. ) )  
Registration No. 2,923,675 ) )  
International Class 28 ) )  
INTERNATIONAL PLAYTHINGS, INC., ) )  
substituted as party defendant ) )  
for IPI Acquisition Corporation,) )  
Registrant. ) )  
\_\_\_\_\_)

Asheville, North Carolina  
October 2, 2008

MOTION TO REOPEN CANCELLATION PETITIONER'S  
TESTIMONY PERIOD TO INTRODUCE NEWLY-DISCOVERED EVIDENCE

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Attn: Trademark Trial and Appeal Board

Via ESTTA

Sir:

With reference to TBMP § 509.01(b), Cancellation  
Petitioner i play. inc. hereby moves to re-open Cancellation  
Petitioner's 30-day testimony period (which closed  
September 7, 2008) to re-close today, October 2, 2008, for the  
purpose of filing a proposed "Notice of Reliance" submitted  
concurrently herewith.

Cancellation No. 92048260

The concurrently-filed Notice of Reliance submits newly-discovered evidence in the form of a letter, with enclosure, from the U.S. Consumer Product Safety Commission, dated September 30, 2008. Manifestly, the evidence is newly-discovered, since it was just received by Cancellation Petitioner, and is being submitted without delay. Reasonable diligence would not have discovered this internal activity by the U.S. Consumer Product Safety Commission.

The letter from the U.S. Consumer Product Safety Commission with enclosure is addressed to Cancellation Petitioner i play., but forwards a consumer complaint regarding one of Registrant International Playthings' products. The letter and enclosure are highly relevant as evidence of actual confusion, and moreover are clear evidence of potential damage to Cancellation Petitioner i play. and to its reputation by Registrant International Playthings' use of its essentially identical registered mark on confusingly similar goods.

Granting of this motion would not particularly prejudice Registrant International Playthings, other than by virtue of the substantively damaging effect of the evidence sought to be submitted. Registrant's 30-day testimony period has not yet opened. (Registrant's 30-day testimony period is currently scheduled to close November 6, 2008, and accordingly opens October 7, 2008.) Cancellation Petitioner has not received a Notice of Taking Testimony from Registrant, nor has Cancellation Petitioner received any communication from

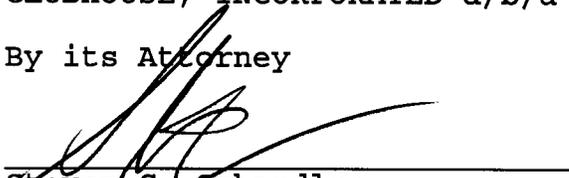
Cancellation No. 92048260

Registrant International Playthings' attorney proposing any dates  
for Registrant's testimony.

Respectfully submitted,

i play. inc.  
(by change of name from FAMILY  
CLUBHOUSE, INCORPORATED d/b/a i play)

By its Attorney



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Steven C. Schnedler

Carter & Schnedler, P.A.  
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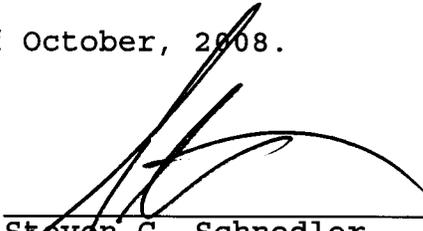
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CERTIFICATE OF SERVICE

I hereby certify that the paper titled MOTION TO REOPEN CANCELLATION PETITIONER'S TESTIMONY PERIOD TO INTRODUCE NEWLY-DISCOVERED EVIDENCE has been served upon Registrant's Attorney of Record by depositing a copy thereof in First Class Mail, postage prepaid and properly addressed as follows:

Paul H. Kochanski  
Lerner David Littenberg Krumholz & Mentlik, LLP  
600 South Avenue West, Suite 300  
Westfield, NJ 07090

This, the 2nd day of October, 2008.



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Steven C. Schnedler  
Attorney for Cancellation Petitioner

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