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

Mailed: February 23, 2014

Concurrent Use No. 94002588

Crown Center Redevelopment Corporation

v.

Cumberland County Commission, County Courthouse

DAVID N JOHNSON
HALLMARK CARDS INCORPORATED
2501 MCGEE TRAFFICWAY
MD 339
KANSAS CITY, MO 64108-2600
UNITED STATES

CUMBERLAND COUNTY COMMISSION, COUNTY COURTHOUSE
117 DICK ST
FAYETTEVILLE, NC 28301
UNITED STATES

Denise M. DelGizzi,
Technical Program Manager:

The applicant in application Serial Nos. 85705643 (class 43 only), 85705612, and 85979418 has applied for a concurrent use registration for the trademarks or service marks set forth below.

Name of applicant :Crown Center Redevelopment Corporation

Applicant's address :2405 Grand, Suite 200
Kansas City, MO 64108

Serial No. 85705643 (class 43 only)

Applicant's mark : CROWN CENTER

Goods or services :Providing facilities for exhibitions, concerts, community festivals and other functions

Filing date :8/16/2012

Territory of use :The area comprising the entire United States except Cumberland County, North

Carolina

Serial No. 85705612

Applicant's mark : CROWN CENTER

Goods or services :Providing facilities for exhibitions, concerts, community festivals and other functions

Filing date :8/16/2012

Territory of use :The area comprising the entire United States except Cumberland County, North Carolina

Serial No. 85979418

Applicant's mark :

Goods or services :Providing facilities for exhibitions, concerts, community festivals and other functions

Filing date :8/16/2012

Territory of use :The area comprising the entire United States except Cumberland County, North Carolina

Attorney :David N. Johnson
Hallmark Cards Incorporated
2501 McGee Trafficway
MD 339
Kansas City, MO 64108-2600

In its application, the applicant, Crown Center Redevelopment Corporation, (plaintiff in this proceeding) has recited as an exception to its allegation of exclusive use of said mark, use by you of an identical or very similar mark. **The applicant is required to serve on you a copy of its applications, including the specimens of use and mark drawing, within ten (10) days of the notice instituting this proceeding. See Trademark Rule 2.99(d)(1), 37 C.F.R. §2.99(d)(1) Pending receipt of the service copies, the contents of the applications file may be viewed via the following USPTO web site: http://tmportal.uspto.gov/external/portal/tow .**

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.

Your mark :CROWN CENTER

Concurrent Use No. 94002588

Your goods or services	:Providing facilities for exhibitions, concerts, sporting events, banquets, meetings, and other functions
Your territory of use	:Cumberland County, North Carolina

Since the Office has determined that applicant's mark appears entitled to registration, subject to a concurrent use proceeding with you (as defendant in this proceeding) and, if applicable, any other party listed in the caption of this order, a concurrent use proceeding is hereby instituted under the provisions of Section 2(d) of the Trademark Act of 1946.

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, of the Code of Federal Regulations ("Trademark Rules"). **The Trademark Rules may be viewed at the USPTO's trademarks webpage: http://www.uspto.gov/trademarks/index.jsp. The Board's main webpage (http://www.uspto.gov/trademarks/process/appeal/index.jsp) includes information on amendments to the Trademark Rules applicable to Board proceedings, on Alternative Dispute Resolution (ADR), Frequently Asked Questions about Board proceedings, and a web link to the Board's manual of procedure (the TBMP).**

Trademark Rule 2.99, 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 April 4, 2013 to file an answer in accordance with Trademark Rule 2.99. (See Patent and Trademark Rule 1.7 for expiration of this or any deadline falling on a Saturday, Sunday or federal holiday.) If filed, the answer should be directed to the allegations relating to concurrent use recited in the plaintiff's application identified herein. **Other deadlines the parties must docket or calendar are either set forth below (if you are reading a mailed paper copy of this order) or are included in the electronic copy of this institution order viewable in the Board's TTABVUE system at the following web address: http://ttabvue.uspto.gov/ttabvue/.**

However, it is noted that most concurrent use proceedings result in a negotiated settlement and the parties are encouraged to promptly begin discussion of settlement. If the parties choose to begin settlement talks prior to the due date for the answer, they may stipulate to a suspension to accommodate settlement talks.

Defendant's answer and any other filing made by any party must include proof of service. See Trademark Rule 2.119.

If they agree to, the parties may utilize electronic means, e.g., e-mail or fax, during the proceeding for forwarding of service copies. See Trademark Rule 2.119(b)(6).

If an answer is not filed, then the proceeding may be handled as in a case of default, and you will be precluded from claiming any right in your mark greater than that acknowledged by plaintiff in its concurrent use application. See Trademark Rule 2.99(d)(3).

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

Trademark Rule 2.126 pertains to the form of submissions. Paper submissions, including but not limited to exhibits and transcripts of depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

ESTTA NOTE: For faster handling of all papers the parties need to file with the Board, the Board strongly encourages use of electronic filing through the Electronic System for Trademark Trials and Appeals (ESTTA). Various electronic filing forms, some of which may be used as is, and others which may require attachments, are available at **http://estta.uspto.gov**.

DEADLINES and PERIODS FOR CONFERENCING, DISCLOSURES, DISCOVERY and TESTIMONY ARE SET AS INDICATED BELOW.

Time to Answer	4/4/2014
Deadline for Discovery Conference	5/4/2014
Discovery Opens	5/4/2014
Initial Disclosures Due	6/3/2014
Expert Disclosures Due	10/1/2014
Discovery Closes	10/31/2014
Plaintiff's Pretrial Disclosures	12/15/2014
Plaintiff's 30-day Trial Period Ends	1/29/2015
Defendant's Pretrial Disclosures	2/13/2015
Defendant's 30-day Trial Period Ends	3/30/2015
Plaintiff's Rebuttal Disclosures	4/14/2015
Plaintiff's 15-day Rebuttal Period Ends	5/14/2015

As noted in the schedule of dates for this case, the parties are required to have a conference, during which they are expected to discuss: (1) the nature of and basis for their respective claims and defenses, (2) the possibility of settling the case or at least narrowing the scope of claims or defenses, and (3) arrangements relating to disclosures, discovery and introduction of evidence at trial, should the parties not agree to settle the case. See Trademark Rule 2.120(a)(2).

Discussion of the first two of these three subjects should include a discussion of whether the parties wish to seek mediation, arbitration or some other means for resolving their dispute. Discussion of the third subject should include a discussion of whether the Board's Accelerated Case Resolution (ACR) process may be a more efficient and economical means of trying the involved claims and defenses. Information on the ACR process is available at the Board's main webpage. Finally, if the parties choose to proceed with the disclosure, discovery and trial procedures that govern this case and which are set out in the Trademark Rules and Federal Rules of Civil Procedure, then they must discuss whether to alter or amend any such procedures, and whether to alter or amend the Standard Protective Order (further discussed below). Discussion of alterations or amendments of otherwise prescribed procedures can include discussion of limitations on disclosures or discovery, willingness to enter into stipulations of fact, and willingness to enter into stipulations regarding more efficient options for introducing at trial information or material obtained through disclosures or discovery.

The parties are required to conference in person, by telephone, or by any other means on which they may agree. A Board interlocutory attorney or administrative trademark judge will participate in the conference upon request of any party, provided that such participation is requested no later than ten (10) days prior to the deadline for the conference. See Trademark Rule 2.120(a)(2). The request for Board participation must be made through ESTTA or by telephone call to the interlocutory attorney assigned to the case, whose name can be found by referencing the TTABVUE record for this case at **http://ttabvue.uspto.gov/ttabvue/**. The parties should contact the assigned interlocutory attorney or file a request for Board participation through ESTTA only after the parties have agreed on possible dates and times for their conference. Subsequent participation of a Board attorney or judge in the conference will be by telephone and the parties shall place the call at the agreed date and time, in the absence of other arrangements made with the assigned interlocutory attorney.

The Board's Standard Protective Order is applicable to this case, but the parties may agree to supplement that standard order or substitute a protective agreement of their choosing, subject to approval by the Board. The standard order is available for viewing at: **http://www.uspto.gov/trademarks/process/appeal/guidelines/stndagmnt.jsp**. Any party without access to the web may request a hard copy of the standard order from the Board. The standard order does not automatically protect a party's confidential information and its provisions must be utilized as needed by the parties. See Trademark Rule 2.116(g).

Information about the discovery phase of the Board proceeding is available in chapter 400 of the TBMP. By virtue of amendments to the Trademark Rules effective November 1, 2007, the initial disclosures and expert disclosures scheduled during the discovery phase are required in cases commenced on or after that date. The TBMP has not yet been amended to include information on these disclosures and the parties are referred to the August 1, 2007 Notice of Final Rulemaking (72 Fed. Reg. 42242) posted on the Board's webpage. The deadlines for pretrial disclosures included in the trial phase of the schedule for this case also resulted from the referenced amendments to the Trademark Rules, and also are discussed in the Notice of Final Rulemaking.

The Board allows parties to utilize telephone conferences to discuss or resolve a wide range of interlocutory matters that may arise during this

case. In addition, the assigned interlocutory attorney has discretion to require the parties to participate in a telephone conference to resolve matters of concern to the Board. See TBMP § 502.06(a) (2d ed. rev. 2004).

The TBMP includes information on the introduction of evidence during the trial phase of the case, including by notice of reliance and by taking of testimony from witnesses. See TBMP §§ 703 and 704. Any notice of reliance must be filed during the filing party's assigned testimony period, with a copy served on all other parties. Any testimony of a witness must be both noticed and taken during the party's testimony period. A party that has taken testimony must serve on any adverse party a copy of the transcript of such testimony, together with copies of any exhibits introduced during the testimony, within thirty (30) days after the completion of the testimony deposition. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing after briefing is not required but will be scheduled upon request of any party, as provided by Trademark Rule 2.129.

If the parties to this proceeding are (or during the pendency of this proceeding become) parties in another Board proceeding or a civil action involving related marks or other issues of law or fact which overlap with this case, they shall notify the Board immediately, so that the Board can consider whether consolidation or suspension of proceedings is appropriate.