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10 April 2008

United States Patent and Trademark Office
Trademark Trial and Appeal Board
James Madison Building - East Wing
Concourse Level
600 Dulany Street
Alexandria, Virginia 22314-5782

Attn: Angela Lykos, Esq.
Interlocutory Attorney

VIA OVERNIGHT MAIL

76632240

Re: ABC Glass Enclosures, LLC v. John L. Thompson, Jr., et al.
Concurrent Use No.: 94002211

Dear Ms. Lykos:

This office represents ABC Glass Enclosures, LLC ("ABC") in connection with the above-referenced concurrent use proceeding.

Please allow this letter and the accompanying document to serve as ABC's response to your communication of March 28, 2008, in which you 1) entered judgment by default against the concurrent users, and 2) directed the applicant to submit proof of its entitlement to registration within sixty days.

Accordingly, enclosed please find the affidavit of ABC's President, Lloyd Gillman, which sets forth particular information concerning my client's use of the mark THE WINDOW GUYS in commerce. Please do not hesitate to contact me should you require any further information in order to establish ABC's entitlement to the registration. Thank you for your assistance.

Respectfully,

Peter N. Lobasso

Peter N. Lobasso

Enclosure



04-11-2008

U.S. Patent & TMO/TM Mail Rcpt Dt #

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

ABC GLASS ENCLOSURES, LLC

Mark: THE WINDOW GUYS

v.

Concurrent Use No.: 94002211

JOHN L. THOMPSON, JR. and
CYNTHIA L. THOMPSON

**AFFIDAVIT OF LLOYD GILLMAN IN SUPPORT OF CONCURRENT USE
APPLICANT ABC GLASS ENCLOSURES, LLC**

LLOYD GILLMAN, having been first duly sworn according to law, hereby deposes and testifies as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters set forth herein.
2. I am the President of ABC Glass Enclosures, LLC ("ABC"), and in that capacity I have personal knowledge of the facts testified to herein.
3. ABC is an Illinois Limited Liability Company doing business under the name "THE WINDOW GUYS" with a principal place of business located at 7421 West Irving Park Road, Chicago, Illinois 60634.
4. ABC has been using the mark "THE WINDOW GUYS" in commerce in connection with retail distributorships featuring windows and doors, retail store services featuring windows and doors, and window and door installation services since at least as early as December 2001.
5. ABC adopted the mark "THE WINDOW GUYS" in good faith without knowledge of any other entities using the same or similar to mark in connection with home improvement goods and services.
6. ABC's began using the mark "THE WINDOW GUYS" in commerce prior October 31, 2002, the filing date of the application of opponents John L. Thompson, Jr. and Cynthia L. Thompson (the "Thompson Partnership") for the mark "Those Window Guys."

7. ABC markets its home improvement goods and services under the mark "THE WINDOW GUYS" in the states of Illinois and Indiana within the greater Chicago metropolitan area.

8. ABC is not and never has been engaged in the marketing of its home improvement goods and services under the mark "THE WINDOW GUYS" within a seventy-five (75) mile radius of Roanoke, Virginia.

9. To the best of my knowledge, there have been no instances of actual confusion or mistake between the business operations of ABC and those of the Thompson Partnership in connection with ABC's use of the mark "THE WINDOW GUYS" in commerce.

10. I believe there has been no such confusion or mistake among consumers with respect to the marks "THE WINDOW GUYS" and "Those Window Guys" because ABC and the Thompson Partnership do not conduct business within the same geographic area, i.e., there is no overlapping region in the United States where both entities use their respective marks in commerce.

11. ABC's use of the mark "THE WINDOW GUYS" has been in all respects lawful insofar as it has used the mark in commerce in a territory not covered by another party's registration.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true and correct.


LLOYD GILLMAN

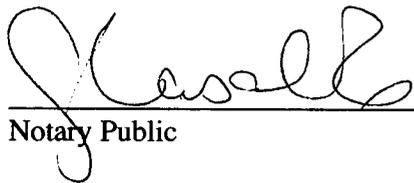
[Notary Acknowledgment Follows]

STATE OF ILLINOIS

COUNTY OF COOK

I HEREBY CERTIFY that on this 7th day of April, 2008, before me, the subscriber, a Notary Public of the aforesaid State, in and for the aforesaid County, personally appeared LLOYD GILLMAN, President ABC Glass Enclosures LLC, of who is personally known to me, and who having been duly sworn, acknowledged signing, and did sign in my presence, this document.

AS WITNESS my hand and Notarial Seal.



Notary Public

My Commission Expires: 1-27-09

