

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

Mailed: August 11, 2010

Concurrent Use No. 94002382

Yes Yes, Inc.
(Application Serial No.
76621541)

v.

American Residential
Services, LLC (assignee of
24/7 Service Corporation)
(Registration No. 3573896)

**M. Catherine Faint,
Interlocutory Attorney:**

In response to the Board's order of November 27, 2009, the parties provided copies of the Settlement Agreement dated August 17, 2005 and a Second Addendum to the agreement, dated December 14, 2009.¹

In reviewing both the agreement and the addendums the Board has noticed an inconsistency in the description of the territories of the parties. The parties must clarify the actual territories each claims for use of its mark.

Specifically, American Residential Services, LLC, as assignee of 24/7 Service Corp. (hereinafter "ARS"),² claims the

¹ The (first) Addendum, dated August 17, 2005 was previously filed by the parties. The (first) Addendum notes that ARS is the assignee of the YES! mark and that ARS and its licensee 24/7 Service Corp. are bound by the terms of the settlement agreement entered into by the assignor and YYI.

² The assignment was recorded in the USPTO Assignments database at reel/frame 3955/0978 on February 17, 2009.

area consisting of, "Florida and states or territories west of the Mississippi River," in the (first) Addendum, and the Agreement. Yes Yes Inc. (hereinafter "YYI") specifically excludes Florida from its territory in the Agreement, but has dropped that exclusion in the (first) Addendum, and includes Florida in the list of states comprising its area. Thus it appears both parties are claiming Florida as part of their exclusive territories.

Accordingly, YYI is allowed **SIXTY (60) days** from the mailing date of this order to provide a statement explaining this inconsistency,³ failing which the Board will presume that applicant has lost interest in this case, the concurrent use proceeding will be dissolved and registration to applicant refused.

•••

³ The parties may, for instance, provide a third Addendum noting their respective territories.