

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: March 9, 2007

Concurrent Use No. 94002211

ABC Glass Enclosures, LLC

V.

John L. Thompson, Jr. and
Cynthia L. Thompson

John L. Thompson
2429 Montvale Rd
Roanoke, VA 24015
UNITED STATES

Re: THOSE WINDOW GUYS

Angela Campbell, Paralegal Specialist:

The applicant in application Serial No. 76632240 has applied for a concurrent use registration for the trademark or service mark set forth below.

Name of applicant	:	ABC Glass Enclosures, LLC
Applicant's address	:	7421 West Irving Park Road Chicago, IL 60634
Applicant's mark	:	THE WINDOW GUYS
Goods or services	:	Retail distributorships featuring windows and doors and retail store services featuring windows and doors in International Class 35; and window and door installation services in International Class 37

Filing date : 2/28/05

Territory of use : the area comprising the geographical area of the United States, excluding the area within the Commonwealth of Virginia and lies within a 75-mile radius of Roanoke, Virginia

Attorney : John L. Hines, Jr.
Sachnoff & Weaver, Ltd.
10 S Wacker Drive
Suite 4000
Chicago, IL 60606

In its application, the applicant has recited as an exception to its allegation of exclusive use of said mark, use by you of an identical or very similar mark. Your mark, goods or services, and territory of use, *as acknowledged in* the referenced application, are set out below in a summary of details of the application. A copy of the application as filed is also included herewith.

Your mark : THOSE WINDOW GUYS

Your goods or services : installation of windows and doors

Your territory of use : the area within the Commonwealth of Virginia that lies within a 75-mile radius of Roanoke, Virginia

Since the Office has determined that applicant's mark appears entitled to registration, subject to a concurrent use proceeding with you, a concurrent use proceeding is hereby instituted under the provisions of Section 2(d) of the Trademark Act of 1946.

The proceeding will be conducted in accordance with the Rules of Practice in Trademark cases, as set out in Title 37 of the Code of Federal Regulations. Rule 2.99 thereof, under which this notice is given, provides that:

An answer to the notice is not required in the case of an applicant or registrant whose

application or registration is specified in the application to register as concurrent user in the application, but a statement, if desired, may be filed within forty days after the mailing of the notice; in the case of any other party specified as a concurrent user in the application, an answer must be filed within forty days after the mailing of the notice.

You are allowed until **40 days from the mailing date above** to file such answer in accordance with Rule 2.99. If filed, the answer should be directed to the allegations relating to concurrent use recited in the application identified herein. If an answer is not filed, then the proceeding may be handled as in a case of default. See Rule 2.99(d) (3).

You are requested to advise the Trademark Trial and Appeal Board of any relevant applications or registrations, other than that already listed herein, which should be included in this concurrent use proceeding. Your response, if any, should be in writing and should accompany your answer.

DISCOVERY AND TESTIMONY PERIODS ARE SET AS INDICATED BELOW.

IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party WITHIN THIRTY DAYS after completion of the taking of testimony. Rule 2.125.

Discovery period to open: **3/29/07**

Discovery period to close: **9/25/07**

30-day testimony period for party
in position of plaintiff to close: **12/24/07**

30-day testimony period for party
in position of defendant to close: **2/22/08**

15-day rebuttal testimony period
to close: **4/7/08**

Briefs shall be filed in accordance with Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See TBMP § 502.06(a) (2d ed. rev. 2004).

If the parties to this proceeding are (or during the pendency of this proceeding, become) parties to another Board or civil proceeding involving related marks or other common issues of law or fact, they shall notify the Board immediately, so that the Board can consider consolidation or suspension of proceedings, if appropriate.

New Developments at the Trademark Trial and Appeal Board

For faster handling of all papers, the TTAB strongly encourages electronic filing whenever possible. TTAB forms for electronic filings are available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABvue at <http://ttabvue.uspto.gov>.

CC:

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