

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

DEAN ELLIOTT,

Opposer,

v.

BODYWISE LIMITED,

Applicant.

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Opposition No. 91174723

11-6-37, 2009

This responds to the Interlocutory Attorney's February 9, 2009 request for an explanation of the delay in receipt by the Trademark Trial and Appeal Board of correspondence from Opposer's counsel related to this matter.

All the specific pieces of correspondence noted in the Interlocutory Attorney's request were sent to the Trial and Appeal Board via first-class mail, by Opposer's attorney. In each instance, an assistant placed first-class postage on each and Opposer's attorney took the envelopes and personally deposited them in the Post Office receptacle located on the southeast corner of Park Avenue and East 56th Street, New York, New York 10022. Opposer's counsel's firm does not maintain mailing logs or other records for correspondence sent by first-class mail other than file copies of such correspondence, choosing to rely on the certificate of mailing.

Opposer's response to Applicant's motion for summary judgment was mailed using the Certificate of Mailing prescribed by 37 CFR § 1.10 and Opposer is entitled to rely upon it. Opposer therefore respectfully requests that its response to the motion for summary judgment be considered timely and that the proceeding be permitted to go forward.


Peter M. Langrind



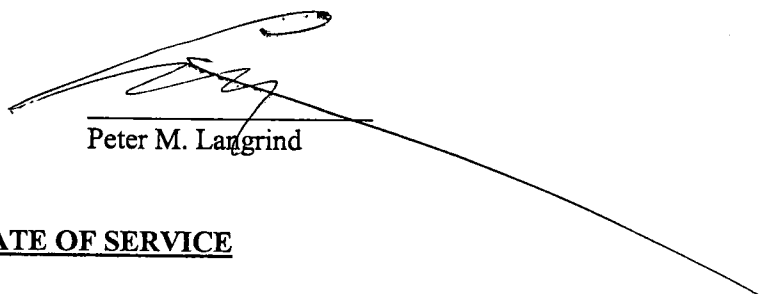
03-02-2009

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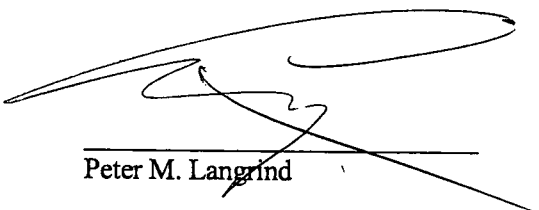
CERTIFICATE OF SERVICE

The undersigned hereby certifies that, the foregoing response was being served by Express Mail upon No. *EI 235637266* on this 1st day of March, 2009, upon the United States Patent and Trademark Office, Trademark Trial and Appeal Board.


Peter M. Langrind

CERTIFICATE OF SERVICE

This is to certify that a copy of Opposer's response to the Interlocutory Attorney's February 9, 2009 request was served by Express Mail, No. *EI 235637150* on this 1st day of March, 2009, upon counsel for Applicant, Donald L. Dennison, Esq., c/o Dennison, Schultz & MacDonald, 1727 King Street, Suite 105, Alexandria, Virginia 22314.


Peter M. Langrind