

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

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Mailed: November 27, 2009

Concurrent Use No. 94002382

YES YES, INC.

v.

AMERICAN RESIDENTIAL
SERVICES, LLC, (ASSIGNEE OF
24/7 SERVICE CORPORATION)

v.

YES YES, INC.

By the Board:

On January 31, 2009, the Board instituted this concurrent use proceeding, under the provisions of Trademark Act Section 2(d). On September 30, 2009, the parties filed a "Settlement Agreement (Addendum)," hereinafter "Addendum". The Addendum states: "(F)urther to the Settlement Agreement by and between 24/7 and YYI dated August 17, 2005, the following additional terms and conditions are agreed to by the parties."

The record does not include a Settlement Agreement dated August 17, 2005.

Inasmuch as the parties appear to rely on provisions included in both the referenced Settlement Agreement dated August 17, 2005, and the Addendum filed September 30, 2009, in order to set forth facts and circumstances sufficient to establish and persuade the Board that concurrent use is not likely to cause a likelihood of confusion under Trademark Act

Section 2(d), and inasmuch as the Board is presently unable to fully ascertain applicant's entitlement to the registration it seeks in the absence of the referenced document, a August 17, 2005 Settlement Agreement, the record appears to be incomplete.

Accordingly, applicant is allowed twenty (20) days from the mailing date of this order in which to address this deficiency in the record and to file the August 17, 2005 document in this proceeding.¹

Proceedings are otherwise suspended.

¹ The parties should note that the document of record, namely, the Addendum, does not include a provision requiring the amendment of registrant American Residential Services, LLC's involved Registration No. 3573896. Such a provision may be, and generally is, necessary in order to secure allowance of the concurrent use registration applicant seeks.