

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

TTAB

APPLICANT: BBIO, INC.	I hereby certify that this paper (or fee) is being deposited with the United States Postal Service as First Class mail, in an envelope addressed to: Box RESPONSES TTAB, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on December 19, 2003:
SERIAL NO.: 76/013,877	
FILING DATE: April 25, 2000	
MARK: BASES PRODUCT ADVISOR	
	<u>Jill Anderfuren</u> Name of Person Signing
	<u>Jill Anderfuren</u> Signature
	Date Signed: December 19, 2003

SUPPLEMENTAL APPEAL BRIEF

Box TTAB
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514



12-22-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Madam:

On October 21, 2003, the Trademark Trial and Appeal Board notified the previous attorney of the resumption of this Appeal and the opportunity to file a Supplemental Appeal Brief.

This Notice stated that although an Official Action had issued on July 31, 2002, no response had been filed. However, a response to that Action was filed on November 20, 2002, confirming the Examining Attorney, Paul Gast's, agreement to allow registration of the mark on the Supplemental Register. A copy of that response including a Certificate of Mailing of November 20, 2002, and referring to a telephone conference with the Examining Attorney on November 18, 2002 is enclosed for reference. It is requested that this responsive filing be made of record.

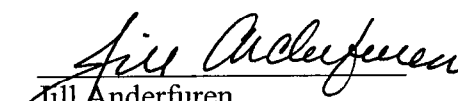
Further, Applicant draws the Board's attention to the previous allowance of co-pending applications for BASES PRICE ADVISOR, now Registration No. 2,708,097 issued April 15, 2003 on the Supplemental Register, and BASES BRAND ADVISOR, Registration No. 2,580,483 issued June 11, 2002, also on the Supplemental Register. All three applications cover similar or identical services, and present the same issues regarding the availability of Supplemental Registration. Applicant argues that because of the similarity of these applications they should be treated similarly. The current application should, therefore, be allowed on the Supplemental Register.

Although Applicant believes that Supplemental Registration is appropriate in the current situation, especially based on the Supplemental Registration of these previously registered marks, if the TTAB does not agree, Applicant will agree to disclaim the exclusive right to use the term "PRODUCT ADVISOR" apart from the mark as shown.

In view of the foregoing, passage of the application to publication is requested.

Respectfully submitted,

Dated: December 19, 2003


Jill Anderfuren
Michael R. Graham
Attorneys for Applicant

MARSHALL, GERSTEIN & BORUN LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
phone: (312) 474-6300
fax: (312) 474-0448

Please place in Upper Right Corner
of Response to Office Action ONLY.

Examining Attorney: BORA, ROGER

Serial Number: 76/013877



TRADEMARK
ATTY. DOCKET NO. BBU/74

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : BBI Marketing Services, Inc.
Serial No. : 76/013,877
Filed : April 25, 2000
Mark : BASES PRODUCT ADVISOR
Attorney : Paul Gast
Law Office : 106

Assistant Commissioner for Trademarks
BOX RESPONSES - NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Response to Official Action Dated July 30, 2002
and Request to Amend Application to the Supplemental Trademark Register

This letter serves as a record of the undersigned attorney's telephone conference with the assigned Examining Attorney on November 18, 2002 regarding the above-referenced application, and regarding the handling of co-pending Application Serial No. 76/033,606 for the mark BASES PRICE ADVISOR. A separate response is being filed with the Trademark Office in connection with the '606 application.

This letter also serves as a Response to the Office Action dated July 30, 2002.

I hereby certify that this correspondence is being sent via facsimile transmission to Examining Attorney Paul Gast in Law Office 106 at Fax No. (703) 746-8106 on: November 20, 2002.


Kathryn E. Smith

I. Amendment to Supplemental Trademark Register

In accordance with the Examiner's authorization given by phone on November 18, 2002, Applicant respectfully requests that its application be amended to seek registration on the Supplemental Trademark Register in accordance with Section 23 of the Lanham Act, 15 U.S.C. §1091. Pursuant to this amendment, all references in the application herein to the "Principal Register" should be amended to read "Supplemental Register," including the following reference:

Page 1, line 8 of the original application.

As a matter of background, Applicant's mark was previously approved for publication on the Supplemental Register on July 12, 2002, and was subsequently withdrawn from publication. A later Examining Attorney then refused Applicant's request to amend the application for registration on the Supplemental Register, indicating that "A mark that is clearly eligible for the Principal Register may not be registered on the Supplemental Register," and citing Daggett & Ramsdell, Inc. v. I. Posner, Inc., 115 USPQ 96 (Comm'r Pats. 1957). (Office Action dated July 30, 2002).

Applicant submits that the Daggett case is distinguishable from the facts of Applicant's case. Because of the differing opinions of three different Examining Attorneys (Ms. Shih, Mr. Bora and Mr. Gast) as to the propriety of issuing Applicant's mark on the Supplemental Register, Applicant's mark has not been viewed by the Trademark Office as a mark that is "clearly eligible" for registration on the Principal Register. The assigned Examining Attorney, Mr. Gast, indicated his approval on November 18, 2002 to allow Applicant to seek registration on the Supplemental Trademark Register to finally resolve the matter.


II. Conclusion

Since this application was originally filed under 1(a) of the Trademark Act, it is respectfully requested that the application be allowed to proceed on to publication, and issuance on the Supplemental Register.

If any charges or credits are necessary to complete this communication, please apply them to our Deposit Account no. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.


Kathryn E. Smith

Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917
Voice: (513) 241-2324
Facsimile: (513) 421-7269