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

Proceeding	92054617
Party	Defendant Y.Z.Y., INC.
Correspondence Address	Y Z Y INC 6300 NW 72ND AVENUE MIAMI, FL 33166 UNITED STATES
Submission	Motion to Extend
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Date	11/17/2011
Attachments	2can.yzy.pdf (3 pages)(41331 bytes)

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

In the matter of trademark Registration No. 3,504,398
for the mark BIO CLAIRE registered September 23, 2008.

NOUVELLE PARFUMERIE GANDOUR,

Petitioner,

v.

Cancellation No. 92054617

Y.Z.Y., INC.

Respondent.

**RESPONDENT Y.Z.Y., INC.’S MOTION FOR EXTENSION OF TIME TO RESPOND
TO THE PETITION FOR CANCELLATION, AND TO RESET DEADLINES**

COMES NOW, the Respondent, Y.Z.Y., INC. (“YZY”), who respectfully moves for an extension of time to respond to the petition for cancellation, and to reset deadlines provided by the Trademark Trial and Appeal Board (“Board”) in its Notice to YZY dated October 8, 2011. *See* TBMP 509.01(a). As grounds therefore, YZY states as follows:

1. YZY received the Board’s Notice of the institution of the present proceeding. The Notice provides that YZY’s answer is due forty days from its mailing date. Thus, the due date for response is November 17, 2011.
2. “Every paper filed in the United States Patent and Trademark Office in inter partes cases, including notices of appeal, must be served upon the other parties.” 37 C.F.R. §2.119. *See* TBMP 113. *See also* TBMP 110.09(d). “Any plaintiff who files a complaint through ESTTA is viewed by the Board as having included proof of service with its pleading. Actual forwarding of the service copy, however, is the responsibility of the filer, as ESTTA does not

effect service for the filer.” *Equine Touch Foundation Inc. v. Equinology Inc.*, 91 USPQ2d 1943, 1944 n.5 (TTAB 2009). TBMP 113 further provides a number of ways in which service may be accomplished.

3. YZY states that it has yet to be served with the petition for cancellation by petitioner. As such, YZY is uncertain whether petitioner intends to proceed with the action.¹
4. YZY has no obligation to respond to the pleading until and unless it has been served. *See id.*

WHEREFORE, YZY requests an extension of time to respond to the petition of forty days from the date of a ruling on this motion, or from the date of actual service of the petition, whichever is later. YZY also respectfully requests a concomitant resetting of the deadlines provided in the Notice.

Respectfully submitted,

/s/Richard S. Ross, Esq.
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¹The certificate of service contained in the TTAB’s filed copy of the petition asserts that service was made by U.S. mail on respondent and the undersigned. However, neither entity was served.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by United States Postal Service first class regular mail, and addressed to counsel for the Petitioner:

Scott R. Austin, Esq.
GORDON & REES LLP
200 S. Biscayne Bld., Suite 4300
Miami, Florida 33131

this 17th day of November, 2011.

/s/Richard S. Ross, Esq.
Richard S. Ross, Esq.